

Amendment by section 14401(d)(3) of Pub. L. 115-97 applicable to base erosion payments (as defined in section 59A(d) of this title) paid or accrued in taxable years beginning after Dec. 31, 2017, see section 14401(e) of Pub. L. 115-97, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-41 applicable to returns for taxable years beginning after Dec. 31, 2015, with special rule for certain C corporations, see section 2006(a)(3) of Pub. L. 114-41, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, set out as notes under sections 6154 and 51 of this title, see section 103(f) of Pub. L. 90-364, set out as an Effective Date of 1968 Amendment note under section 6154 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 6426. Credit for alcohol fuel, biodiesel, and alternative fuel mixtures

(a) Allowance of credits

There shall be allowed as a credit—

(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and

(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).

No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.

(b) Alcohol fuel mixture credit

(1) In general

For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable amount is—

(i) in the case of calendar years beginning before 2009, 51 cents, and

(ii) in the case of calendar years beginning after 2008, 45 cents.¹

(B) Mixtures not containing ethanol

In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(C) Reduction delayed until annual production or importation of 7,500,000,000 gallons

In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting “51 cents” for “45 cents”.

(3) Alcohol fuel mixture

For purposes of this subsection, the term “alcohol fuel mixture” means a mixture of alcohol and a taxable fuel which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

For purposes of subparagraph (A), a mixture produced by any person at a refinery prior to a taxable event which includes ethyl tertiary butyl ether or other ethers produced from alcohol shall be treated as sold at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

(4) Other definitions

For purposes of this subsection—

(A) Alcohol

The term “alcohol” includes methanol and ethanol but does not include—

(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) Taxable fuel

The term “taxable fuel” has the meaning given such term by section 4083(a)(1).

(5) Volume of alcohol

For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the ex-

¹ So in original.

tent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2011.

(c) Biodiesel mixture credit

(1) In general

For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

(2) Applicable amount

For purposes of this subsection, the applicable amount is \$1.00.

(3) Biodiesel mixture

For purposes of this section, the term “biodiesel mixture” means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

(A) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

(4) Certification for biodiesel

No credit shall be allowed under this subsection unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agribiodiesel in the product.

(5) Other definitions

Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(6) Termination

This subsection shall not apply to any sale, use, or removal for any period after December 31, 2016.

(d) Alternative fuel credit

(1) In general

For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, sold by the taxpayer for use as a fuel in aviation, or so used by the taxpayer.

(2) Alternative fuel

For purposes of this section, the term “alternative fuel” means—

(A) liquefied petroleum gas,

(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),

(C) compressed or liquefied natural gas,

(D) liquefied hydrogen,

(E) any liquid fuel which meets the requirements of paragraph (4) and which is de-

rived from coal (including peat) through the Fischer-Tropsch process,

(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and

(G) liquid fuel derived from biomass (as defined in section 45K(c)(3)).

Such term does not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

(3) Gasoline gallon equivalent

For purposes of this subsection, the term “gasoline gallon equivalent” means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

(4) Carbon capture requirement

(A) In general

The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility’s total carbon dioxide emissions.

(B) Applicable percentage

For purposes of subparagraph (A), the applicable percentage is—

(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

(ii) 75 percent in the case of fuel produced after December 30, 2009.

(5) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2016.

(e) Alternative fuel mixture credit

(1) In general

For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

(2) Alternative fuel mixture

For purposes of this section, the term “alternative fuel mixture” means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or

(B) is used as a fuel by the taxpayer producing such mixture.

(3) Termination

This subsection shall not apply to any sale or use for any period after December 31, 2016.

(f) Mixture not used as a fuel, etc.

(1) Imposition of tax

If—

(A) any credit was determined under this section with respect to alcohol or biodiesel

used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

(B) any person—

(i) separates the alcohol or biodiesel from the mixture, or

(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) Applicable laws

All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

(g) Coordination with exemption from excise tax

Rules similar to the rules under section 40(c) shall apply for purposes of this section.

(h) Denial of double benefit

No credit shall be determined under subsection (d) or (e) with respect to any fuel with respect to which credit may be determined under subsection (b) or (c) or under section 40 or 40A.

(i) Limitation to fuels with connection to the United States

(1) Alcohol

No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

(2) Biodiesel and alternative fuels

No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term “United States” includes any possession of the United States.

(j) Energy equivalency determinations for liquefied petroleum gas and liquefied natural gas

For purposes of determining any credit under this section, any reference to the number of gallons of an alternative fuel or the gasoline gallon equivalent of such a fuel shall be treated as a reference to—

(1) in the case of liquefied petroleum gas, the energy equivalent of a gallon of gasoline, as defined in section 4041(a)(2)(C), and

(2) in the case of liquefied natural gas, the energy equivalent of a gallon of diesel, as defined in section 4041(a)(2)(D).

(Added Pub. L. 108-357, title III, § 301(a), Oct. 22, 2004, 118 Stat. 1459; amended Pub. L. 109-58, title XIII, § 1344(a), Aug. 8, 2005, 119 Stat. 1052; Pub. L. 109-59, title XI, §§ 11113(b)(1)–(3)(A), 11151(e)(2), Aug. 10, 2005, 119 Stat. 1947, 1948, 1969; Pub. L. 110-172, § 5(a)(2), (3), Dec. 29, 2007, 121 Stat. 2479; Pub. L. 110-234, title XV, §§ 15331(b), 15332(b), May 22, 2008, 122 Stat. 1516; Pub. L. 110-246, § 4(a), title

XV, §§ 15331(b), 15332(b), June 18, 2008, 122 Stat. 1664, 2278; Pub. L. 110-343, div. B, title II, §§ 202(a), (b)(2), 203(c)(1), 204(a)(1), (2), (b), (c), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111-312, title VII, §§ 701(b)(1), 704(a), (b), 708(b)(1), Dec. 17, 2010, 124 Stat. 3310–3312; Pub. L. 112-240, title IV, §§ 405(b)(1), 412(a), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113-295, div. A, title I, § 160(a)(1), (b)(1), (c)(1), Dec. 19, 2014, 128 Stat. 4022; Pub. L. 114-113, div. Q, title I, §§ 185(b)(1), 192(a)(1), title III, § 342(a), Dec. 18, 2015, 129 Stat. 3073, 3075, 3114.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 6426, added Pub. L. 91-258, title II, § 206(c), May 21, 1970, 84 Stat. 245; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a refund of aircraft use tax where plane transports for hire in foreign air commerce, prior to repeal by Pub. L. 97-248, title II, § 280(c)(2)(G), (d), Sept. 3, 1982, 96 Stat. 564, 565, applicable with respect to transportation beginning after Aug. 31, 1982.

AMENDMENTS

2015—Subsec. (c)(6). Pub. L. 114-113, § 185(b)(1), substituted “December 31, 2016” for “December 31, 2014”.

Subsecs. (d)(5), (e)(3). Pub. L. 114-113, § 192(a)(1), substituted “December 31, 2016” for “December 31, 2014”.

Subsec. (j). Pub. L. 114-113, § 342(a), added subsec. (j). 2014—Subsec. (c)(6). Pub. L. 113-295, § 160(a)(1), substituted “December 31, 2014” for “December 31, 2013”.

Subsecs. (d)(5), (e)(3). Pub. L. 113-295, § 160(c)(1), which directed striking out “(September 30, 2014 in the case of any sale or use involving liquefied hydrogen)”, was executed by striking out “(September 30, 2014, in the case of any sale or use involving liquefied hydrogen)” before period at end, to reflect the probable intent of Congress.

Pub. L. 113-295, § 160(b)(1), substituted “December 31, 2014” for “December 31, 2013”.

2013—Subsec. (c)(6). Pub. L. 112-240, § 405(b)(1), substituted “December 31, 2013” for “December 31, 2011”.

Subsecs. (d)(5), (e)(3). Pub. L. 112-240, § 412(a), substituted “December 31, 2013” for “December 31, 2011”.

2010—Subsec. (b)(6). Pub. L. 111-312, § 708(b)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (c)(6). Pub. L. 111-312, § 701(b)(1), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (d)(2). Pub. L. 111-312, § 704(b), substituted “biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp” for “or biodiesel” in concluding provisions.

Subsecs. (d)(5), (e)(3). Pub. L. 111-312, § 704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (b)(2)(A). Pub. L. 110-246, § 15331(b)(3), substituted “subparagraphs (B) and (C)” for “subparagraph (B)” in introductory provisions.

Pub. L. 110-246, § 15331(b)(1), substituted “the applicable amount is—” for “the applicable amount is 51 cents” and added cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 110-246, § 15331(b)(2), added subpar. (C).

Subsec. (b)(5), (6). Pub. L. 110-246, § 15332(b), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(2). Pub. L. 110-343, § 202(b)(2), amended par. (2) generally. Prior to amendment, text read as follows: “For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

“(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is \$1.00.”

Subsec. (c)(6). Pub. L. 110-343, §202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (d)(1). Pub. L. 110-343, §204(b)(2), inserted “sold by the taxpayer for use as a fuel in aviation,” after “motorboat.”

Subsec. (d)(2)(E). Pub. L. 110-343, §204(c)(2), inserted “which meets the requirements of paragraph (4) and which is” after “any liquid fuel”.

Subsec. (d)(2)(F), (G). Pub. L. 110-343, §204(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (d)(4). Pub. L. 110-343, §204(c)(1), added par. (4). Former par. (4) redesignated (5).

Pub. L. 110-343, §204(a)(1), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (d)(5). Pub. L. 110-343, §204(c)(1), redesignated par. (4) as (5).

Subsec. (e)(3). Pub. L. 110-343, §204(a)(2), substituted “December 31, 2009” for “September 30, 2009”.

Subsec. (i). Pub. L. 110-343, §203(c)(1), added subsec. (i).

2007—Subsec. (d)(2)(F). Pub. L. 110-172, §5(a)(2), substituted “fuel” for “hydrocarbons”.

Subsec. (h). Pub. L. 110-172, §5(a)(3), added subsec. (h).

2005—Pub. L. 109-59, §1113(b)(3)(A), substituted “alcohol fuel, biodiesel, and alternative fuel” for “alcohol fuel and biodiesel” in section catchline.

Subsec. (a). Pub. L. 109-59, §1113(b)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

“(1) the alcohol fuel mixture credit, plus

“(2) the biodiesel mixture credit.”

Subsec. (c)(6). Pub. L. 109-58 substituted “2008” for “2006”.

Subsec. (d). Pub. L. 109-59, §1113(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (d)(2)(F). Pub. L. 109-59, §1115(e)(2), substituted “section 45K(c)(3)” for “section 29(c)(3)”.

Subsecs. (e) to (g). Pub. L. 109-59, §1113(b)(2), added subsec. (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, §185(b)(3), Dec. 18, 2015, 129 Stat. 3073, provided that: “The amendments made by this subsection [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2014.”

Pub. L. 114-113, div. Q, title I, §192(b), Dec. 18, 2015, 129 Stat. 3075, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2014.”

Pub. L. 114-113, div. Q, title III, §342(b), Dec. 18, 2015, 129 Stat. 3114, provided that: “The amendments made by this section [amending this section] shall apply to fuel sold or used after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, §160(d), Dec. 19, 2014, 128 Stat. 4022, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2013.

“(2) LIQUEFIED HYDROGEN.—The amendments made by subsection (c) [amending this section and section 6427 of this title] shall apply to fuel sold or used after September 30, 2014.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(1) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112-240, set out as a note under section 40A of this title.

Pub. L. 112-240, title IV, §412(c), Jan. 2, 2013, 126 Stat. 2343, provided that: “The amendments made by this section [amending this section and section 6427 of this

title] shall apply to fuel sold or used after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(1) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111-312, set out as a note under section 40A of this title.

Pub. L. 111-312, title VII, §704(d), Dec. 17, 2010, 124 Stat. 3311, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after December 31, 2009.”

Pub. L. 111-312, title VII, §708(b)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to periods after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a), (b)(2) of Pub. L. 110-343 applicable to fuel produced, and sold or used, after Dec. 31, 2008, see section 202(g)(1) of Pub. L. 110-343, set out as a note under section 40A of this title.

Amendment by section 203(c)(1) of Pub. L. 110-343 applicable to claims for credit or payment made on or after May 15, 2008, see section 203(d) of Pub. L. 110-343, set out as a note under section 40 of this title.

Pub. L. 110-343, div. B, title II, §204(d), Oct. 3, 2008, 122 Stat. 3835, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall apply to fuel sold or used after the date of the enactment of this Act [Oct. 3, 2008].”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15331(b) of Pub. L. 110-246 effective June 18, 2008, see section 15331(c) of Pub. L. 110-246, set out as a note under section 40 of this title.

Amendment by section 15332(b) of Pub. L. 110-246 applicable to fuel sold or used after Dec. 31, 2008, see section 15332(c) of Pub. L. 110-246, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-172, §5(b), Dec. 29, 2007, 121 Stat. 2479, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect as if included in the provisions of the SAFETEA-LU [Pub. L. 109-59] to which they relate.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 11113(b)(1)–(3)(A) of Pub. L. 109-59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by section 11151(e)(2) of Pub. L. 109-59 effective as if included in the provision of the Energy Tax Incentives Act of 2005, Pub. L. 109-58, title XIII, to which such amendment relates, see section 11151(f)(3) of Pub. L. 109-59, set out as a note under section 38 of this title.

EFFECTIVE DATE

Section applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendment note under section 40 of this title.

SPECIAL RULES FOR 2015

Pub. L. 114-113, div. Q, title I, §185(b)(4), Dec. 18, 2015, 129 Stat. 3073, provided that: “Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2015, and ending on December 31,

2015, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 18, 2015] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

Pub. L. 114-113, div. Q, title I, §192(c), Dec. 18, 2015, 129 Stat. 3075, provided that: "Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2015, and ending on December 31, 2015, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 18, 2015] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULE FOR CERTAIN PERIODS DURING 2014

Pub. L. 113-295, div. A, title I, §160(e), Dec. 19, 2014, 128 Stat. 4023, provided that: "Notwithstanding any other provision of law, in the case of—

"(1) any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods after December 31, 2013, and before the date of the enactment of this Act [Dec. 19, 2014], and

"(2) any alternative fuel credit properly determined under section 6426(d) of such Code for such periods, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 19, 2014] providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

SPECIAL RULES FOR 2010

Pub. L. 111-312, title VII, §701(c), Dec. 17, 2010, 124 Stat. 3310, provided that: "Notwithstanding any other

provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

Pub. L. 111-312, title VII, §704(c), Dec. 17, 2010, 124 Stat. 3311, provided that: "Notwithstanding any other provision of law, in the case of any alternative fuel credit or any alternative fuel mixture credit properly determined under subsection (d) or (e) of section 6426 of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act [Dec. 17, 2010] providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code."

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

- (i) which is available to the general public, and
- (ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term “qualified local bus” means any local bus—

- (i) which has a seating capacity of at least 20 adults (not including the driver), and
- (ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(4) Refunds for use of diesel fuel in certain intercity buses

With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

- (A) is registered under section 4101, and
- (B) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that “liquid taxable under section 4041” shall be substituted for “gasoline” each place it appears in such paragraph (4)).

(d) Use by certain aircraft museums or in certain other aircraft uses

Except as provided in subsection (k), if—

- (1) any gasoline on which tax was imposed by section 4081, or
- (2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(l), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

(e) Alcohol, biodiesel, or alternative fuel

Except as provided in subsection (k)—

(1) Used to produce a mixture

If any person produces a mixture described in section 6426 in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit or the alternative fuel mixture credit with respect to such mixture.

(2) Alternative fuel

If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.

(3) Coordination with other repayment provisions

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel with respect to which an amount is allowed as a credit under section 6426.

(4) Registration requirement for alternative fuels

The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.

(5) Limitation to fuels with connection to the United States

No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alter-

native fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).

(6) Termination

This subsection shall not apply with respect to—

(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) sold or used after December 31, 2011,

(B) any biodiesel mixture (as defined in section 6426(c)(3)) sold or used after December 31, 2016,

(C) any alternative fuel (as defined in section 6426(d)(2)) sold or used after December 31, 2016, and

(D) any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011.

[(f) **Repealed.** Pub. L. 109–59, title XI, § 11151(a)(1), Aug. 10, 2005, 119 Stat. 1968]

[(g) **Repealed.** Pub. L. 104–188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]

(h) Blend stocks not used for producing taxable fuel

(1) Gasoline blend stocks or additives not used for producing gasoline

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

(2) Diesel fuel blend stocks or additives not used for producing diesel

Except as provided in subsection (k), if any diesel fuel blend stock is not used by any person to produce diesel fuel and such person establishes that the ultimate use of such diesel fuel blend stock is not to produce diesel fuel, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such diesel fuel blend stock.

(i) Time for filing claims; period covered

(1) General rule

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (l), (m), or (o) by any person with respect to fuel used during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exceptions

(A) In general

If, at the close of any quarter of the taxable year of any person, at least \$750 is pay-

able in the aggregate under subsections (a), (b), (d), (h), (l), (m), and (o) of this section and section 6421 to such person with respect to fuel used during—

(i) such quarter, or

(ii) any prior quarter (for which no other claim has been filed) during such taxable year,

a claim may be filed under this section with respect to such fuel.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

(C) Nonapplication of paragraph

This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).

(3) Special rule for mixture credits and the alternative fuel credit

(A) In general

A claim may be filed under subsection (e)(1) by any person with respect to a mixture described in section 6426 or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2)) for any period—

(i) for which \$200 or more is payable under such subsection (e)(1) or (e)(2), and

(ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

(B) Payment of claim

Notwithstanding subsection (e)(1) or (e)(2), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

(C) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(4) Special rule for vendor refunds

(A) In general

A claim may be filed under paragraph (4)(C) or (5) of subsection (l) by any person with respect to fuel sold by such person for any period—

(i) for which \$200 or more (\$100 or more in the case of kerosene) is payable under paragraph (4)(C) or (5) of subsection (l), and

(ii) which is not less than 1 week.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under subsections (b)(4), (l)(4)(C)(ii), and (l)(5).

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last

day of the first quarter following the earliest quarter included in the claim.

(j) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041 and 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(k) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under this section only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

(3) Allowance of credit against income tax

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

(l) Nontaxable uses of diesel fuel and kerosene

(1) In general

Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(C)(i).

(2) Nontaxable use

For purposes of this subsection, the term “nontaxable use” means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.

(3) Refund of certain taxes on fuel used in diesel-powered trains

For purposes of this subsection, the term “nontaxable use” includes fuel used in a die-

sel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

(4) Refunds for kerosene used in aviation

(A) Kerosene used in commercial aviation

In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

(B) Kerosene used in noncommercial aviation

In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

(i) any tax imposed by subsection (c) or (d)(2) of section 4041, and

(ii) so much of the tax imposed by section 4081 as is attributable to—

(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

(C) Payments to ultimate, registered vendor

(i) In general

With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

(I) is registered under section 4101, and

(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(ii) Payments for kerosene used in noncommercial aviation

The amount which would be paid under paragraph (1) with respect to any kerosene

to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

- (I) is registered under section 4101, and
- (II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to State and local governments

(A) In general

Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.

(B) Sales of kerosene not for use in motor fuel

Paragraph (1) shall not apply to kerosene (other than kerosene used in aviation) sold by a vendor—

- (i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or
- (ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

(C) Payment to ultimate, registered vendor

Except as provided in subparagraph (D), the amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

- (i) is registered under section 4101, and
- (ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(D) Credit card issuer

For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.

(m) Diesel fuel used to produce emulsion

(1) In general

Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax

rate over the incentive tax rate with respect to such fuel.

(2) Definitions

For purposes of paragraph (1)—

(A) Regular tax rate

The term “regular tax rate” means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

(B) Incentive tax rate

The term “incentive tax rate” means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

(n) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(o) Payments for taxes imposed by section 4041(d)

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

(p) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Pub. L. 91-258, title II, §207(a), May 21, 1970, 84 Stat. 246; amended Pub. L. 94-455, title XIX, §1906(a)(31)(A), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 94-530, §1(b), (c)(2)-(5), Oct. 17, 1976, 90 Stat. 2487, 2488; Pub. L. 95-458, §3(b), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 95-599, title V, §505(a), (b), (c)(2)-(4), Nov. 6, 1978, 92 Stat. 2758-2760; Pub. L. 95-600, title VII, §703(l)(3), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 95-618, title II, §233(a)(2), Nov. 9, 1978, 92 Stat. 3190; Pub. L. 96-223, title II, §232(d)(1), (2), (4)(B)-(D), Apr. 2, 1980, 94 Stat. 277, 278; Pub. L. 96-541, §4, Dec. 17, 1980, 94 Stat. 3205; Pub. L. 97-248, title II, §279(b)(2), Sept. 3, 1982, 96 Stat. 563; Pub. L. 97-424, title V, §§511(d)(4), (e)(1)-(3), (g)(2)(B)-(D), 516(b)(5), Jan. 6, 1983, 96 Stat. 2171, 2172, 2173, 2183; Pub. L. 97-473, title II, §202(b)(13), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), title VII, §§732(a)(3), 734(c)(2), title IX, §§911(b), (d)(2)(B)-(F), 912(d), 914, 915(a), July 18, 1984, 98 Stat. 846, 977, 979, 1005-1008; Pub. L. 99-499, title V, §521(c)(3)(A), (B)(i), (C), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99-514, title IV, §422(b), title XVII, §1703(d), (e)(1), (2)(A)-(E), title XVIII, §§1877(b), 1899A(55), (56), Oct. 22, 1986, 100 Stat. 2230, 2777, 2778, 2902, 2961, as amended by Pub. L. 99-499, title V, §521(c)(3)(B)(ii), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 100-17, title V, §502(b)(8), (9), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, §10502(c), Dec. 22, 1987, 101 Stat. 1330-442; Pub. L. 100-223, title IV, §405(b)(1), (2), Dec. 30, 1987, 101 Stat. 1534, 1535; Pub. L. 100-647, title I, §1017(c)(3), (10), title

II, §§ 2001(d)(7)(B)–(D), 2004(s)(2), (3), title III, § 3002(a)–(c), Nov. 10, 1988, 102 Stat. 3576, 3596, 3609, 3615, 3616; Pub. L. 101–239, title VII, §§ 7501(b)(3), 7812(a), 7822(b)(1)–(4), 7841(d)(20), Dec. 19, 1989, 103 Stat. 2361, 2412, 2424, 2425, 2429; Pub. L. 101–508, title XI, §§ 11211(b)(4)(B), (5), (6)(E)(ii), (d)(7), (8), 11213(b)(3), 11801(a)(46), (c)(23), Nov. 5, 1990, 104 Stat. 1388–425 to 1388–427, 1388–433, 1388–522, 1388–528; Pub. L. 102–240, title VIII, § 8002(b)(7), (8), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§ 13241(f)(8)–(10), 13242(c), (d)(21), (25)–(31), Aug. 10, 1993, 107 Stat. 512, 521, 524, 525; Pub. L. 104–188, title I, §§ 1606(a), (b)(2), 1702(b)(2)(B), 1703(k), Aug. 20, 1996, 110 Stat. 1839, 1868, 1877; Pub. L. 105–34, title X, § 1032(c)(3), (e)(7)–(10), Aug. 5, 1997, 111 Stat. 934, 935; Pub. L. 105–178, title IX, §§ 9003(a)(2), 9006(b)(2), 9009(a)–(b)(2), June 9, 1998, 112 Stat. 502, 506, 507; Pub. L. 105–206, title VI, §§ 6016(b), 6017(a), 6023(16), (25), (26), July 22, 1998, 112 Stat. 822, 825, 826; Pub. L. 108–357, title II, § 241(a)(2)(D), title III, § 301(c)(9), (10), title VIII, §§ 851(d)(3), 853(c), (d)(2)(J), (K), 857(b), (c), 870(b), Oct. 22, 2004, 118 Stat. 1438, 1462, 1609, 1611, 1613, 1617, 1624; Pub. L. 109–58, title XIII, §§ 1343(b)(1), (3), 1344(a), Aug. 8, 2005, 119 Stat. 1051, 1052; Pub. L. 109–59, title XI, §§ 11113(b)(3)(C), 11151(a), 11161(b)(2), (3)(B), (D)–(F), 11162(a), (b), 11163(c), Aug. 10, 2005, 119 Stat. 1948, 1968, 1970–1974; Pub. L. 109–432, div. A, title IV, § 420(a), (b)(1), (3), (4), Dec. 20, 2006, 120 Stat. 2968, 2969; Pub. L. 110–172, § 5(a)(1), 11(a)(37)–(39)(A), (e)(1), Dec. 29, 2007, 121 Stat. 2478, 2487–2489; Pub. L. 110–343, div. B, title II, §§ 202(a), 203(c)(2), 204(a)(3), Oct. 3, 2008, 122 Stat. 3832, 3834; Pub. L. 111–312, title VII, §§ 701(b)(2), 704(a), 708(c)(1), Dec. 17, 2010, 124 Stat. 3310–3312; Pub. L. 112–240, title IV, §§ 405(b)(2), 412(b), Jan. 2, 2013, 126 Stat. 2340, 2343; Pub. L. 113–295, div. A, title I, § 160(a)(2), (b)(2), (c)(2), Dec. 19, 2014, 128 Stat. 4022; Pub. L. 114–113, div. Q, title I, §§ 185(b)(2), 192(a)(2), Dec. 18, 2015, 129 Stat. 3073, 3075.)

REFERENCES IN TEXT

Section 4081(c), referred to in subsec. (f)(1), was repealed by Pub. L. 108–357, title III, § 301(c)(7), Oct. 22, 2004, 118 Stat. 1461.

Section 4091, referred to in subsec. (f)(1), (2)(A)(ii), (B)(ii), was repealed by Pub. L. 108–357, title VIII, § 853(d)(1), Oct. 22, 2004, 118 Stat. 1612.

AMENDMENTS

2015—Subsec. (e)(6)(B). Pub. L. 114–113, § 185(b)(2), substituted “December 31, 2016” for “December 31, 2014”.

Subsec. (e)(6)(C). Pub. L. 114–113, § 192(a)(2), substituted “December 31, 2016” for “December 31, 2014”.

2014—Subsec. (e)(6)(B). Pub. L. 113–295, § 160(a)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(C). Pub. L. 113–295, § 160(c)(2)(A), (B), substituted “any” for “except as provided in subparagraph (D), any” and inserted “and” at end.

Pub. L. 113–295, § 160(b)(2), substituted “December 31, 2014” for “December 31, 2013”.

Subsec. (e)(6)(D), (E). Pub. L. 113–295, § 160(c)(2)(C), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “any alternative fuel (as so defined) involving liquefied hydrogen sold or used after September 30, 2014, and”.

2013—Subsec. (e)(6)(B). Pub. L. 112–240, § 405(b)(2), substituted “December 31, 2013” for “December 31, 2011”.

Subsec. (e)(6)(C). Pub. L. 112–240, § 412(b)(1), substituted “(as defined in section 6426(d)(2))” for “or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426)” and “December 31, 2013,” for “December 31, 2011, and”.

Subsec. (e)(6)(D). Pub. L. 112–240, § 412(b)(2)(A), struck out “or alternative fuel mixture” after “any alternative fuel”.

Subsec. (e)(6)(E). Pub. L. 112–240, § 412(b)(2)(B), (3), added subpar. (E).

2010—Subsec. (e)(6)(A). Pub. L. 111–312, § 708(c)(1), substituted “December 31, 2011” for “December 31, 2010”.

Subsec. (e)(6)(B). Pub. L. 111–312, § 701(b)(2), substituted “December 31, 2011” for “December 31, 2009”.

Subsec. (e)(6)(C). Pub. L. 111–312, § 704(a), substituted “December 31, 2011” for “December 31, 2009”.

2008—Subsec. (e)(5). Pub. L. 110–343, § 203(c)(2), added par. (5). Former par. (5) redesignated (6).

Subsec. (e)(5)(B). Pub. L. 110–343, § 202(a), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (e)(6). Pub. L. 110–343, § 203(c)(2), redesignated par. (5) as (6).

Subsec. (e)(6)(C). Pub. L. 110–343, § 204(a)(3), which directed amendment of subsec. (e)(5)(C) by substituting “December 31, 2009” for “September 30, 2009”, was executed by making the substitution in par. (6)(C), to reflect the probable intent of Congress and the redesignation of par. (5) as (6) by Pub. L. 110–343, § 203(c)(2). See above.

2007—Subsec. (e)(3). Pub. L. 110–172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5). Pub. L. 110–172, § 11(a)(37), redesignated par. (3), relating to termination, as (5).

Subsec. (e)(5)(B). Pub. L. 110–172, § 11(e)(1), substituted “2008” for “2006”.

Subsec. (i)(3). Pub. L. 110–172, § 5(a)(1)(C), substituted “mixture credits and the alternative fuel credit” for “alcohol fuel and biodiesel mixture credit” in heading.

Subsec. (i)(3)(A). Pub. L. 110–172, § 5(a)(1)(A), in introductory provisions, inserted “or under subsection (e)(2) by any person with respect to an alternative fuel (as defined in section 6426(d)(2))” after “section 6426”.

Subsec. (i)(3)(A)(i), (B). Pub. L. 110–172, § 5(a)(1)(B), inserted “or (e)(2)” after “subsection (e)(1)”.

Subsec. (l)(4)(A)(ii). Pub. L. 110–172, § 11(a)(38), which directed substitution of “section 4081(a)(2)(A)(iii)” for “section 4081(a)(2)(iii)”, could not be executed, because “section 4081(a)(2)(iii)” did not appear subsequent to amendment by Pub. L. 109–432, § 420(a). See 2006 Amendment note below.

Subsecs. (p), (q). Pub. L. 110–172, § 11(a)(39)(A), redesignated subsec. (q) as (p) and struck out heading and text of former subsec. (p). Text of former subsec. (p) read as follows: “Except as provided in subsection (k), if—

“(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

“(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4 cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used.”

2006—Subsec. (i)(4)(A). Pub. L. 109–432, § 420(b)(3), substituted “paragraph (4)(C) or (5)” for “paragraph (4)(B), (5), or (6)” in introductory provisions and cl. (i) and “(l)(4)(C)(ii), and (l)(5)” for “(l)(5), and (l)(6)” in concluding provisions.

Subsec. (l)(1). Pub. L. 109–432, § 420(b)(4), substituted “paragraph (4)(C)(i)” for “paragraph (4)(B)”.

Subsec. (l)(4). Pub. L. 109–432, § 420(a), amended heading and text of par. (4) generally, substituting provisions relating to refunds for kerosene used in commercial aviation, refunds for kerosene used in noncommercial aviation, and payments to ultimate, registered vendor, consisting of subpars. (A) to (C), for provisions relating to refunds for kerosene used in commercial aviation and payment to ultimate, registered vendor, consisting of subpars. (A) and (B).

Subsec. (l)(5), (6). Pub. L. 109–432, § 420(b)(1), redesignated par. (6) as (5) and struck out former par. (5), which related to refunds for kerosene used in noncommercial aviation.

2005—Subsec. (e). Pub. L. 109-59, §11113(b)(3)(C)(ix), substituted “, biodiesel, or alternative fuel” for “or biodiesel used to produce alcohol fuel and biodiesel mixtures” in heading.

Subsec. (e)(1). Pub. L. 109-59, §11113(b)(3)(C)(i), inserted “or the alternative fuel mixture credit” after “biodiesel mixture credit”.

Subsec. (e)(2). Pub. L. 109-59, §11113(b)(3)(C)(iii), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 109-59, §11113(b)(3)(C)(iv), substituted “under paragraph (1) or (2) with respect to any mixture or alternative fuel” for “under paragraph (1) with respect to any mixture”.

Pub. L. 109-59, §11113(b)(3)(C)(ii), redesignated par. (2) as (3).

Subsec. (e)(4). Pub. L. 109-59, §11113(b)(3)(C)(v), added par. (4).

Subsec. (e)(4)(B). Pub. L. 109-58, §1344(a), which directed amendment of par. (4)(B) by substituting “2008” for “2006”, could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, §11113(b)(3)(C)(v). See 2007 Amendment note above relating to subsec. (e)(5)(B).

Subsec. (e)(5). Pub. L. 109-59, §11113(b)(3)(C)(ii), which directed amendment of subsec. (e) by redesignating par. (4) as (5), could not be executed because there was no par. (4) prior to amendment by Pub. L. 109-59, §11113(b)(3)(C)(v). See 2005 and 2007 Amendment notes above.

Subsec. (e)(5)(C), (D). Pub. L. 109-59, §11113(b)(3)(C)(vi)–(viii), added subpars. (C) and (D).

Subsec. (f). Pub. L. 109-59, §11151(a)(1), struck out subsec. (f) which related to payment by Secretary of an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to any gasoline, diesel fuel, kerosene, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate, which is used by any person in producing a mixture described in section 4081(c) or 4091(c)(1)(A), and which is sold or used in such person’s trade or business.

Subsec. (i)(1), (2)(A). Pub. L. 109-58, §1343(b)(3), inserted “(m),” after “(l),” in par. (1) and in par. (2)(A) in introductory provisions.

Subsec. (i)(4)(A). Pub. L. 109-59, §11161(b)(3)(D)(ii), which directed amendment of subpar. (A) by substituting “subsections (b)(4), (l)(5), and (l)(6)” for “subsection (b)(4) and subsection (l)(5)” in concluding provisions, was executed by making the substitution for “subsections (b)(4) and subsection (l)(5)” to reflect the probable intent of Congress.

Pub. L. 109-59, §11161(b)(3)(D)(i), substituted “paragraph (4)(B), (5), or (6)” for “paragraph (4)(B) or (5)” in two places.

Subsec. (l). Pub. L. 109-59, §11161(b)(3)(B), substituted “and kerosene” for “, kerosene and aviation fuel” in heading.

Subsec. (l)(2). Pub. L. 109-59, §11161(b)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘nontaxable use’ means—

“(A) in the case of diesel fuel or kerosene, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

“(B) in the case of aviation-grade kerosene—

“(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

“(ii) any use in commercial aviation (within the meaning of section 4083(b)).”

Subsec. (l)(4). Pub. L. 109-59, §11161(b)(3)(E)(iv), substituted “kerosene used in commercial aviation” for “aviation-grade kerosene” in heading.

Subsec. (l)(4)(A). Pub. L. 109-59, §11161(b)(3)(E)(i), struck out “aviation-grade” before “kerosene” in introductory provisions.

Subsec. (l)(4)(A)(ii). Pub. L. 109-59, §11161(b)(3)(E)(ii), substituted “section 4081(a)(2)(iii)” for “section 4081(a)(2)(A)(iv)”.

Subsec. (l)(4)(B). Pub. L. 109-59, §11161(b)(3)(E)(iii), substituted “kerosene used in commercial aviation as described in subparagraph (A)” for “aviation-grade kerosene” in introductory provisions.

Subsec. (l)(5). Pub. L. 109-59, §11161(b)(2)(B), added par. (5). Former par. (5) redesignated (6).

Subsec. (l)(6). Pub. L. 109-59, §11162(b), struck out “farmers and” before “State and local governments” in heading.

Pub. L. 109-59, §11161(b)(2)(B), redesignated par. (5) as (6).

Subsec. (l)(6)(A). Pub. L. 109-59, §11162(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to diesel fuel or kerosene used—

“(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

“(ii) by a State or local government.”

Subsec. (l)(6)(B). Pub. L. 109-59, §11161(b)(3)(F), substituted “kerosene used in aviation” for “aviation-grade kerosene” in introductory provisions.

Subsec. (l)(6)(C). Pub. L. 109-59, §11163(c)(1), substituted “Except as provided in subparagraph (D), the amount” for “The amount” in introductory provisions.

Subsec. (l)(6)(D). Pub. L. 109-59, §11163(c)(2), added subpar. (D).

Subsecs. (m), (n). Pub. L. 109-58, §1343(b)(1), added subsec. (m) and redesignated former subsec. (m) as (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (n) as (o). Former subsec. (o) redesignated (p).

Pub. L. 109-59, §11151(a)(2), which directed the redesignation of subsec. (p) as (o) and the striking of former subsec. (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (p). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Pub. L. 109-59, §11151(a)(2), which directed the redesignation of subsec. (p) as (o), to be treated as not having been enacted. See Construction of Amendment by Pub. L. 109-59 note below.

Subsec. (q). Pub. L. 109-58, §1343(b)(1), redesignated subsec. (p) as (q).

2004—Subsec. (b)(4). Pub. L. 108-357, §857(b), added par. (4).

Subsec. (e). Pub. L. 108-357, §301(c)(9), added subsec. (e).

Subsec. (h). Pub. L. 108-357, §870(b), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.”

Subsec. (i)(2)(C). Pub. L. 108-357, §851(d)(3), added subpar. (C).

Subsec. (i)(3). Pub. L. 108-357, §301(c)(10)(F), substituted “alcohol fuel and biodiesel mixture” for “alcohol mixture” in heading.

Subsec. (i)(3)(A). Pub. L. 108-357, §301(c)(10)(A)–(C), substituted “a mixture described in section 6426” for “gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” in introductory provisions, substituted “subsection (e)(1)” for “subsection (f)” in two places, and inserted concluding provisions.

Subsec. (i)(3)(B). Pub. L. 108-357, §301(c)(10)(D), (E), substituted “subsection (e)(1)” for “subsection (f)(1)” and “45 days of the date of the filing of such claim (20 days in the case of an electronic claim)” for “20 days of the date of the filing of such claim”.

Subsec. (i)(4)(A). Pub. L. 108-357, §857(c), which directed the insertion of “subsections (b)(4) and” after “filed under”, was executed by making the insertion in

concluding provisions, to reflect the probable intent of Congress.

Pub. L. 108-357, §853(c)(2), substituted “paragraph (4)(B) or (5) of subsection (I)” for “subsection (I)(5)” in introductory provisions and in cl. (i) and substituted “subsection (I)(5)” for “the preceding sentence” before period at end of concluding provisions.

Subsec. (j)(1). Pub. L. 108-357, §853(d)(2)(J), substituted “and 4081” for “, 4081, and 4091”.

Subsec. (I)(1). Pub. L. 108-357, §853(d)(2)(K)(i), reenacted heading without change and amended text of par. (I) generally. Prior to amendment, text read as follows: “Except as otherwise provided in this subsection and in subsection (k), if—

“(A) any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081, or

“(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.”

Subsec. (I)(2)(B). Pub. L. 108-357, §853(c)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.”

Subsec. (I)(3)(B). Pub. L. 108-357, §241(a)(2)(D), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

“(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

“(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

“(iii) 4.3 cents per gallon after October 31, 1998.”

Subsec. (I)(4). Pub. L. 108-357, §853(c)(1), amended heading and text of par. (4) generally. Text read as follows: “In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

“(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.”

Subsec. (I)(5)(B). Pub. L. 108-357, §853(d)(2)(K)(ii), substituted “Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)” for “Paragraph (1)(A) shall not apply to kerosene” in introductory provisions.

1998—Subsec. (d). Pub. L. 105-206, §6016(b), in heading, substituted “other aircraft uses” for “helicopters” and, in concluding provisions, inserted “or a fixed-wing aircraft” after “helicopter”.

Subsec. (f)(3). Pub. L. 105-206, §6023(25), struck out “, (e),” after “subsection (d)”.

Subsec. (f)(4). Pub. L. 105-178, §9003(a)(2), substituted “2007” for “1999”.

Subsec. (i)(1). Pub. L. 105-206, §6023(26)(B), substituted “(o)” for “(q)”.

Subsec. (i)(2)(A). Pub. L. 105-206, §6023(26)(B), substituted “(o)” for “(q)”.

Pub. L. 105-178, §9009(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under subsections (a), (b), (d), (h), and (q) to any person with respect to fuel used during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.”

Subsec. (i)(2)(B). Pub. L. 105-206, §6017(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first

quarter following the quarter for which the claim is filed.”

Subsec. (i)(4), (5). Pub. L. 105-178, §9009(b)(1), redesignated par. (5) as (4) and struck out par. (4) which read as follows:

“(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (I).—

“(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least \$750 is payable under subsection (I) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (I) with respect to such fuel.

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.”

Subsec. (k)(2). Pub. L. 105-178, §9009(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).”

Subsec. (I)(3)(B)(ii). Pub. L. 105-178, §9006(b)(2)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (I)(3)(B)(iii). Pub. L. 105-178, §9006(b)(2)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (m) to (p). Pub. L. 105-206, §6023(26)(A), redesignated subsecs. (n), (p), (q), and (r) as (m), (n), (o), and (p), respectively.

Subsec. (q). Pub. L. 105-206, §6023(26)(A), redesignated subsec. (q) as (o).

Subsec. (q)(2). Pub. L. 105-206, §6023(16), substituted “section 4041(c)(2)” for “section 4041(c)(4)”.

Subsec. (r). Pub. L. 105-206, §6023(26)(A), redesignated subsec. (r) as (p).

1997—Subsec. (f). Pub. L. 105-34, §1032(e)(7), inserted “kerosene,” after “diesel fuel,” in subsec. heading and in text of par. (1).

Subsec. (f)(2)(A)(i), (B)(i). Pub. L. 105-34, §1032(e)(8), substituted “, diesel fuel, or kerosene” for “or diesel fuel”.

Subsec. (f)(3). Pub. L. 105-34, §1032(e)(7), inserted “kerosene,” after “diesel fuel,”.

Subsec. (i)(3)(A). Pub. L. 105-34, §1032(e)(9), substituted “, diesel fuel, or kerosene” for “or diesel fuel” in introductory provisions.

Subsec. (i)(4). Pub. L. 105-34, §1032(e)(10), amended heading generally. Prior to amendment, heading read as follows: “Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4081 or 4091”.

Subsec. (i)(5)(A)(i). Pub. L. 105-34, §1032(c)(3)(E), inserted “(\$100 or more in the case of kerosene)” after “\$200 or more”.

Subsec. (I). Pub. L. 105-34, §1032(c)(3)(D), inserted “, kerosene,” after “diesel fuel” in heading.

Subsec. (I)(1)(A), (2)(A). Pub. L. 105-34, §1032(c)(3)(A), inserted “or kerosene” after “diesel fuel”.

Subsec. (I)(5). Pub. L. 105-34, §1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in heading.

Subsec. (I)(5)(A). Pub. L. 105-34, §1032(c)(3)(A), inserted “or kerosene” after “diesel fuel” in introductory provisions.

Subsec. (I)(5)(B). Pub. L. 105-34, §1032(c)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (I)(5)(C). Pub. L. 105-34, §1032(c)(3)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)” in introductory provisions.

1996—Subsec. (f)(4). Pub. L. 104-188, §1703(k), substituted “1999” for “1995”.

Subsec. (g). Pub. L. 104-188, §1606(a), struck out subsec. (g) which related to advance repayment of increased diesel fuel tax to original purchasers of diesel-powered automobiles and light trucks.

Subsec. (i)(1), (2)(A). Pub. L. 104-188, §1606(b)(2), struck out “(g),” after “(d),” and “(or a qualified diesel powered highway vehicle purchased)” after “with respect to fuel used” wherever appearing.

Subsec. (l)(4). Pub. L. 104-188, §1702(b)(2)(B), amended par. (4), as in effect before the amendments made by the Revenue Reconciliation Act of 1993 [ch. I, §§13001-13444, of title XIII of Pub. L. 103-66], by inserting before the period “unless such fuel was used by a State or any political subdivision thereof”. See 1993 Amendment note below for subsec. (l).

1993—Subsec. (a). Pub. L. 103-66, §13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)” in introductory provisions.

Subsec. (b)(1). Pub. L. 103-66, §13242(d)(25), substituted “if any fuel other than gasoline (as defined in section 4083(a))” for “if any fuel” in introductory provisions and “4081” for “4091” in introductory and concluding provisions.

Subsec. (b)(2). Pub. L. 103-66, §13241(f)(8)(B), substituted “Reduction” for “3-cent reduction” in heading.

Subsec. (b)(2)(A). Pub. L. 103-66, §13242(d)(25)(B), substituted “4081” for “4091”.

Pub. L. 103-66, §13241(f)(8)(A), substituted “7.4 cents” for “3.1 cents”.

Subsec. (c). Pub. L. 103-66, §13242(d)(21), substituted “paragraph (2) or (3) of section 4041(a) or section 4041(c)” for “section 4041(a) or (c)”.

Subsec. (f)(1). Pub. L. 103-66, §13242(d)(26)(A), substituted “or 4091(c)(1)(A)” for “, 4091(c)(1)(A), or 4091(d)(1)(A)”.

Subsec. (f)(2). Pub. L. 103-66, §13242(d)(26)(B), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “For purposes of paragraph (1)—

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

“(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means—

“(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

“(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

“(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.”

Subsec. (h). Pub. L. 103-66, §13242(d)(27), substituted “section 4083(a)(2)” for “section 4082(b)”.

Subsec. (i)(1). Pub. L. 103-66, §13242(c)(2)(B), substituted “otherwise provided in this subsection” for “provided in paragraphs (2), (3), and (4)”.

Subsec. (i)(3). Pub. L. 103-66, §13242(d)(28)(A), substituted “alcohol mixture” for “gasohol” in heading.

Subsec. (i)(3)(A). Pub. L. 103-66, §13242(d)(28)(B), substituted “gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))” for “gasoline used to produce gasohol (as defined in section 4081(c)(1))”.

Subsec. (i)(3)(C). Pub. L. 103-66, §13242(c)(2)(D), added subpar. (C).

Subsec. (i)(4). Pub. L. 103-66, §13242(d)(30), inserted “4081 or” before “4091” in heading.

Subsec. (i)(5). Pub. L. 103-66, §13242(c)(2)(A), added par. (5).

Subsec. (j)(1). Pub. L. 103-66, §13242(d)(29), substituted “sections 4041, 4081, and 4091” for “section 4041”.

Subsec. (k)(2). Pub. L. 103-66, §13242(c)(2)(C), substituted “(4), or (5)” for “or (4)”.

Subsec. (l). Pub. L. 103-66, §13242(d)(31), amended subsec. heading and headings and text of pars. (1) to (4) generally. Prior to amendment, pars. (1) to (4) read as follows:

“(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

“(2) NONTAXABLE USE.—For purposes of this subsection, the term ‘nontaxable use’ means, with respect to any fuel, any use of such fuel if such use is exempt under section 4041 from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

“(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

“(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.”

Pub. L. 103-66, §13241(f)(9), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

“(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

“(A) fuel used in a diesel-powered train, and

“(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

“(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section.” See 1996 Amendment note for subsec. (l)(4) above.

Subsec. (l)(5). Pub. L. 103-66, §13242(c)(1), added par. (5).

Subsec. (m). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (m). Text read as follows: “For purposes of subsection (a), in the case of gasoline—

“(1) on which tax was imposed under section 4041(c)(2),

“(2) on which tax was not imposed under section 4081, and

“(3) which was not used as an off-highway business use (within the meaning of section 6421(e)(2)), the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.”

Subsec. (o). Pub. L. 103-66, §13241(f)(10), struck out heading and text of subsec. (o). Text read as follows: “Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (l) shall only apply with respect to fuels purchased before October 1, 1999.”

1991—Subsecs. (g)(5), (o). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (b)(2)(A). Pub. L. 101-508, §1121(b)(5), substituted “shall be 3.1 cents per gallon less than the

aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be” for “shall not exceed 12 cents”.

Subsec. (e). Pub. L. 101-508, §11801(a)(46), struck out subsec. (e) which required payment of refunds of gasoline or fuel tax to ultimate purchasers where such gasoline or fuel was used in a qualified taxicab engaged exclusively in furnishing qualified taxicab services.

Subsec. (f). Pub. L. 101-508, §11213(b)(3), amended subsec. (f) generally, restructuring and restating pars. (1) to (3) as (1) to (4) and extending the termination date from Sept. 30, 1993, to Sept. 30, 1995.

Subsec. (g)(5). Pub. L. 101-508, §11211(d)(7), substituted “1995” for “1993”.

Subsec. (i)(1). Pub. L. 101-508, §11801(c)(23)(A), struck out “(e),” before “(g),”.

Subsec. (i)(2)(A). Pub. L. 101-508, §11801(c)(23)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “If—

- “(i) \$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (q), or
- “(ii) \$50 or more is payable under subsection (e),

to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.”

Subsec. (i)(2)(B), (C). Pub. L. 101-508, §11801(c)(23)(C), redesignated subpar. (C) as (B) and struck out former subpar. (B) “Special rule” which read as follows: “If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).”

Subsec. (l)(1). Pub. L. 101-508, §11211(b)(4)(B)(ii), inserted reference to par. (4).

Subsec. (l)(4). Pub. L. 101-508, §11211(b)(4)(B)(i), added par. (4).

Subsec. (o). Pub. L. 101-508, §11211(d)(8), substituted “1995” for “1993”.

Subsec. (q). Pub. L. 101-508, §11211(b)(6)(E)(ii), substituted heading for one which read: “Gasoline used in noncommercial aviation during period rate reduction in effect” and amended text generally. Prior to amendment, text read as follows: “Except as provided in subsection (k), if—

- “(1) any tax is imposed by section 4081 on any gasoline,
- “(2) such gasoline is used during 1991 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and
- “(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1991 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.”

1989—Subsec. (f)(1)(B). Pub. L. 101-239, §7812(a), made technical correction to directory language of Pub. L. 100-647, §2001(d)(7)(C), see 1988 Amendment note below.

Subsec. (i)(1). Pub. L. 101-239, §7822(b)(1), substituted “subsection (a), (b), (c), (d), (e), (g), (h), (l), or (q) by any person” for “subsection (a), (b), (c), (d), (e), (g), (h), or (l) by any person”.

Subsec. (i)(2)(A)(i). Pub. L. 101-239, §7822(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “\$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and or”.

Subsec. (i)(2)(B). Pub. L. 101-239, §7822(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “If the requirements of clause (ii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may

file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause of subparagraph (A) the requirements of which are met by such person for such quarter.”

Subsec. (j)(2). Pub. L. 101-239, §7841(d)(20), substituted “section 7602(a)” for “section 7602”.

Subsec. (p). Pub. L. 101-239, §7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

Subsec. (q). Pub. L. 101-239, §7501(b)(3), substituted “1991” for “1990” in pars. (2) and (3).

Pub. L. 101-239, §7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

1988—Subsec. (f)(1)(A). Pub. L. 100-647, §2001(d)(7)(B), substituted “regular tax rate” for “regular Highway Trust Fund financing rate” in two places and “incentive tax rate” for “incentive Highway Trust Fund Financing rate”, notwithstanding directory language that “incentive tax rate” was to be substituted for “Highway Trust Fund financing rate”.

Subsec. (f)(1)(B). Pub. L. 100-647, §2001(d)(7)(C), as amended by Pub. L. 101-239, §7812(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) defined “regular Highway Trust Fund financing rate” and “incentive Highway Trust Fund Financing rate”.

Subsec. (i)(1). Pub. L. 100-647, §3002(c)(1), substituted “paragraphs (2), (3), and (4)” for “paragraph (2)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-647, §3002(c)(2), struck out “(l),” after “and”.

Subsec. (i)(4). Pub. L. 100-647, §3002(a), added par. (4).

Subsec. (k)(2). Pub. L. 100-647, §3002(b), substituted “paragraph (2), (3), or (4)” for “paragraph (2) or (3)”.

Pub. L. 100-647, §1017(c)(10), substituted “paragraph (2) or (3) of subsection (i),” for “subsection” and all that followed, thereby effecting the purpose of the amendment contained in section 1703(e)(2)(E) of Pub. L. 99-514. See 1986 Amendment note below.

Subsec. (l)(2). Pub. L. 100-647, §2001(d)(7)(D), inserted “under section 4041” after “exempt”.

Subsec. (l)(3)(B). Pub. L. 100-647, §2004(s)(2), inserted “(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))” after “aircraft”.

Subsec. (m)(3). Pub. L. 100-647, §1017(c)(3), substituted “6421(e)(2)” for “6421(d)(2)”.

Subsecs. (p), (q). Pub. L. 100-647, §2004(s)(3), redesignated subsec. (p), relating to gasoline used in noncommercial aviation during period rate reduction in effect, as (q). Former subsec. (q), relating to cross references, redesignated (r).

Subsec. (r). Pub. L. 100-647, §2004(s)(3), redesignated subsec. (q), relating to cross references, as (r).

1987—Subsec. (b)(1). Pub. L. 100-203, §10502(c)(2), substituted “section 4041(a) or 4091” for first reference to “subsection (a) of section 4041”, “section 4041(a) or 4091, as the case may be” for second reference to “subsection (a) of section 4041”.

Subsec. (e)(1)(B). Pub. L. 100-203, §10502(c)(3), inserted “or 4091” after “section 4041”.

Subsec. (f). Pub. L. 100-203, §10502(c)(4), amended subsec. (f) generally, substituting new heading for “Gasoline used to produce certain alcohol fuels”, and revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (g)(5). Pub. L. 100-17, §502(b)(8), substituted “1993” for “1988”.

Subsec. (i)(1). Pub. L. 100-223, §405(b)(2)(A), which directed substitution of “(h), or (p)” for “or (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, §10502(c)(5)(A), substituted “(h), or (l)” for “or (h)”.

Subsec. (i)(2)(A)(i). Pub. L. 100-223, §405(b)(2)(B), which directed substitution of “(h), and (p)” for “and (h)”, could not be executed because of prior amendment by Pub. L. 100-203. See below.

Pub. L. 100-203, §10502(c)(5)(B), substituted “(h), and (l)” for “and (h)”.

Subsecs. (l) to (n). Pub. L. 100-203, §10502(c)(1), added subsec. (l) and redesignated former subsecs. (l) to (n) as (m) to (o), respectively.

Subsec. (o). Pub. L. 100-203, §10502(c)(1), (6), redesignated subsec. (n) as (o) and amended it generally, substituting new heading for “Termination of subsections (a), (b), (c), (d), (g), and (h)” and amending text generally. Prior to amendment, text read as follows: “Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), and (h) shall only apply with respect to fuels purchased before October 1, 1993.” Former subsec. (o) redesignated (p).

Pub. L. 100-17, §502(b)(9), substituted “1993” for “1988” in subsec. (m), which was successively redesignated to subsec. (o) by Pub. L. 99-514 and Pub. L. 100-203.

Subsec. (p). Pub. L. 100-223, §405(b)(1), added subsec. (p). Former subsec. (p) redesignated (q).

Pub. L. 100-203, §10502(c)(1), redesignated subsec. (o) as (p). Former subsec. (p) redesignated (q).

Subsec. (q). Pub. L. 100-223, §405(b)(1), redesignated subsec. (p), relating to payments for taxes imposed by section 4041(d), as (q).

Pub. L. 100-203, §10502(c)(1), redesignated subsec. (p), relating to cross references, as (q).

1986—Subsec. (a). Pub. L. 99-514, §1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(1). Pub. L. 99-514, §1899A(55), substituted “otherwise provided in this subsection” for “provided in paragraph (2)”.

Pub. L. 99-514, §1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (b)(2)(A). Pub. L. 99-514, §1877(b)(2), substituted “subparagraphs (B) and (C)” for “subparagraph (B)”.

Subsec. (b)(2)(B). Pub. L. 99-514, §1877(b)(1), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 99-514, §1877(b)(1), (3), redesignated subpar. (B) as (C) and substituted “Exception for certain intracity transportation” for “Exception” in heading. Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 99-514, §1877(b)(1), redesignated former subpar. (C) as (D).

Subsecs. (c), (d), (e)(1). Pub. L. 99-514, §1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (e)(3). Pub. L. 99-514, §422(b), substituted “September 30, 1988” for “September 30, 1985”.

Subsec. (f)(1). Pub. L. 99-514, §1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Pub. L. 99-499, §521(c)(3)(C), which directed the substitution of “at the Highway Trust Fund financing rate” for “at the rate”, was executed by making the substitution for the first such reference as the probable intent of Congress.

Subsec. (g)(1). Pub. L. 99-514, §1899A(56), substituted “amount” for “anount”.

Pub. L. 99-514, §1703(e)(2)(A), substituted “subsection (k)” for “subsection (j)”.

Subsec. (h). Pub. L. 99-514, §1703(e)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 99-514, §1703(d)(1)(B)(i), (e)(2)(B), struck out “(f)” after “subsection (a), (b), (c), (d), (e),” and substituted “(g), or (h)” for “or (g)”.

Subsec. (i)(2)(A). Pub. L. 99-514, §1703(d)(1)(B)(ii), inserted “or” at end of cl. (i), struck out “or” at end of cl. (ii), and struck out cl. (iii) which read as follows: “\$200 or more is payable under subsection (f).”

Subsec. (i)(2)(A)(i). Pub. L. 99-514, §1703(e)(2)(C), substituted “(g), and (h)” for “and (g)”.

Subsec. (i)(2)(B). Pub. L. 99-514, §1703(d)(1)(B)(ii)(III), struck out “(or clauses)” after “referred to in the clause”. Notwithstanding directory language that the amendment be made to subpar. (A) of this par., the amendment was executed to subpar. (B), the only place in the section where “(or clauses)” appeared, to reflect the probable intent of Congress.

Pub. L. 99-514, §1703(d)(1)(B)(iii), struck out “or clause (iii)” after “If the requirements of clause (ii)”. Notwithstanding directory language that the amendment be made to subsec. (f)(2)(B) of this section, the

amendment was executed to subsec. (i)(2)(B), the only place in the section where “or clause (iii)” appeared, to reflect the probable intent of Congress.

Subsec. (i)(3). Pub. L. 99-514, §1703(d)(1), added par. (3).

Subsec. (j). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 99-514, §1703(e)(2)(E), which directed the substitution of “(i)(2)” for “subsection (h)(2)” in subsec. (i)(2) (as so redesignated), was executed to subsec. (k)(2), the only place in the section where “subsection (h)(2)” appeared, to reflect the probable intent of Congress. See 1988 Amendment note above.

Pub. L. 99-514, §1703(d)(1)(B)(iv), substituted “subsection (h)(2) or (h)(3)” for “subsection (h)(2)”.

Subsec. (l). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 99-514, §1703(e)(1)(A), redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Pub. L. 99-499, §521(c)(3)(A), substituted “Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections” for “Subsection”.

Subsec. (n). Pub. L. 99-514, §1703(e)(1)(A), (2)(C), (D), redesignated subsec. (m) as (n) and substituted “(g), and (h)” for “and (g)” in heading and text. Former subsec. (n) redesignated (o).

Pub. L. 99-499, §521(c)(3)(B)(i), added subsec. (n). Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 99-514, §1703(e)(1)(A), as amended by Pub. L. 99-499, §521(c)(3)(B)(ii), redesignated subsec. (n), as added by Pub. L. 99-499, §521(c)(3)(B)(i), as (o). Former subsec. (o) redesignated (p).

Pub. L. 99-499, §521(c)(3)(B)(i), redesignated subsec. (n) as (o).

Subsec. (p). Pub. L. 99-514, §1703(e)(1)(A), as amended by Pub. L. 99-499, §521(c)(3)(B)(ii), redesignated subsec. (o) as (p).

1984—Subsecs. (a), (b)(1). Pub. L. 98-369, §911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Subsec. (b)(2), (3). Pub. L. 98-369, §915(a), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d), (e)(1). Pub. L. 98-369, §911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Subsec. (e)(3). Pub. L. 98-369, §914, substituted “September 30, 1985” for “September 30, 1984”.

Subsec. (f)(1). Pub. L. 98-369, §911(d)(2)(B), substituted “subsection (j)” for “subsection (i)”.

Pub. L. 98-369, §912(d), substituted “5½ cents” for “4½ cents”.

Pub. L. 98-369, §732(a)(3), substituted “4½ cents” for “5 cents”.

Subsec. (g). Pub. L. 98-369, §911(b), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 98-369, §911(b), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 98-369, §911(d)(2)(C), substituted “(f), or (g)” for “or (f)”, and inserted “(or a qualified diesel powered highway vehicle purchased)” after “fuel used” in two places.

Subsec. (h)(2)(A). Pub. L. 98-369, §911(d)(2)(D), substituted “(e), and (g)” for “and (e)”, and inserted “(or a qualified diesel powered highway vehicle purchased)” after “fuel used” in two places.

Subsec. (i). Pub. L. 98-369, §911(b), redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(3). Pub. L. 98-369, §474(r)(38), substituted “section 34” for “section 39”.

Subsec. (j). Pub. L. 98-369, §911(b), redesignated former subsec. (i), relating to income tax credit in lieu of payment, as (j). Former subsec. (j), relating to special rules with respect to noncommercial aviation, redesignated (k).

Pub. L. 98-369, §734(c)(2), added subsec. (j) relating to special rules with respect to noncommercial aviation.

Former subsec. (j), relating to regulations, redesignated (k).

Subsec. (j)(2). Pub. L. 98-369, §911(d)(2)(E), which directed the amendment of subsec. (k)(2) by substituting “(h)(2)” for “(g)(2)” was executed to subsec. (j)(2) to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 98-369, §911(b), redesignated former subsec. (j), relating to special rules with respect to noncommercial aviation, as (k). Former subsec. (k), relating to regulations, redesignated (l).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (j), relating to regulations, as (k). Former subsec. (k), relating to termination of subsections, redesignated (l).

Subsec. (l). Pub. L. 98-369, §911(b), redesignated former subsec. (k), relating to regulations, as (l). Former subsec. (l), relating to termination of subsections, redesignated (m).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (k), relating to termination of subsections, as (l). Former subsec. (l), relating to cross references, redesignated (m).

Subsec. (m). Pub. L. 98-369, §911(b), (d)(2)(F), redesignated former subsec. (l), relating to termination of subsections, as (m) and substituted “(d), and (g)” for “and (d)” in heading and text. Former subsec. (m), relating to cross references, redesignated (n).

Pub. L. 98-369, §734(c)(2), redesignated former subsec. (l), relating to cross references, as (m).

Subsec. (n). Pub. L. 98-369, §911(b), redesignated former subsec. (m), relating to cross references, as (n). 1983—Subsec. (a). Pub. L. 97-424, §511(g)(2)(B), substituted “section 4041(a) or (c)” for “section 4041(a), (b), or (c)”.

Subsec. (b)(1). Pub. L. 97-424, §511(g)(2)(C), substituted “subsection (a) of section 4041” for “subsection (a) or (b) of section 4041” wherever appearing.

Subsec. (c). Pub. L. 97-424, §511(g)(2)(D), substituted “section 4041(a) or (c)” for “section 4041(a), (b), or (c)”.

Subsec. (e)(1). Pub. L. 97-424, §511(e)(1), substituted “an amount determined at the rate of 4 cents a gallon” for “an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel”.

Subsec. (e)(2)(A)(ii). Pub. L. 97-424, §511(e)(3), struck out “is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and” after “(ii)”.

Subsec. (e)(3). Pub. L. 97-424, §511(e)(2), substituted “September 30, 1984” for “December 31, 1982”.

Subsec. (f)(1). Pub. L. 97-424, §511(d)(4), substituted “on which a tax” for “on which tax”, inserted “at the rate of 9 cents a gallon” after “is imposed by section 4081”, and substituted “the amount determined at the rate of 5 cents a gallon” for “the aggregate amount of the tax imposed on such gasoline”.

Subsec. (f)(2). Pub. L. 97-424, §511(d)(4), substituted provision that no amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421, for provision that no amount would be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount was payable under paragraph (1).

Subsec. (k). Pub. L. 97-424, §516(b)(5), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(3). Pub. L. 97-473 purported to add par. (3). See par. below for subsec. (l)(3).

Subsec. (l). Pub. L. 97-424, §516(b)(5), redesignated former subsec. (k) as (l).

Subsec. (l)(3). Pub. L. 97-473 added par. (3). Notwithstanding the directory language that par. (3) be added to subsec. (k), it was added to subsec. (l) to reflect the probable intent of Congress and the intervening redesignation of subsec. (k) as (l) by Pub. L. 97-424.

1982—Subsec. (d). Pub. L. 97-248 inserted “or in certain helicopters” after “museums” in heading and “or is used in a helicopter for a purpose described in section 4041(l),” after “section 4041(h)(2)(C),” in text.

1980—Subsecs. (a), (b)(1), (c), (d), (e)(1). Pub. L. 96-223, §232(d)(4)(B), substituted “subsection (i)” for “subsection (h)”.

Subsec. (e)(3). Pub. L. 96-541 extended subsec. (e) termination date to Dec. 31, 1982, from Dec. 31, 1980.

Subsecs. (f), (g). Pub. L. 96-223, §232(d)(1)(A), (2), (4)(C), added subsec. (f), redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, inserted reference to subsec. (f) in par. (1), added par. (2)(A)(iii), and, in par. (2)(B), substituted “If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter” for “If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e)”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96-223, §232(d)(1)(A), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96-223, §232(d)(1)(A), (4)(D), redesignated former subsec. (h) as (i), and in par. (2) of subsec. (i) as so redesignated, substituted “subsection (g)(2)” for “subsection (f)(2)”. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Pub. L. 96-223, §232(d)(1)(A), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1978—Subsec. (a). Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (b). Pub. L. 95-618, among other changes, provided for the refund or credit of the taxes paid on fuel pursuant to section 4041(a) or (b) but only to the extent such fuel is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”. See Effective Date of 1978 Amendment note below.

Subsec. (c). Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Pub. L. 95-458 substituted provision requiring that the rules of section 6420(c)(4) be applied in determining the user and purchaser of fuel if the fuel was used on a farm by any person other than the owner, tenant, or operator for provision which deemed the owner, tenant, or operator of the farm as the user and purchaser if fuel was used on the farm by any other person.

Subsec. (d). Pub. L. 95-600 struck out “or his delegate” after “Secretary”.

Pub. L. 95-599, §505(c)(2), substituted “subsection (h)” for “subsection (g)”.

Subsec. (e). Pub. L. 95-599, §505(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95-599, §505(a)(1), (b), (c)(3), redesignated former subsec. (e) as (f) and, in par. (1), substituted “(d), or (e)” for “or (d)” and amended par. (2) generally, designating existing provisions as subpars. (A)(i) and (c) and adding subpars. (A)(ii) and (B). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-599, §505(a)(1), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-599, §505(a)(1), (c)(4), redesignated former subsec. (g) as (h) and substituted “(f)(2)” for “(e)(2)”. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 95-599, §505(a)(1), redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1976—Subsec. (a). Pub. L. 94-530, §1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, §1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” after “sale of any fuel and” and “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-530, §1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, §1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used by the purchaser” and “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-530, §1(c)(2), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 94-455, §1906(a)(31)(A), (b)(13)(A), struck out “, after June 30, 1970,” before “used on a farm” and “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-530, §1(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e)(1). Pub. L. 94-530, §1(b), (c)(3), redesignated former subsec. (d)(1) as (e)(1) and substituted “(a), (b), (c), or (d)” for “(a), (b), or (c)”. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 94-530, §1(b), (c)(4), redesignated former subsec. (d)(2) as (e)(2) and substituted “(a), (b), and (d)” for “(a) and (b)”.

Subsec. (f). Pub. L. 94-530, §1(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g) and amended.

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

Subsec. (g). Pub. L. 94-530, §1(b), (c)(5), redesignated former subsec. (f) as (g) and substituted “subsection (e)(2)” for “subsection (d)(2)” in par. (2).

Subsecs. (h), (i). Pub. L. 94-530, §1(b), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

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

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 185(b)(2) of Pub. L. 114-113 applicable to fuel sold or used after Dec. 31, 2014, see section 185(b)(3) of Pub. L. 114-113, set out as a note under section 6426 of this title.

Amendment by section 192(a)(2) of Pub. L. 114-113 applicable to fuel sold or used after Dec. 31, 2014, see section 192(b) of Pub. L. 114-113, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 160(a)(2), (b)(2) of Pub. L. 113-295 applicable to fuel sold or used after Dec. 31, 2013, see section 160(d)(1) of Pub. L. 113-295, set out as a note under section 6426 of this title.

Amendment by section 160(c)(2) of Pub. L. 113-295 applicable to fuel sold or used after Sept. 30, 2014, see section 160(d)(2) of Pub. L. 113-295, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by section 405(b)(2) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 405(c) of Pub. L. 112-240, set out as a note under section 40A of this title.

Amendment by section 412(b) of Pub. L. 112-240 applicable to fuel sold or used after Dec. 31, 2011, see section 412(c) of this title, set out as a note under section 6426 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 701(b)(2) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 701(d) of Pub. L. 111-312, set out as a note under section 40A of this title.

Amendment by section 704(a) of Pub. L. 111-312 applicable to fuel sold or used after Dec. 31, 2009, see section 704(d) of Pub. L. 111-312, set out as a note under section 6426 of this title.

Pub. L. 111-312, title VII, §708(c)(2), Dec. 17, 2010, 124 Stat. 3312, provided that: “The amendment made by this subsection [amending this section] shall apply to sales and uses after December 31, 2010.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 202(a) of Pub. L. 110-343 applicable to fuel produced, and sold or used, after Dec. 31, 2008, see section 202(g)(1) of Pub. L. 110-343, set out as a note under section 40A of this title.

Amendment by section 203(c)(2) of Pub. L. 110-343 applicable to claims for credit or payment made on or after May 15, 2008, see section 203(d) of Pub. L. 110-343, set out as a note under section 40 of this title.

Amendment by section 204(a)(3) of Pub. L. 110-343 applicable to fuel sold or used after Oct. 3, 2008, see section 204(d) of Pub. L. 110-343, set out as a note under section 6426 of this title.

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by section 5(a)(1) of Pub. L. 110-172 effective as if included in the provisions of the SAFETEA-LU, Pub. L. 109-59, to which such amendment relates, see section 5(b) of Pub. L. 110-172, set out as a note under section 6426 of this title.

Amendment by section 11(e)(1) of Pub. L. 110-172 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which such amendment relates, see section 11(e)(3) of Pub. L. 110-172, set out as a note under section 41 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §420(c), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4082, 9502, and 9503 of this title] shall apply to kerosene sold after September 30, 2005.

“(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act [Dec. 20, 2006], the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.”

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by section 11113(b)(3)(C) of Pub. L. 109-59 applicable to any sale or use for any period after Sept. 30, 2006, see section 11113(d) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by section 11151(a) of Pub. L. 109-59 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11151(f)(1) of Pub. L. 109-59, set out as a note under section 4081 of this title.

Amendment by section 11161(b)(2), (3)(B), (D)–(F) of Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Pub. L. 109-59, title XI, §11162(c), Aug. 10, 2005, 119 Stat. 1973, provided that: “The amendments made by this section [amending this section] shall apply to sales after September 30, 2005.”

Amendment by section 11163(c) of Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

Amendment by section 1343(b)(1), (3) of Pub. L. 109-58 effective Jan. 1, 2006, see section 1343(c) of Pub. L. 109-58, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(D) of Pub. L. 108-357 effective Jan. 1, 2005, see section 241(c) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Amendment by section 301(c)(9), (10) of Pub. L. 108-357 applicable to fuel sold or used after Dec. 31, 2004, see section 301(d)(1) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 851(d)(3) of Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 851(d)(4) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 853(c), (d)(2)(J), (K) of Pub. L. 108-357 applicable to aviation-grade kerosene removed,

entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

Amendment by section 857(b), (c) of Pub. L. 108-357 applicable to fuel sold after Dec. 31, 2004, see section 857(d) of Pub. L. 108-357, set out as a note under section 4082 of this title.

Amendment by section 870(b) of Pub. L. 108-357 applicable to fuel removed, sold, or used after Dec. 31, 2004, see section 870(c) of Pub. L. 108-357, set out as a note under section 4083 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-206, title VI, §6017(b), July 22, 1998, 112 Stat. 822, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178].”

Amendment by section 6023(16), (25), and (26) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6016(b) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

Amendment by section 9009(a)–(b)(2) of Pub. L. 105-178 effective Oct. 1, 1998, see section 9009(c) of Pub. L. 105-178, set out as a note under section 6421 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1606(a), (b)(2) of Pub. L. 104-188 applicable to vehicles purchased after Aug. 20, 1996, see section 1606(c) of Pub. L. 104-188, set out as a note under section 34 of this title.

Amendment by section 1702(b)(2)(B) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

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

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(8)–(10) of Pub. L. 103-66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13242(c), (d)(21), (25)–(31) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(b)(4)(B), (5), (6)(E)(ii) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11213(b)(3) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11213(b)(4) of Pub. L. 101-508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7812(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the

provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Amendment by section 7822(b)(1)–(4) of Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(3), (10) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title II, §2001(d)(7)(E), Nov. 10, 1988, 102 Stat. 3597, provided that: “The amendments made by this paragraph [amending this section] shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987 [Pub. L. 100-203].”

Amendment by section 2004(s)(2), (3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title III, §3002(d), Nov. 10, 1988, 102 Stat. 3616, provided that: “The amendments made by this section [amending this section] shall apply to fuel used after December 31, 1988.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 1703(d), (e)(1), (2)(A)–(E) of Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

Amendment by section 1877(b) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(38) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 732(a)(3) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

Amendment by section 734(c)(2) of Pub. L. 98-369 effective on first day of first calendar quarter beginning after July 18, 1984, see section 734(c)(3) of Pub. L. 98-369, set out as a note under section 4082 of this title.

Pub. L. 98-369, div. A, title IX, §911(e), July 18, 1984, 98 Stat. 1007, provided that: “The amendments made by this section [amending this section and sections 34, 4041, 7210, 7603 to 7605, 7609, 7610, and 9503 of this title] shall take effect on August 1, 1984.”

Amendment by section 912(d) of Pub. L. 98-369 effective Jan. 1, 1985, see section 912(g) of Pub. L. 98-369, set out as a note under section 40 of this title.

Pub. L. 98-369, div. A, title IX, §915(b), July 18, 1984, 98 Stat. 1009, provided that: “The amendments made by this section [amending this section] shall take effect on August 1, 1984.”

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511 of Pub. L. 97-424 effective Apr. 1, 1983, except that amendment by section 511(e)(2) of Pub. L. 97-424 is effective Jan. 1, 1983, and amendment by section 511(e)(3) of Pub. L. 97-424 is applicable with respect to fuel purchased after Dec. 31, 1982, and before Jan. 1, 1984, see section 511(h) of Pub. L. 97-424, set out as an Effective Date of 1983 Amendment note under section 4041 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Sept. 1, 1982, see section 279(c) of Pub. L. 97-248, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-223, title II, §232(h)(2), Apr. 2, 1980, 94 Stat. 281, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) IN GENERAL.—The amendments made by subsection (d) [amending this section and sections 39 [now 34], 4081, 7210, 7603, 7604, 7605, 7609, and 7610 of this title] shall take effect on January 1, 1979.

“(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act [Apr. 2, 1980] which is described in section 6427(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

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

Pub. L. 95-599, title V, §505(d), Nov. 6, 1978, 92 Stat. 2760, provided that: “The amendments made by this section [amending this section and sections 39 [now 34], 7210, 7603, 7604, 7605, 7609 and 7610 of this title] shall take effect on January 1, 1979.”

Amendment by Pub. L. 95-458 effective on first day of first calendar quarter beginning more than 90 days after Oct. 14, 1978, see section 3(d) of Pub. L. 95-458, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

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

Pub. L. 94-455, title XIX, §1906(a)(31)(B), Oct. 4, 1976, 90 Stat. 1829, provided that: “The amendments made by subparagraph (A) [amending this section] shall apply with respect to fuel used or resold after June 30, 1970.”

EFFECTIVE DATE

Section applicable with respect to taxable years ending after June 30, 1970, see section 211(b) of Pub. L. 91-258, set out as an Effective Date of 1956 Amendments note under section 4041 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(a)(46), (c)(23) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, prop-

erty 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.

CONSTRUCTION OF AMENDMENT BY PUB. L. 109-59

Pub. L. 110-172, §11(a)(39)(B), Dec. 29, 2007, 121 Stat. 2488, provided that: “The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by paragraph (2) of section 11151(a) of the SAFETEA-LU [Pub. L. 109-59, amending this section] had never been enacted.”

SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES

Pub. L. 109-432, div. A, title IV, §420(d), Dec. 20, 2006, 120 Stat. 2970, provided that:

“(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users [Aug. 10, 2005]).

“(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

“(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act [Dec. 20, 2006].

“(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

“(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.”

FORMAT FOR FILING

Pub. L. 108-357, title III, §301(e), Oct. 22, 2004, 118 Stat. 1463, provided that: “The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than December 31, 2004.”

EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS

Pub. L. 105-34, title XVI, §1601(g)(1), Aug. 5, 1997, 111 Stat. 1091, provided that: “Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act [Aug. 5, 1997].”

TREATMENT OF AMENDMENT BY SECTION 10502(c)(4) OF PUB. L. 100-203

Pub. L. 100-647, title II, §2001(d)(7)(A), Nov. 10, 1988, 102 Stat. 3596, provided that: “The amendment made by

section 10502(c)(4) of the Revenue Act of 1987 [Pub. L. 100-203, amending this section] shall be treated as if included in the amendments made by section 1703 of the Reform Act [Pub. L. 99-514, see Tables for classification] except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

STUDY OF TAXICAB FUEL RATES

Pub. L. 97-424, title V, §511(e)(4), Jan. 6, 1983, 96 Stat. 2172, directed Secretary of the Treasury or his delegate to conduct a study of reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code, and transmit a report on study to Congress, together with such recommendations as he may deem advisable, not later than Jan. 1, 1984.

[§ 6428. Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(112)(A), Dec. 19, 2014, 128 Stat. 4054]

Section, added Pub. L. 107-16, title I, §101(b)(1), June 7, 2001, 115 Stat. 42; amended Pub. L. 107-147, title IV, §411(a), Mar. 9, 2002, 116 Stat. 44; Pub. L. 110-185, title I, §101(a), Feb. 13, 2008, 122 Stat. 613; Pub. L. 110-245, title I, §§101(a), 102(b), June 17, 2008, 122 Stat. 1625, related to 2008 recovery rebate for individuals.

A prior section 6428, added Pub. L. 94-12, title I, §101(a), Mar. 29, 1975, 89 Stat. 27; amended Pub. L. 97-34, title I, §101(b)(1), Aug. 13, 1981, 95 Stat. 182; Pub. L. 97-448, title I, §101(a)(2), Jan. 12, 1983, 96 Stat. 2365, related to the 1981 rate reduction tax credit, prior to repeal by Pub. L. 101-508, title XI, §11801(a)(47), Nov. 5, 1990, 104 Stat. 1388-522.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS

Pub. L. 111-5, div. B, title II, §2201, Feb. 17, 2009, 123 Stat. 450, provided for a \$250 payment to individuals who, for any month during the 3-month period ending with the month which ended prior to the month that included Feb. 17, 2009, were entitled to certain Social Security, railroad retirement, or veterans benefit payments or were eligible for certain SSI cash benefits.

SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES

Pub. L. 111-5, div. B, title II, §2202, Feb. 17, 2009, 123 Stat. 454, as amended by Pub. L. 113-295, §209(i), Dec. 19, 2014, 128 Stat. 4030, provided that:

“(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for the first taxable year beginning in 2009 an amount equal [to] \$250 (\$500 in the case of a joint return where both spouses are eligible individuals).

“(b) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means any individual—

“(A) who receives during the first taxable year beginning in 2009 any amount as a pension or annu-

ity for service performed in the employ of the United States or any State, political subdivision of a State, or any instrumentality thereof, which is not considered employment for purposes of chapter 21 of the Internal Revenue Code of 1986, and

“(B) who does not receive a payment under section 2201 [set out above] during such taxable year.

“(2) IDENTIFICATION NUMBER REQUIREMENT.—Such term shall not include any individual who does not include on the return of tax for the taxable year—

“(A) such individual’s social security account number, and

“(B) in the case of a joint return, the social security account number of one of the taxpayers on such return.

For purposes of the preceding sentence, the social security account number shall not include a TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) issued by the Internal Revenue Service. Any omission of a correct social security account number required under this subparagraph [probably should be “this paragraph”] shall be treated as a mathematical or clerical error for purposes of applying section 6213(g)(2) of such Code to such omission.

“(c) TREATMENT OF CREDIT.—

“(1) REFUNDABLE CREDIT.—

“(A) IN GENERAL.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986.

“(B) APPROPRIATIONS.—For purposes of section 1324(b)(2) of title 31, United States Code, the credit allowed by subsection (a) shall be treated in the same manner [as] a refund from the credit allowed under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).

“(2) DEFICIENCY RULES.—For purposes of section 6211(b)(4)(A) of the Internal Revenue Code of 1986, the credit allowable by subsection (a) shall be treated in the same manner as the credit allowable under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).

“(d) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(e) TREATMENT OF POSSESSIONS.—

“(1) PAYMENTS TO MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of credits allowed under subsection (a) with respect to taxable years beginning in 2009. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under this section to any person to whom a credit is allowed against taxes imposed by the possession by reason of the credit allowed under subsection (a) for such taxable year.

“(3) DEFINITIONS AND SPECIAL RULES.—

“(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ‘possession of the United States’ includes the Commonwealth of the Northern Mariana Islands.

“(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ‘mirror code tax system’ means, with respect to any possession of the United States, the income tax system of such possession if

the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

“(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under [former] section 36A of the Internal Revenue Code of 1986 (as added by this Act).”

[§ 6429. Repealed. Pub. L. 113–295, div. A, title II, § 221(a)(113), Dec. 19, 2014, 128 Stat. 4054]

Section, added Pub. L. 108–27, title I, §101(b)(1), May 28, 2003, 117 Stat. 753, related to advance payment of portion of increased child credit for 2003.

A prior section 6429, added Pub. L. 96–499, title XI, §1131(a)(1), Dec. 5, 1980, 94 Stat. 2691; amended Pub. L. 97–34, title VI, §601(a)(1)–(5), Aug. 13, 1981, 95 Stat. 335, 336; Pub. L. 97–448, title I, §106(a)(1), (3), Jan. 12, 1983, 96 Stat. 2387, 2388, related to credit and refund of chapter 45 windfall profit taxes on domestic crude oil paid by royalty owners, prior to repeal by Pub. L. 100–418, title I, §1941(b)(1), (c), Aug. 23, 1988, 102 Stat. 1323, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

§ 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate

No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels—

- (1) which are exempt from tax under section 4081(a) by reason of section 4082(f)(2),
- (2) which are exempt from tax under section 4041(d) by reason of the last sentence of paragraph (5) thereof, or
- (3) with respect to which the rate increase under section 4081(a)(2)(B) is zero by reason of section 4082(e)(2).

(Added Pub. L. 109–58, title XIII, §1362(b)(3)(A), Aug. 8, 2005, 119 Stat. 1059; amended Pub. L. 110–172, §6(d)(2)(D), Dec. 29, 2007, 121 Stat. 2481.)

PRIOR PROVISIONS

A prior section 6430, added Pub. L. 97–448, title I, §106(a)(4)(A), Jan. 12, 1983, 96 Stat. 2388, related to credit or refund of windfall profit taxes to certain trust beneficiaries, prior to repeal by Pub. L. 100–418, title I, §1941(b)(1), (c), Aug. 23, 1988, 102 Stat. 1323, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

AMENDMENTS

2007—Pub. L. 110–172 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–172 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109–58, to which such amendment relates, see section 6(e) of Pub. L. 110–172, set out as a note under section 30C of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2005, and applicable to fuel entered, removed, or sold after Sept. 30, 2005, see section 1362(d) of Pub. L. 109–58, set out as an Effective Date of 2005 Amendment note under section 4041 of this title.

REFUND AUTHORIZED FOR CERTAIN TAXES

Pub. L. 110–172, §6(d)(1)(C), Dec. 29, 2007, 121 Stat. 2480, provided that: “Notwithstanding section 6430 of the Internal Revenue Code of 1986, a refund, credit, or payment may be made under subchapter B of chapter 65 of such Code for taxes imposed with respect to any liquid after September 30, 2005, and before the date of the enactment of this Act [Dec. 29, 2007] under section 4041(d)(1) or 4042 of such Code at the Leaking Underground Storage Tank Trust Fund financing rate to the extent that tax was imposed with respect to such liquid under section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.”

[§ 6431. Repealed. Pub. L. 115–97, title I, § 13404(b), Dec. 22, 2017, 131 Stat. 2138]

Section, added Pub. L. 111–5, div. B, title I, §1531(b), Feb. 17, 2009, 123 Stat. 359; amended Pub. L. 111–147, title III, §301(a), Mar. 18, 2010, 124 Stat. 77; Pub. L. 111–312, title VII, §758(b), Dec. 17, 2010, 124 Stat. 3323; Pub. L. 113–295, div. A, title II, §202(d), Dec. 19, 2014, 128 Stat. 4024, related to credit for qualified bonds allowed to issuer.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 115–97 applicable to bonds issued after Dec. 31, 2017, see section 13404(d) of Pub. L. 115–97, set out as a note under former section 54 of this title.

§ 6432. COBRA premium assistance

(a) In general

The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed as provided in subsection (c) for the amount of premiums not paid by assistance eligible individuals by reason of section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009.

(b) Person entitled to reimbursement

For purposes of subsection (a), except as otherwise provided by the Secretary, the person to whom premiums are payable under COBRA continuation coverage shall be treated as being—

- (1) in the case of any group health plan which is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), the plan,
- (2) in the case of any group health plan not described in paragraph (1)—
 - (A) which is subject to the COBRA continuation provisions contained in—
 - (i) the Internal Revenue Code of 1986,
 - (ii) the Employee Retirement Income Security Act of 1974,
 - (iii) the Public Health Service Act, or
 - (iv) title 5, United States Code, or
 - (B) under which some or all of the coverage is not provided by insurance,

the employer maintaining the plan, and

- (3) in the case of any group health plan not described in paragraph (1) or (2), the insurer providing the coverage under the group health plan.

(c) Method of reimbursement

Except as otherwise provided by the Secretary—

(1) Treatment as payment of payroll taxes

Each person entitled to reimbursement under subsection (a) (and filing a claim for such reimbursement at such time and in such manner as the Secretary may require) shall be treated for purposes of this title and section 1324(b)(2) of title 31, United States Code, as having paid to the Secretary, on the date that the assistance eligible individual's premium payment is received, payroll taxes in an amount equal to the portion of such reimbursement which relates to such premium. To the extent that the amount treated as paid under the preceding sentence exceeds the amount of such person's liability for such taxes, the Secretary shall credit or refund such excess in the same manner as if it were an overpayment of such taxes.

(2) Overstatements

Any overstatement of the reimbursement to which a person is entitled under this section (and any amount paid by the Secretary as a result of such overstatement) shall be treated as an underpayment of payroll taxes by such person and may be assessed and collected by the Secretary in the same manner as payroll taxes.

(3) Reimbursement contingent on payment of remaining premium

No reimbursement may be made under this section to a person with respect to any assistance eligible individual until after the reduced premium required under section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009 with respect to such individual has been received.

(d) Definitions

For purposes of this section—

(1) Payroll taxes

The term “payroll taxes” means—

(A) amounts required to be deducted and withheld for the payroll period under section 3402 (relating to wage withholding),

(B) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

(C) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

(2) Person

The term “person” includes any governmental entity.

(e) Employer determination of qualifying event as involuntary termination

For purposes of this section, in any case in which—

(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee's employment, and

(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee's employment.

(f) Reporting

Each person entitled to reimbursement under subsection (a) for any period shall submit such reports (at such time and in such manner) as the Secretary may require, including—

(1) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a),

(2) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated offsets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a), and

(3) a report containing the TINs of all covered employees, the amount of subsidy reimbursed with respect to each covered employee and qualified beneficiaries, and a designation with respect to each covered employee as to whether the subsidy reimbursement is for coverage of 1 individual or 2 or more individuals.

(g) Regulations

The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including—

(1) the requirement to report information or the establishment of other methods for verifying the correct amounts of reimbursements under this section, and

(2) the application of this section to group health plans that are multiemployer plans (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974).

(Added Pub. L. 111-5, div. B, title III, §3001(a)(12)(A), Feb. 17, 2009, 123 Stat. 461; amended Pub. L. 111-144, §3(b)(5)(C), Mar. 2, 2010, 124 Stat. 45.)

REFERENCES IN TEXT

The American Recovery and Reinvestment Act of 2009, referred to in subsecs. (a), (c)(3), and (e)(1), is Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 115. Section 3001(a) of title III of division B of the Act enacted this section and sections 139C and 6720C of this title, amended section 35 of this title, and enacted provisions set out a note below. Section 3001(a)(1)(A), (3)(C) of the Act is set out as a note below. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsecs. (b)(1), (2)(A)(ii) and (g)(2), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. Section 3(37) of the Act is classified to section 1002(37) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Public Health Service Act, referred to in subsec. (b)(2)(A)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For com-

plete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-144, §3(b)(5)(C)(i), substituted “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009” for “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009”.

Subsec. (c)(3). Pub. L. 111-144, §3(b)(5)(C)(ii), substituted “section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009” for “section 3002(a)(1)(A) of such Act”.

Subsecs. (e) to (g). Pub. L. 111-144, §3(b)(5)(C)(iii), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-144, §3(c), Mar. 2, 2010, 124 Stat. 45, provided that: “The amendments made by this section [amending this section and sections 35, 139C, and 6720C of this title, and amending provisions set out as a note under this section] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5, set out below] to which they relate, except that—

“(1) the amendments made by subsection (b)(1) [amending provisions set out as a note under this section] shall apply to periods of coverage beginning after the date of the enactment of this Act [Mar. 2, 2010];

“(2) the amendments made by subsection (b)(2) [amending provisions set out as a note under this section] shall take effect as if included in the amendments made by section 1010 of division B of the Department of Defense Appropriations Act, 2010 [Pub. L. 111-118, amending provisions set out as a note under this section]; and

“(3) the amendments made by subsections (b)(3) and (b)(4) [amending provisions set out as a note under this section] shall take effect on the date of the enactment of this Act [Mar. 2, 2010].”

EFFECTIVE DATE

Section applicable to premiums to which section 3001(a)(1)(A) of Pub. L. 111-5, set out as a note below, applies, see section 3001(a)(12)(D) of Pub. L. 111-5, set out as a note below.

PREMIUM ASSISTANCE FOR COBRA BENEFITS

Pub. L. 111-5, div. B, title III, §3001, Feb. 17, 2009, 123 Stat. 455, as amended by Pub. L. 111-118, div. B, §1010(a)-(d), Dec. 19, 2009, 123 Stat. 3472, 3473; Pub. L. 111-144, §3(a), (b)(1)-(4), Mar. 2, 2010, 124 Stat. 43, 44; Pub. L. 111-157, §3(a), (b), Apr. 15, 2010, 124 Stat. 1117; Pub. L. 113-295, div. A, title II, §209(j)(3), Dec. 19, 2014, 128 Stat. 4031, provided that:

“(a) PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

“(1) PROVISION OF PREMIUM ASSISTANCE.—

“(A) REDUCTION OF PREMIUMS PAYABLE.—In the case of any premium for a period of coverage beginning on or after the date of the enactment of this Act [Feb. 17, 2009] for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (or a person other than such individual’s employer pays on behalf of such individual) 35 percent of the amount of such premium (as determined without regard to this subsection).

“(B) PLAN ENROLLMENT OPTION.—

“(i) IN GENERAL.—Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in

coverage under a plan offered by the employer involved, or the employee organization involved (including, for this purpose, a joint board of trustees of a multiemployer trust affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

“(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

“(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

“(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

“(III) the different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time at which such election is made; and

“(IV) the different coverage is not—

“(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

“(bb) a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

“(cc) coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

“(C) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6432 of the Internal Revenue Code of 1986, as added by paragraph (12).

“(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

“(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof)) or is eligible for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], or

“(ii) the earliest of—

“(I) the date which is 15 months after the first day that paragraph (1)(A) applies with respect to such individual,

“(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

“(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

“(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

“(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

“(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘assistance eligible individual’ means any qualified beneficiary if—

“(A) such qualified beneficiary is eligible for COBRA continuation coverage related to a qualifying event occurring during the period that begins with September 1, 2008, and ends with May 31, 2010,

“(B) such qualified beneficiary elects such coverage, and

“(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee’s employment and occurred during such period or consists of a reduction of hours followed by such an involuntary termination of employment during such period (as described in paragraph (17)(C)).

“(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

“(A) IN GENERAL.—For purposes of applying section 605(a) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1165(a)], section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act [42 U.S.C. 300bb-5(a)], and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who does not have an election of COBRA continuation coverage in effect on the date of the enactment of this Act [Feb. 17, 2009] but who would be an assistance eligible individual if such election were so in effect, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the period beginning on the date of the enactment of this Act and ending 60 days after the date on which the notification required under paragraph (7)(C) is provided to such individual.

“(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

“(i) shall commence with the first period of coverage beginning on or after the date of the enactment of this Act [Feb. 17, 2009], and

“(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

“(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

“(i) beginning on the date of the qualifying event, and

“(ii) ending with the beginning of the period described in subparagraph (B)(i), shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181(c)(2)], section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act [former 42 U.S.C. 300gg(c)(2); now 42 U.S.C. 300gg-3(c)(2)].

“(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan, the Secretary of Labor (or the Secretary of Health and Human Services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of

1974 [29 U.S.C. 1161 et seq.]), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual’s eligibility within 15 business days after receipt of such individual’s application for review under this paragraph. Either Secretary’s determination upon review of the denial shall be de novo and shall be the final determination of such Secretary. A reviewing court shall grant deference to such Secretary’s determination. The provisions of this paragraph, paragraphs (1) through (4), and paragraph (7) shall be treated as provisions of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] for purposes of part 5 of subtitle B of such title [29 U.S.C. 1131 et seq.]. In addition to civil actions that may be brought to enforce applicable provisions of such Act [29 U.S.C. 1001 et seq.] or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than \$110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor’s or issuer’s receipt of the determination.

“(6) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible individual under this subsection shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.

“(7) NOTICES TO INDIVIDUALS.—

“(A) GENERAL NOTICE.—

“(i) IN GENERAL.—In the case of notices provided under section 606(a)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166[(a)](4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), have a qualifying event relating to COBRA continuation coverage, the requirements of such sections shall not be treated as met unless such notices include an additional notification to the recipient of—

“(I) the availability of premium reduction with respect to such coverage under this subsection, and

“(II) the option to enroll in different coverage if the employer permits assistance eligible individuals to elect enrollment in different coverage (as described in paragraph (1)(B)).

“(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

“(iii) FORM.—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

“(B) SPECIFIC REQUIREMENTS.—Each additional notification under subparagraph (A) shall include—

“(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

“(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

“(iii) a description of the extended election period provided for in paragraph (4)(A),

“(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] and the penalty provided under section 6720C of the Internal Revenue Code of 1986 for failure to so notify the plan,

“(v) a description, displayed in a prominent manner, of the qualified beneficiary’s right to a reduced premium and any conditions on entitlement to the reduced premium, and

“(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B).

“(C) NOTICE IN CONNECTION WITH EXTENDED ELECTION PERIODS.—In the case of any assistance eligible individual (or any individual described in paragraph (4)(A)) who became entitled to elect COBRA continuation coverage before the date of the enactment of this Act [Feb. 17, 2009], the administrator of the group health plan (or other entity) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A) and failure to provide such notice shall be treated as a failure to meet the notice requirements under the applicable COBRA continuation provision.

“(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act [Feb. 17, 2009]—

“(i) the Secretary of the [sic] Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph (other than the additional notification described in clause (ii)), and

“(ii) in the case of any additional notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such additional notification.

“(8) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this subsection, including the prevention of fraud and abuse under this subsection, except that the Secretary of Labor and the Secretary of Health and Human Services may prescribe such regulations (including interim final regulations) or other guidance as may be necessary or appropriate to carry out the provisions of paragraphs (5), (7), and (9).

“(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on websites of the Departments of Labor, Treasury, and Health and Human Services.

“(10) DEFINITIONS.—For purposes of this section—

“(A) ADMINISTRATOR.—The term ‘administrator’ has the meaning given such term in section 3(16)(A)

of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(16)(A)].

“(B) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1161 et seq.] (other than under section 609 [29 U.S.C. 1169]), title XXII of the Public Health Service Act [42 U.S.C. 300bb-1 et seq.], section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides comparable continuation coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.

“(C) COBRA CONTINUATION PROVISION.—The term ‘COBRA continuation provision’ means the provisions of law described in subparagraph (B).

“(D) COVERED EMPLOYEE.—The term ‘covered employee’ has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(2)].

“(E) QUALIFIED BENEFICIARY.—The term ‘qualified beneficiary’ has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(3)].

“(F) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)].

“(G) STATE.—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(H) PERIOD OF COVERAGE.—Any reference in this subsection to a period of coverage shall be treated as a reference to a monthly or shorter period of coverage with respect to which premiums are charged with respect to such coverage.

“(11) REPORTS.—

“(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor [now Committee on Education and the Workforce], the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

“(i) the number of individuals provided such assistance as of the date of the report; and

“(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

“(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes—

“(i) the number of individuals provided premium reduction under this section;

“(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

“(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

“(12) COBRA PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—[Enacted this section.]

“(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—In determining any amount transferred or appropriated to any fund under the Social Security

Act [42 U.S.C. 301 et seq.], section 6432 of the Internal Revenue Code of 1986 shall not be taken into account.

“(C) CLERICAL AMENDMENT.—[Amended analysis of this subchapter.]

“(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

“(E) SPECIAL RULE.—

“(i) IN GENERAL.—In the case of an assistance eligible individual who pays, with respect to the first period of COBRA continuation coverage to which subsection (a)(1)(A) applies or the immediately subsequent period, the full premium amount for such coverage, the person to whom such payment is payable shall—

“(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (a)(1)(A); or

“(II) provide credit to the individual for such amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

“(ii) REIMBURSING EMPLOYER.—A person to which clause (i) applies shall be reimbursed as provided for in section 6432 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

“(iii) PAYMENT OR CREDITS.—Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of the credit outstanding shall be made to the individual within 60 days of such day.

“(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

“(A) IN GENERAL.—[Enacted section 6720C of this title.]

“(B) CLERICAL AMENDMENT.—[Amended analysis of part I of subchapter B of chapter 68 of this title.]

“(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to failures occurring after the date of the enactment of this Act [Feb. 17, 2009].

“(14) COORDINATION WITH HCTC.—

“(A) IN GENERAL.—[Amended section 35 of this title.]

“(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].

“(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME.—

“(A) IN GENERAL.—[Enacted section 139C of this title.]

“(B) CLERICAL AMENDMENT.—[Amended analysis of part III of subchapter B of chapter 1 of this title.]

“(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].

“(16) RULES RELATED TO 2009 EXTENSION.—

“(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

“(i) such individual was covered under the COBRA continuation coverage to which such premium relates for the period of coverage immediately preceding such transition period; and

“(ii) such individual pays, the amount of such premium, after the application of paragraph (1)(A), by the latest of—

“(I) 60 days after the date of the enactment of this paragraph [Dec. 19, 2009],

“(II) 30 days after the date of provision of the notification required under subparagraph (D)(ii), or

“(III) the end of the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986.

“(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

“(C) TRANSITION PERIOD.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘transition period’ means, with respect to any assistance eligible individual, any period of coverage if—

“(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010 [Dec. 19, 2009]; and

“(II) paragraph (1)(A) applies to such period by reason of the amendment made by section 1010(b) of the Department of Defense Appropriations Act, 2010 [Pub. L. 111–118].

“(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph [probably should be “subparagraph”], irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

“(D) NOTIFICATION.—

“(i) IN GENERAL.—In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to COBRA continuation coverage on or after such date, the administrator of the group health plan (or other entity) involved shall provide an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010 [Pub. L. 111–118], within 60 days after the date of the enactment of such Act [Dec. 19, 2009] or, in the case of a qualifying event occurring after such date of enactment, consistent with the timing of notifications under paragraph (7)(A).

“(ii) TO INDIVIDUALS WHO LOST ASSISTANCE.—In the case of an assistance eligible individual described in subparagraph (A)(i) who did not timely pay the premium for any period of coverage during such individual's transition period or paid the premium for such period without regard to paragraph (1)(A), the administrator of the group health plan (or other entity) involved shall provide to such individual, within the first 60 days of such individual's transition period, an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, including information on the ability under subparagraph (A) to make retroactive premium payments with respect to the transition period of the individual in order to maintain COBRA continuation coverage.

“(iii) APPLICATION OF RULES.—Rules similar to the rules of paragraph (7) shall apply with respect to notifications under this subparagraph.

“(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

“(A) NEW ELECTION PERIOD.—

“(i) IN GENERAL.—For the purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual on or after the date of the enactment of this paragraph [Mar. 2, 2010] shall be treated as a qualifying event.

“(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual’s continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

“(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

“(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

“(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual’s involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

“(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred on or after the date of the enactment of this paragraph.

“(18) RULES RELATED TO APRIL AND MAY 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after April 1, 2010 and prior to the date of the enactment of this paragraph [Apr. 15, 2010], rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.

“(b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—

“(1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—If—

“(A) premium assistance is provided under this section with respect to any COBRA continuation coverage which covers the taxpayer, the taxpayer’s spouse, or any dependent (within the meaning of section 152 of the Internal Revenue Code of 1986, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of the taxpayer during any portion of the taxable year, and

“(B) the taxpayer’s modified adjusted gross income for such taxable year exceeds \$125,000 (\$250,000 in the case of a joint return), then the tax imposed by chapter 1 of such Code with respect to the taxpayer for such taxable year shall be increased by the amount of such assistance.

“(2) PHASE-IN OF RECAPTURE.—

“(A) IN GENERAL.—In the case of a taxpayer whose modified adjusted gross income for the taxable year does not exceed \$145,000 (\$290,000 in the case of a joint return), the increase in the tax imposed under paragraph (1) shall not exceed the phase-in percentage of such increase (determined without regard to this paragraph).

“(B) PHASE-IN PERCENTAGE.—For purposes of this subsection, the term ‘phase-in percentage’ means the ratio (expressed as a percentage) obtained by dividing—

“(i) the excess of [sic] described in subparagraph (B) of paragraph (1), by

“(ii) \$20,000 (\$40,000 in the case of a joint return).

“(3) OPTION FOR HIGH-INCOME INDIVIDUALS TO WAIVE ASSISTANCE AND AVOID RECAPTURE.—Notwithstanding subsection (a)(3), an individual shall not be treated as an assistance eligible individual for purposes of this section and section 6432 of the Internal Revenue Code of 1986 if such individual—

“(A) makes a permanent election (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to waive the right to the premium assistance provided under this section, and

“(B) notifies the entity to whom premiums are reimbursed under section 6432(a) of such Code of such election.

“(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term ‘modified adjusted gross income’ means the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 of such Code.

“(5) CREDITS NOT ALLOWED AGAINST TAX, ETC.—For purposes determining regular tax liability under section 26(b) of such Code, the increase in tax under this subsection shall not be treated as a tax imposed under chapter 1 of such Code.

“(6) REGULATIONS.—The Secretary of the Treasury shall issue such regulations or other guidance as are necessary or appropriate to carry out this subsection, including requirements that the entity to whom premiums are reimbursed under section 6432(a) of the Internal Revenue Code of 1986 report to the Secretary, and to each assistance eligible individual, the amount of premium assistance provided under subsection (a) with respect to each such individual.

“(7) EFFECTIVE DATE.—The provisions of this subsection shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].” [Pub. L. 111–157, §3(c), Apr. 15, 2010, 124 Stat. 1117, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111–5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5].”]

[Pub. L. 111–118, div. B, §1010(e), Dec. 19, 2009, 123 Stat. 3473, provided that: “The amendments made by this section [amending section 3001 of Pub. L. 111–5, set out above] shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111–5] to which they relate.”]

CHAPTER 66—LIMITATIONS

Subchapter	Sec. ¹
A. Limitations on assessment and collection	6501
B. Limitations on credit or refund	6511
C. Mitigation of effect of period of limitations	6521
D. Periods of limitation in judicial proceedings	6531

¹ Section numbers editorially supplied.

Subchapter A—Limitations on Assessment and Collection

Sec.	
6501.	Limitations on assessment and collection.
6502.	Collection after assessment.
6503.	Suspension of running of period of limitation.
6504.	Cross references.

§ 6501. Limitations on assessment and collection

(a) General rule

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term “return” means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) Time return deemed filed

(1) Early return

For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 3, 4, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) Return of certain employment and withholding taxes

For purposes of this section, if a return of tax imposed by chapter 3, 4, 21, or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) Return executed by Secretary

Notwithstanding the provisions of paragraph (2) of section 6020(b), the execution of a return by the Secretary pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

(4) Return of excise taxes

For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

(c) Exceptions

(1) False return

In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) Willful attempt to evade tax

In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) No return

In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) Extension by agreement

(A) In general

Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(B) Notice to taxpayer of right to refuse or limit extension

The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.

(5) Tax resulting from changes in certain income tax or estate tax credits

For special rules applicable in cases where the adjustment of certain taxes allowed as a credit against income taxes or estate taxes results in additional tax, see section 905(c) (relating to the foreign tax credit for income tax purposes) and section 2016 (relating to taxes of foreign countries, States, etc., claimed as credit against estate taxes).

(6) Termination of private foundation status

In the case of a tax on termination of private foundation status under section 507, such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(7) Special rule for certain amended returns

Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.

(8) Failure to notify Secretary of certain foreign transfers

(A) In general

In the case of any information which is required to be reported to the Secretary pursu-

ant to an election under section 1295(b) or under section 1298(f), 6038, 6038A, 6038B, 6038D, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any tax return, event, or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.

(B) Application to failures due to reasonable cause

If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.

(9) Gift tax on certain gifts not shown on return

If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d) which) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.

(10) Listed transactions

If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

(A) the date on which the Secretary is furnished the information so required, or

(B) the date that a material advisor meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.

(11) Certain orders of criminal restitution

In the case of any amount described in section 6201(a)(4), such amount may be assessed, or a proceeding in court for the collection of such amount may be begun without assessment, at any time.

(d) Request for prompt assessment

Except as otherwise provided in subsection (c), (e), or (f), in the case of any tax (other than the tax imposed by chapter 11 of subtitle B, relating to estate taxes) for which return is required in the case of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed

after the return is made and filed in such manner and such form as may be prescribed by regulations of the Secretary) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1)(A) such written request notifies the Secretary that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is in good faith begun before the expiration of such 18-month period, and (C) the dissolution is completed;

(2)(A) such written request notifies the Secretary that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(e) Substantial omission of items

Except as otherwise provided in subsection (c)—

(1) Income taxes

In the case of any tax imposed by subtitle A—

(A) General rule

If the taxpayer omits from gross income an amount properly includible therein and—

(i) such amount is in excess of 25 percent of the amount of gross income stated in the return, or

(ii) such amount—

(I) is attributable to one or more assets with respect to which information is required to be reported under section 6038D (or would be so required if such section were applied without regard to the dollar threshold specified in subsection (a) thereof and without regard to any exceptions provided pursuant to subsection (h)(1) thereof), and

(II) is in excess of \$5,000,

the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(B) Determination of gross income

For purposes of subparagraph (A)—

(i) In the case of a trade or business, the term “gross income” means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services;

(ii) An understatement of gross income by reason of an overstatement of unrecovered cost or other basis is an omission from gross income; and

(iii) In determining the amount omitted from gross income (other than in the case of an overstatement of unrecovered cost or other basis), there shall not be taken into account any amount which is omitted from gross income stated in the return if such amount is disclosed in the return, or

in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(C) Constructive dividends

If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.

(2) Estate and gift taxes

In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(3) Excise taxes

In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 41, 42, 43, or 44 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the existence and nature of such item.

(f) Personal holding company tax

If a corporation which is a personal holding company for any taxable year fails to file with its return under chapter 1 for such year a schedule setting forth—

(1) the items of gross income and adjusted ordinary gross income, described in section 543, received by the corporation during such year, and

(2) the names and addresses of the individuals who owned, within the meaning of section 544 (relating to rules for determining stock ownership), at any time during the last half of such year more than 50 percent in value of the outstanding capital stock of the corporation,

the personal holding company tax for such year may be assessed, or a proceeding in court for the

collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

(g) Certain income tax returns of corporations

(1) Trusts or partnerships

If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if such taxpayer is thereafter held to be a corporation for the taxable year for which the return is filed, such return shall be deemed the return of the corporation for purposes of this section.

(2) Exempt organizations

If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if such taxpayer is thereafter held to be a taxable organization for the taxable year for which the return is filed, such return shall be deemed the return of the organization for purposes of this section.

(3) DISC

If a corporation determines in good faith that it is a DISC (as defined in section 992(a)) and files a return as such under section 6011(c)(2) and if such corporation is thereafter held to be a corporation which is not a DISC for the taxable year for which the return is filed, such return shall be deemed the return of a corporation which is not a DISC for purposes of this section.

(h) Net operating loss or capital loss carrybacks

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed.

(i) Foreign tax carrybacks

In the case of a deficiency attributable to the application to the taxpayer of a carryback under section 904(c) (relating to carryback and carryover of excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed foreign oil and gas taxes), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(c) or 907(f) which result in such carryback.

(j) Certain credit carrybacks

(1) In general

In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused credit which results in such carryback may be assessed, or with re-

spect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

(2) Credit carryback defined

For purposes of this subsection, the term “credit carryback” has the meaning given such term by section 6511(d)(4)(C).

(k) Tentative carryback adjustment assessment period

In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback and refund adjustments) by reason of a net operating loss carryback, a capital loss carryback, or a credit carryback (as defined in section 6511(d)(4)(C)) to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h) or (j), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h) or (j), as the case may be.

(l) Special rule for chapter 42 and similar taxes

(1) In general

For purposes of any tax imposed by section 4912, by chapter 42 (other than section 4940), or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, trust, or other organization (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred. For purposes of section 4940, such return is the return filed by the private foundation for the taxable year for which the tax is imposed.

(2) Certain contributions to section 501(c)(3) organizations

In the case of a deficiency of tax of a private foundation making a contribution in the manner provided in section 4942(g)(3) (relating to certain contributions to section 501(c)(3) organizations) attributable to the failure of a section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

(3) Certain set-asides described in section 4942(g)(2)

In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(ii), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of

the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

(m) Deficiencies attributable to election of certain credits

The period for assessing a deficiency attributable to any election under¹ 30B(h)(9), 30C(e)(5), 30D(e)(4), 35(g)(11), 40(f), 43, 45B, 45C(d)(4), 45H(g), 45S(h), or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation).

(n) Cross reference

For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).

(Aug. 16, 1954, ch. 736, 68A Stat. 803; Pub. L. 85-859, title I, §165(a), Sept. 2, 1958, 72 Stat. 1313; Pub. L. 85-866, title I, §§80, 81, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 86-69, §3(g), June 25, 1959, 73 Stat. 140; Pub. L. 86-780, §3(c), Sept. 14, 1960, 74 Stat. 1013; Pub. L. 87-794, title III, §317(c), Oct. 11, 1962, 76 Stat. 890; Pub. L. 87-834, §2(e)(1), Oct. 16, 1962, 76 Stat. 971; Pub. L. 87-858, §3(b)(4), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88-272, title II, §225(k)(6), Feb. 26, 1964, 78 Stat. 94; Pub. L. 88-571, §3(b), Sept. 2, 1964, 78 Stat. 857; Pub. L. 89-44, title VIII, §810(a), (b), June 21, 1965, 79 Stat. 169; Pub. L. 89-721, §§2(f), 3(a), Nov. 2, 1966, 80 Stat. 1150, 1151; Pub. L. 89-809, title I, §105(f)(3), Nov. 13, 1966, 80 Stat. 1568; Pub. L. 90-225, §2(c), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title I, §101(g)(1)-(3), title V, §512(e)(1), Dec. 30, 1969, 83 Stat. 525, 639; Pub. L. 91-614, title I, §102(d)(8), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 92-178, title V, §504(c), title VI, §601(d)(1), (e)(2), Dec. 10, 1971, 85 Stat. 551, 558, 560; Pub. L. 93-406, title II, §1016(a)(14), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title X, §§1031(b)(5), 1035(d)(3), title XIII, §§1302(b), 1307(d)(2)(F)(vi), title XIX, §1906(b)(13)(A), title XXI, §2107(g)(2)(A), Oct. 4, 1976, 90 Stat. 1623, 1633, 1714, 1728, 1834, 1904; Pub. L. 95-30, title II, §202(d)(4)(A), (5)(B), May 23, 1977, 91 Stat. 149, 151; Pub. L. 95-227, §4(d)(4), (5), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95-600, title II, §212(a), title III, §321(b)(2), title V, §504(b)(3), title VII, §§701(t)(3)(A), 703(n), (p)(2), Nov. 6, 1978, 92 Stat. 2818, 2835, 2881, 2912, 2943, 2944; Pub. L. 95-628, §8(c)(1), Nov. 10, 1978, 92 Stat. 3631; Pub. L. 96-222, title I, §§102(a)(2)(A), 103(a)(6)(G)(x), Apr. 1, 1980, 94 Stat. 208, 210; Pub. L. 96-223, title I, §101(g)(1), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97-248, title IV, §402(c)(5), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98-369, div. A, title I, §§131(d)(2), 163(b)(1), title II, §211(b)(24), title III, §314(a)(3), title IV, §§447(a), 474(r)(39), title VII, §714(p)(2)(F), title VIII, §801(d)(14), July 18, 1984, 98 Stat. 664, 697, 757, 787, 817, 846, 965, 997; Pub. L. 99-514, title XVIII, §§1810(g)(3), 1847(b)(12)-(14), Oct. 22, 1986, 100 Stat. 2828, 2857; Pub. L. 100-203, title X, §§10712(c)(2), 10714(c), Dec. 22, 1987, 101 Stat. 1330-467, 1330-471; Pub. L. 100-418, title I, §1941(b)(2)(H), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1008(j)(1), title IV, §4008(c)(2), Nov. 10, 1988, 102 Stat. 3445, 3653; Pub. L. 101-239, title VII, §7814(e)(2)(E), Dec. 19, 1989, 103 Stat.

¹ So in original. Probably should be followed by “section”.

2414; Pub. L. 101-508, title XI, §§1151(c)(2), 11602(b), Nov. 5, 1990, 104 Stat. 1388-485, 1388-500; Pub. L. 104-188, title I, §§1702(e)(3), 1703(n)(8), 1704(j)(4)(B), Aug. 20, 1996, 110 Stat. 1870, 1877, 1882; Pub. L. 105-34, title V, §506(b), title XI, §1145(a), title XII, §§1239(e)(2), 1284(a), title XVI, §1601(g)(2), Aug. 5, 1997, 111 Stat. 855, 985, 1028, 1038, 1092; Pub. L. 105-206, title III, §3461(b), title VI, §§6007(e)(2)(A), 6023(27), July 22, 1998, 112 Stat. 764, 809, 826; Pub. L. 108-357, title IV, §413(c)(28), title VIII, §814(a), Oct. 22, 2004, 118 Stat. 1509, 1581; Pub. L. 109-58, title XIII, §§1341(b)(4), 1342(b)(4), Aug. 8, 2005, 119 Stat. 1049, 1051; Pub. L. 109-135, title IV, §403(y), Dec. 21, 2005, 119 Stat. 2629; Pub. L. 110-172, §7(a)(2)(B), Dec. 29, 2007, 121 Stat. 2482; Pub. L. 110-343, div. B, title II, §205(d)(3), title IV, §402(d), Oct. 3, 2008, 122 Stat. 3839, 3854; Pub. L. 111-5, div. B, title I, §§1141(b)(4), 1142(b)(7), Feb. 17, 2009, 123 Stat. 328, 331; Pub. L. 111-147, title V, §§501(c)(2), (3), 513(a)(1), (2)(A), (b), (c), Mar. 18, 2010, 124 Stat. 106, 111, 112; Pub. L. 111-226, title II, §218(a), Aug. 10, 2010, 124 Stat. 2403; Pub. L. 111-237, §3(b)(2), Aug. 16, 2010, 124 Stat. 2498; Pub. L. 113-295, div. A, title II, §221(a)(2)(E), Dec. 19, 2014, 128 Stat. 4037; Pub. L. 114-27, title IV, §407(e), June 29, 2015, 129 Stat. 382; Pub. L. 114-41, title II, §2005(a), July 31, 2015, 129 Stat. 456; Pub. L. 114-74, title XI, §1101(f)(3), Nov. 2, 2015, 129 Stat. 637; Pub. L. 115-97, title I, §13403(d)(2), Dec. 22, 2017, 131 Stat. 2137.)

AMENDMENTS

2017—Subsec. (m). Pub. L. 115-97 inserted “45S(h),” after “45H(g).”

2015—Subsec. (e)(1)(B)(ii). Pub. L. 114-41, §2005(a)(1), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (e)(1)(B)(iii). Pub. L. 114-41 redesignated cl. (ii) as (iii) and inserted “(other than in the case of an overstatement of unrecovered cost or other basis)” after “In determining the amount omitted from gross income”.

Subsec. (m). Pub. L. 114-27 inserted “, 35(g)(11)” after “30D(e)(4).”

Subsec. (n). Pub. L. 114-74 substituted “Cross reference” for “Cross references” in heading, struck out par. (1) designation before “For period of limitations”, and struck out pars. (2) and (3) which read as follows:

“(2) For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.

“(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.”

2014—Subsec. (m). Pub. L. 113-295 struck out “section 30(e)(6),” before “30B(h)(9).”

2010—Subsec. (b)(1). Pub. L. 111-147, §501(c)(2), inserted “4,” after “chapter 3.”

Subsec. (b)(2). Pub. L. 111-147, §501(c)(3), substituted “and withholding taxes” for “taxes and tax imposed by chapter 3” in heading and inserted “4,” after “chapter 3,” in text.

Subsec. (c)(8). Pub. L. 111-226 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Pub. L. 111-147, §513(b), (c), substituted “pursuant to an election under section 1295(b) or under section 1298(f), 6038, 6038A, 6038B, 6038D,” for “under section 6038, 6038A, 6038B,” and “tax return, event,” for “event”.

Subsec. (c)(11). Pub. L. 111-237 added par. (11).

Subsec. (e)(1)(A). Pub. L. 111-147, §513(a)(1), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (e)(1)(B). Pub. L. 111-147, §513(a)(2)(A), substituted “Determination of gross income” for “General rule” in heading and “For purposes of subparagraph (A)” for “If the taxpayer omits from gross income an

amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph” in introductory provisions.

Pub. L. 111-147, §513(a)(1), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Subsec. (e)(1)(C). Pub. L. 111-147, §513(a)(1), redesignated subpar. (B) as (C).

2009—Subsec. (m). Pub. L. 111-5, §1142(b)(7), substituted “section 30(e)(6)” for “section 30(d)(4).”

Pub. L. 111-5, §1141(b)(4), which directed amendment of subsec. (m) by substituting “section 30D(e)(4)” for “section 30D(e)(9)”, was executed by substituting “30D(e)(4)” for “30D(e)(9)”, to reflect the probable intent of Congress.

2008—Subsec. (i). Pub. L. 110-343, §402(d), substituted “foreign oil and gas taxes” for “oil and gas extraction taxes”.

Subsec. (m). Pub. L. 110-343, §205(d)(3), inserted “30D(e)(9),” after “30C(e)(5).”

2007—Subsec. (m). Pub. L. 110-172 inserted “45H(g),” after “45C(d)(4).”

2005—Subsec. (c)(10)(B). Pub. L. 109-135 struck out “(as defined in section 6111)” after “material advisor”.

Subsec. (m). Pub. L. 109-58, §1342(b)(4), inserted “30C(e)(5),” after “30B(h)(9).”

Pub. L. 109-58, §1341(b)(4), inserted “30B(h)(9),” after “30(d)(4).”

2004—Subsec. (c)(10). Pub. L. 108-357, §814(a), added par. (10).

Subsec. (e)(1)(B). Pub. L. 108-357, §413(c)(28), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “If the taxpayer omits from gross income an amount properly includible therein under section 551(b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”

1998—Subsec. (c)(4). Pub. L. 105-206, §3461(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c)(9). Pub. L. 105-206, §6007(e)(2)(A), struck out at end “The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).”

Subsec. (m). Pub. L. 105-206, §6023(27), substituted “election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any)” for “election under sections 30(d)(4), 40(f), 43, 45B, or 51(j) (or any).”

1997—Subsec. (a). Pub. L. 105-34, §1284(a), inserted at end “For purposes of this chapter, the term ‘return’ means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).”

Subsec. (c)(8). Pub. L. 105-34, §1145(a), amended heading and text of par. (8) generally. Prior to amendment, text read as follows: “In the case of any tax imposed on any exchange or distribution by reason of subsection (a), (d), or (e) of section 367, the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange or distribution under section 6038B(a).”

Subsec. (c)(9). Pub. L. 105-34, §506(b), reenacted par. (9) heading without change and amended text of par. (9) generally. Prior to amendment, text read as follows: “If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (with-out regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may

be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

Subsec. (m). Pub. L. 105-34, §1601(g)(2), provided that sections 1703(n)(8) and 1704(j)(4)(B) of Pub. L. 104-188 shall be applied as if the reference in the directory language to the redesignation by section 1602 referred to the redesignation by section 1702. See 1996 Amendment note below.

Subsec. (n)(3). Pub. L. 105-34, §1239(e)(2), which directed the addition of par. (3) to subsec. (o), was executed by adding par. (3) to subsec. (n) to reflect the probable intent of Congress and the redesignation of subsec. (o) as (n) by Pub. L. 104-188, §1702(e)(3)(A). See 1996 Amendment note below.

1996—Subsec. (m). Pub. L. 104-188, §1704(j)(4)(B), substituted "sections 30(d)(4), 40(f)" for "section 40(f)". See 1997 Amendment note above.

Pub. L. 104-188, §1703(n)(8), substituted "45B, or 51(j)" for "or 51(j)". See 1997 Amendment note above.

Pub. L. 104-188, §1702(e)(3), redesignated subsec. (n) as (m) and substituted "section 40(f), 43, or 51(j)" for "section 40(f) or 51(j)".

Pub. L. 104-188, §1702(e)(3)(A), which directed in part that subsec. (m) relating to deficiency attributable to election under section 44B, be struck out, could not be executed because subsec. (m) was previously repealed. See 1990 and 1988 Amendment notes for subsec. (m) and 1984 Amendment note for subsec. (p), below.

Subsecs. (n), (o). Pub. L. 104-188, §1702(e)(3)(A), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

1990—Subsec. (c)(9). Pub. L. 101-508, §11602(b), added par. (9).

Subsec. (m). Pub. L. 101-508, §11511(c)(2), which directed the substitution of "43 or 44B" for "44B" wherever appearing in subsec. (m), could not be executed because subsec. (m) was repealed by Pub. L. 100-418, §1941(b)(2)(H), and did not contain the term "44B". However, such term was contained in a prior subsec. (p) which was repealed by Pub. L. 98-369, §474(r)(39). See 1984 Amendment notes below.

1989—Subsec. (n). Pub. L. 101-239 struck out "41(h)," after "section 40(f)".

1988—Subsec. (m). Pub. L. 100-418 struck out subsec. (m) relating to special rules for windfall profit tax.

Subsec. (n). Pub. L. 100-647, §4008(c)(2), substituted "41(h), or 51(j)" for "or 51(j)".

Subsec. (o)(3). Pub. L. 100-647, §1008(j)(1), struck out par. (3) which read as follows: "For extension of period in the case of certain contributions in aid of construction, see section 118(c)."

1987—Subsec. (l)(1). Pub. L. 100-203, §10714(c), substituted "by section 4912, by chapter 42 (other than section 4940)," for "by chapter 42 (other than section 4940)".

Pub. L. 100-203, §10712(c)(2), substituted "plan, trust, or other organization" for "plan, or trust".

1986—Subsec. (c)(8). Pub. L. 99-514, §1810(g)(3), substituted "exchange or distribution" for "exchange" in two places, and "subsection (a), (d), or (e)" for "subsection (a) or (d)".

Subsecs. (k) to (p). Pub. L. 99-514, §1847(b)(12), inserted "(as amended by sections 211, 314, and 474 of this Act)" in directory language of section 163(b)(1) of Pub. L. 98-369, which resulted in no change in text but removed an ambiguity which had resulted from failure of directory language as originally enacted to indicate that amendments of this section by sections 211, 314, and 474 of Pub. L. 98-369 were to be executed before the amendment by section 163(b)(1) of Pub. L. 98-369. See 1984 Amendment notes below.

Subsec. (k). Pub. L. 99-514, §1847(b)(14), substituted "or a credit carryback (as defined in section 6511(d)(4)(C))" for "an investment credit carryback, or a work incentive program carryback, or a new employee credit carryback".

Subsecs. (n), (o). Pub. L. 99-514, §1847(b)(13), added subsec. (n) and redesignated former subsec. (n) as (o).

1984—Subsec. (c)(6). Pub. L. 98-369, §211(b)(24)(A), redesignated par. (7) as (6) and struck out former par. (6) which provided that, in the case of any tax imposed under section 802(a) by reason of section 802(b)(3) on account of a termination of the taxpayer as an insurance company or as a life insurance company to which section 815(d)(2)(A) applied, or on account of a distribution by the taxpayer to which section 815(d)(2)(B) applied such tax could be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) for the taxable year for which the taxpayer ceased to be an insurance company, the second taxable year for which the taxpayer was not a life insurance company, or the taxable year in which the distribution was actually made, as the case might be.

Subsec. (c)(7). Pub. L. 98-369, §447(a), added par. (7).

Pub. L. 98-369, §211(b)(24)(A), redesignated former par. (7) as (6).

Subsec. (c)(8). Pub. L. 98-369, §131(d)(2), added par. (8). Subsec. (g)(3). Pub. L. 98-369, §801(d)(14), substituted "section 6011(c)(2)" for "section 6011(e)(2)".

Subsec. (k). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), redesignated subsec. (m) as (k).

Pub. L. 98-369, §211(b)(24)(B), struck out former subsec. (k) which provided that in the case of a deficiency attributable to the application to the taxpayer of section 815(d)(5) (relating to reductions of policyholders surplus account of life insurance companies for certain unused deductions), such deficiency could be assessed at any time before the expiration of the period within which a deficiency for the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2) could be assessed.

Subsec. (l). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), redesignated subsec. (n) as (l) and struck out former subsec. (l) which read "For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4)."

Subsec. (l)(3). Pub. L. 98-369, §314(a)(3), substituted "section 4942(g)(2)(B)(ii)" for "section 4942(g)(2)(B)(i)(II)" in subsec. (n)(3), which was redesignated subsec. (l)(3) by Pub. L. 98-369, §163(b)(1).

Subsec. (m). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), redesignated subsec. (p) as (m). Former subsec. (m) redesignated (k).

Subsec. (n). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), added subsec. (n). Former subsec. (n) redesignated (l).

Subsec. (n)(3). Pub. L. 98-369, §314(a)(3), substituted "section 4942(g)(2)(B)(ii)" for "section 4942(g)(2)(B)(i)(II)" in subsec. (n)(3), which was redesignated subsec. (l)(3) by Pub. L. 98-369, §163(b)(1).

Subsec. (o). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), struck out subsec. (o) which read "For extension of period in the case of partnership items (as defined in section 6231(a)(3), see section 6229)."

Subsec. (p). Pub. L. 98-369, §163(b)(1), as amended by Pub. L. 99-514, §1847(b)(12), redesignated subsec. (p) as (m).

Pub. L. 98-369, §474(r)(39), redesignated subsec. (q) as (p). Former subsec. (p), which related to deficiencies attributable to an election under section 44B, was struck out.

Subsec. (q). Pub. L. 98-369, §474(r)(39), redesignated subsec. (q) as (p).

Subsec. (q)(3). Pub. L. 98-369, §714(p)(2)(F), amended par. (3) generally. Prior to amendment par. (3) related to partnership items of federally registered partnerships and provided that under regulations prescribed by the Secretary, rules similar to the rules of subsection (o) shall apply to the tax imposed by section 4986.

1982—Subsec. (o). Pub. L. 97-248 substituted "Special rules for partnership items" for "Special rules for partnership items of federally registered partnerships" in heading and, in text, substituted cross reference to sec-

tion 6229 for extension of period in case of partnership items (as defined in section 6231(a)(3)), for provisions that (1) in the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership would not expire before the later of (A) the date which was 4 years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or, later, if the date prescribed for filing the return), or (B) if the name or address of such person did not appear on the partnership return, the date which was 1 year after the date on which such information was furnished to the Secretary in such manner and at such place as he might prescribe by regulations, (2) for purposes of this subsec., the term “partnership item” meant (A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provided that for purposes of this subtitle such item was more appropriately determined at the partnership level than at the partner level, and (B) any other item to the extent affected by an item described in subpar. (A), (3) the extensions referred to in subsec. (c)(4), insofar as they related to partnership items, could, with respect to any person, be consented to (A) except to the extent the Secretary was otherwise notified by the partnership, by a general partner of the partnership, or (B) by any person authorized to do so by the partnership in writing, and (4) for purposes of this subsec., the term “federally registered partnership” meant, with respect to any partnership taxable year, any partnership (A) interests in which had been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or (B) which, at any time during such taxable year or a prior taxable year, had been subject to the annual reporting requirements of the Securities and Exchange Commission which related to the protection of investors in the partnership.

1980—Subsec. (o). Pub. L. 96-222, §102(a)(2)(A), redesignated subsec. (q), as added by section 212(a) of Pub. L. 95-600, relating to special rules for partnership items of Federally registered partnerships, as (o). Former subsec. (o), relating to work incentive program credit carrybacks, was repealed by Pub. L. 95-628.

Subsec. (p). Pub. L. 96-222, §103(a)(6)(G)(X), redesignated subsec. (q), as added by section 321(b)(2) of Pub. L. 95-600, relating to deficiency attributable to election under section 44B, as (p). Former subsec. (p), relating to new employee credit carrybacks, was repealed by Pub. L. 95-628.

Subsec. (q). Pub. L. 96-223 added subsec. (q). Former subsec. (q), as added by section 212(a) of Pub. L. 95-600, redesignated (o). Former subsec. (q), as added by section 321(b)(2) of Pub. L. 95-600, redesignated (p).

1978—Subsec. (e)(3). Pub. L. 95-600, §701(t)(3)(A), substituted “43, or 44” for “or 43”, which required no change in text in view of the identical amendment by section 4(d)(4) of Pub. L. 95-227.

Pub. L. 95-227, §4(d)(4), substituted “43, or 44” for “or 43”.

Subsec. (h). Pub. L. 95-600, §703(n), (p)(2), substituted “section 6213(b)(3)” for “section 6213(b)(2)” and struck out provisions relating to the assessment of a deficiency attributable to the application of a net operating loss carryback.

Subsec. (j). Pub. L. 95-628, §8(c)(1)(A), substituted in heading “Certain credit carrybacks” for “Investment credit carrybacks”, designated existing provision as par. (1), and in par. (1) as so designated, inserted heading “In general” and in text, substituted “credit carryback” for “investment credit carryback” in two places and “unused credit” for “unused investment credit”, inserted reference to other credit carryback, and substituted reference to section 6213(b)(3) for 6213(b)(2), and added par. (2).

Pub. L. 95-600, §703(n), substituted “section 6213(b)(3)” for “section 6213(b)(2)”.

Subsec. (m). Pub. L. 95-628, §8(c)(1)(B), struck out references to subsecs. (o) and (p) in two places.

Pub. L. 95-600, §504(b)(3), inserted “and refund” after “tentative carryback”.

Subsec. (n). Pub. L. 95-227, §4(d)(5), in heading inserted “and similar” after “42”, and in par. (1) inserted reference to section 4975 and inserted “, plan, or trust (as the case may be)” after “foundation”.

Subsec. (o). Pub. L. 95-628, §8(c)(1)(C), struck out subsec. (o) which related to work incentive program credit carrybacks.

Pub. L. 95-600, §703(n), substituted “section 6213(b)(3)” for “section 6213(b)(2)”.

Subsec. (p). Pub. L. 95-628, §8(c)(1)(C), struck out subsec. (p) which related to new employee credit carrybacks.

Subsec. (q). Pub. L. 95-600, §212(a), added subsec. (q) relating to special rules for partnership items of Federally registered partnerships.

Pub. L. 95-600, §321(b)(2), added subsec. (q) relating to deficiency attributable to election under section 44B.

1977—Subsec. (m). Pub. L. 95-30, §202(d)(5)(B), inserted references to new employee credit carrybacks and to subsec. (p).

Subsec. (p). Pub. L. 95-30, §202(d)(4)(A), added subsec. (p).

1976—Subsecs. (b)(3), (c)(4), (d), (e)(1)(A)(ii), (2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (e)(3). Pub. L. 94-455, §1307(d)(2)(F)(vi), substituted “chapter 41, 42, or 43” for “chapter 42 or 43”.

Subsec. (i). Pub. L. 94-455, §§1031(b)(5), 1035(d)(3), substituted “section 904(c)” for “Section 904(d)” wherever appearing and inserted “or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)” after “excess foreign taxes)” and “or 907(f)” before “which results in such carryback”.

Subsec. (n)(3). Pub. L. 94-455, §1302(b), added par. (3).

Subsec. (o). Pub. L. 94-455, §2107(g)(2)(A), inserted “, an investment credit carryback,” after “net operating loss carryback”.

1974—Subsec. (e)(3). Pub. L. 93-406 inserted reference to chapter 43.

1971—Subsec. (g)(3). Pub. L. 92-178, §504(c), added par. (3).

Subsec. (m). Pub. L. 92-178, §601(e)(2), substituted “an investment credit carryback, or a work incentive program carryback” for “or an investment credit carryback” and inserted reference to subsec. (o) in two places, respectively.

Subsec. (o). Pub. L. 92-178, §601(d)(1), added subsec. (o).

1970—Subsec. (e)(2). Pub. L. 91-614 substituted “during the period for which the return was filed” for “during the year”.

1969—Subsec. (c)(7). Pub. L. 91-172, §101(g)(2), added par. (7).

Subsec. (e)(3). Pub. L. 91-172, §101(g)(3), inserted provision excluding, in specified cases, chapter 42 taxes from these considered in determining the amount of taxes omitted from a return.

Subsec. (h). Pub. L. 91-172, §512(e)(1)(A)–(D), substituted “loss or capital loss carrybacks” for “loss carrybacks” in heading, “loss carryback or a capital loss carryback” for “loss carryback,” “operating loss or net capital loss which” for “operating loss which,” “assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed” for “assessed, or” and “if later than the date prescribed by the preceding sentence” for “whichever is later”.

Subsec. (j). Pub. L. 91-172, §512(e)(1)(E), substituted “loss carryback or a capital loss carryback” for “loss carryback”.

Subsec. (m). Pub. L. 91-172, §512(e)(1)(F), substituted “net operating loss carryback, a capital loss carryback, or an investment credit carryback” for “net operating loss carryback or an investment credit carryback”.

Subsec. (n). Pub. L. 91-172, §101(g)(1), added subsec. (n).

1967—Subsec. (j). Pub. L. 90-225 inserted “, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed” after “the unused investment credit which results in such carryback may be assessed.”

1966—Subsec. (b). Pub. L. 89-809 substituted “chapter 3, 21, or 24” for “chapter 21 or 24” in text of pars. (1) and (2) and inserted “and tax imposed by chapter 3” after “taxes” in par. (2) heading.

Subsec. (j). Pub. L. 89-721, §2(f), substituted “investment credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2))” for “investment credit carryback”.

Subsec. (m). Pub. L. 89-721, §3(a), added subsec. (m). 1965—Subsec. (b)(4). Pub. L. 89-44, §810(a), added par. (4).

Subsec. (e). Pub. L. 89-44, §810(b)(2), substituted “Substantial omission of items” for “Omission from gross income” in heading.

Subsec. (e)(3). Pub. L. 89-44, §810(b)(1), added par. (3).

1964—Subsec. (f). Pub. L. 88-272 substituted “gross income and adjusted ordinary gross income, described in section 543” for “gross income, described in section 543(a)”.

Subsecs. (k), (l). Pub. L. 88-571 added subsec. (k) and redesignated former subsec. (k) as (l).

1962—Subsec. (c)(6). Pub. L. 87-858 substituted “802(a)” for “802(a)(1)”.

Subsec. (h). Pub. L. 87-794 authorized assessment of a deficiency within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification issued under section 317 of the Trade Expansion Act of 1962, whichever is later.

Subsecs. (j), (k). Pub. L. 87-834 added subsec. (j) and redesignated former subsec. (j) as (k).

1960—Subsecs. (i), (j). Pub. L. 86-780 added subsec. (i) and redesignated former subsec. (i) as (j).

1959—Subsec. (c)(6). Pub. L. 86-69 added par. (6).

1958—Subsec. (a). Pub. L. 85-859 substituted “at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid” for “within 3 years after such tax became due”.

Subsec. (d). Pub. L. 85-866, §80(a), (b), substituted in first sentence “subsection (c), (e), or (f)” for “subsection (c)”, designated existing clauses (1) to (3) of second sentence as clause (1) and added clauses (2) and (3).

Subsec. (g)(2). Pub. L. 85-866, §81(a), substituted “organization” for “corporation” wherever appearing.

Subsecs. (h), (i). Pub. L. 85-866, §81(b), added subsec. (h) and redesignated former subsec. (h) as (i).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to wages paid in taxable years beginning after Dec. 31, 2017, see section 13403(e) of Pub. L. 115-97, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

Pub. L. 114-41, title II, §2005(b), July 31, 2015, 129 Stat. 457, provided that: “The amendments made by this section [amending this section] shall apply to—

“(1) returns filed after the date of the enactment of this Act [July 31, 2015], and

“(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of the taxes with respect to which such return relates has not expired as of such date.”

Amendment by Pub. L. 114-27 applicable to coverage months in taxable years beginning after Dec. 31, 2013,

see section 407(f) of Pub. L. 114-27, set out as a note under section 35 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-237 applicable to restitution ordered after Aug. 16, 2010, see section 3(c) of Pub. L. 111-237, set out as a note under section 6201 of this title.

Pub. L. 111-226, title II, §218(b), Aug. 10, 2010, 124 Stat. 2403, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147].”

Amendment by section 501(c)(2), (3) of Pub. L. 111-147 applicable to payments made after Dec. 31, 2012, with certain exceptions, see section 501(d)(1), (2) of Pub. L. 111-147, set out as a note under section 1471 of this title.

Pub. L. 111-147, title V, §513(d), Mar. 18, 2010, 124 Stat. 112, provided that: “The amendments made by this section [amending this section and section 6229 of this title] shall apply to—

“(1) returns filed after the date of the enactment of this Act [Mar. 18, 2010]; and

“(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of such taxes has not expired as of such date.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1141(b)(4) of Pub. L. 111-5 applicable to vehicles acquired after Dec. 31, 2009, see section 1141(c) of Pub. L. 111-5, set out as a note under section 30B of this title.

Amendment by section 1142(b)(7) of Pub. L. 111-5 applicable to vehicles acquired after Feb. 17, 2009, see section 1142(c) of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 24 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 205(d)(3) of Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2008, see section 205(e) of Pub. L. 110-343, set out as an Effective and Termination Dates of 2008 Amendment note under section 24 of this title.

Amendment by section 402(d) of Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2008, see section 402(e) of Pub. L. 110-343, set out as a note under section 907 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 7(e) of Pub. L. 110-172, set out as a note under section 1092 of this title.

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

Amendment by section 1341(b)(4) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1341(c) of Pub. L. 109-58, set out as an Effective Date note under section 30B of this title.

Amendment by section 1342(b)(4) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1342(c) of Pub. L. 109-58, set out as an Effective Date note under section 30C of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 413(c)(28) of Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

Pub. L. 108-357, title VIII, §814(b), Oct. 22, 2004, 118 Stat. 1581, provided that: “The amendment made by this section [amending this section] shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3461(c), July 22, 1998, 112 Stat. 764, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 6502 of this title] shall apply to requests to extend the period of limitations made after December 31, 1999.

“(2) PRIOR REQUEST.—If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the latest of—

“(A) the last day of such 10-year period;

“(B) December 31, 2002; or

“(C) in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.”

Amendment by section 6023(27) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6007(e)(2)(A) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title V, §506(e)(2), Aug. 5, 1997, 111 Stat. 856, provided that: “The amendment made by subsection (b) [amending this section] shall apply to gifts made in calendar years ending after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XI, §1145(b), Aug. 5, 1997, 111 Stat. 985, provided that: “The amendment made by subsection (a) [amending this section] shall apply to information the due date for the reporting of which is after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XII, §1239(f), Aug. 5, 1997, 111 Stat. 1028, provided that: “The amendments made by this section [amending this section and sections 6225, 6226, 6230, 6512, 7421, 7459, and 7482 of this title] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XII, §1284(b), Aug. 5, 1997, 111 Stat. 1038, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1601(g)(2) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(e)(3) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Amendment by section 1703(n)(8) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11602(e)(2), Nov. 5, 1990, 104 Stat. 1388-501, provided that: “The amendment made by subsection (b) [amending this section] shall apply to gifts after October 8, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1008(j)(1) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 4008(c)(2) of Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, see section 4008(d) of Pub. L. 100-647, set out as a note under section 41 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(2) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

Amendment by section 10714(c) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10714(e) of Pub. L. 100-203, set out as an Effective Date note under section 4912 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 131(d)(2) of Pub. L. 98-369 applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98-369, set out as a note under section 367 of this title.

Amendment by section 163(b)(1) of Pub. L. 98-369 applicable to expenditures with respect to which the second taxable year described in former section 118(b)(2)(B) of this title ends after Dec. 31, 1984, see section 163(c) of Pub. L. 98-369, set out as a note under section 118 of this title.

Amendment by section 211(b)(24) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 314(a)(3) of Pub. L. 98-369 effective July 18, 1984, see section 314(a)(4) of Pub. L. 98-369, set out as a note under section 4942 of this title.

Pub. L. 98-369, div. A, title IV, §447(b), July 18, 1984, 98 Stat. 817, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to documents received by the Secretary of the

Treasury (or his delegate) after the date of the enactment of this Act [July 18, 1984].”

Amendment by section 474(r)(39) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 714(p)(2)(F) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 801(d)(14) of Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95-628, set out as a note under section 6511 of this title.

Pub. L. 95-600, title II, § 212(c), Nov. 6, 1978, 92 Stat. 2819, provided that: “The amendments made by this section [amending this section and sections 6511 and 6512 of this title] shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.”

Pub. L. 95-600, title III, § 321(d)(5), as added by Pub. L. 96-222, title I, § 103(a)(6)(B), Apr. 1, 1980, 94 Stat. 209, provided that: “The amendments made by subsection (b) [amending this section and section 44B of this title] shall apply to taxable years beginning after December 31, 1976.”

Amendment by section 504(b)(3) of Pub. L. 95-600 applicable to tentative refund claims filed on and after Nov. 6, 1978, see section 504(c) of Pub. L. 95-600, set out as a note under section 6411 of this title.

Amendment by section 701(t)(3)(A) of Pub. L. 95-600 effective Oct. 4, 1976, see section 701(t)(5) of Pub. L. 95-600, set out as a note under section 859 of this title.

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

Amendment by section 703(p)(2) of Pub. L. 95-600 applicable with respect to losses sustained in taxable years ending after Nov. 6, 1978, see section 703(p)(4) of Pub. L. 95-600, set out as a note under section 172 of this title.

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carry-

backs from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1031(b)(5) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, with specific exceptions, see section 1031(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

Amendment by section 1035(d)(3) of Pub. L. 94-455 applicable to taxes paid or accrued during taxable years ending after Oct. 4, 1976, see section 1035(e) of Pub. L. 94-455, set out as a note under section 907 of this title.

Amendment by section 1302(b) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1974, see section 1302(c) of Pub. L. 94-455, set out as a note under section 4942 of this title.

Amendment by section 1307(d)(2)(F)(vi) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1976, see section 1307(e)(5) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by section 504(c) of Pub. L. 92-178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92-178, set out as an Effective Date note under section 991 of this title.

Amendment by section 601(d)(1), (e)(2) of Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(g)(1)-(3) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 512(e)(1) of Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Pub. L. 89-809, title I, § 105(f)(4), Nov. 13, 1966, 80 Stat. 1568, provided that: “The amendments made by this subsection [amending this section and section 6513 of this title] shall take effect on the date of the enactment of this Act [Nov. 13, 1966].”

Amendment by section 2(f) of Pub. L. 89-721 applicable with respect to taxable years ending after Dec. 31, 1961, but only in the case of applications filed after Nov. 2, 1966, see section 2(g) of Pub. L. 89-721, set out as a note under section 6411 of this title.

Pub. L. 89-721, §3(b), Nov. 2, 1966, 80 Stat. 1151, provided that: “The amendment made by subsection (a) [amending this section] shall apply in any case where the application under section 6411 of the Internal Revenue Code of 1954 is filed after the date of the enactment of this Act [Nov. 2, 1966].”

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §810(c), June 21, 1965, 79 Stat. 169, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to returns filed on or after July 1, 1965.”

EFFECTIVE DATE OF 1964 AMENDMENTS

Pub. L. 88-571, §3(f), Sept. 2, 1964, 78 Stat. 859, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section and sections 815, 6511, 6601, and 6611 of this title] shall apply with respect to amounts added to policyholders surplus accounts (within the meaning of [former] section 815(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) for taxable years beginning after December 31, 1958.”

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 225(l) of Pub. L. 88-272, set out as a note under section 316 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Pub. L. 87-858, §3(f), Oct. 23, 1962, 76 Stat. 1138, provided that the amendment made by that section is applicable with respect to taxable years beginning after Dec. 31, 1961.

Amendment by Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-780 applicable to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-780, set out as a note under section 904 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-69, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

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

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 6502. Collection after assessment

(a) Length of period

Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in

court, but only if the levy is made or the proceeding begun—

(1) within 10 years after the assessment of the tax, or

(2) if—

(A) there is an installment agreement between the taxpayer and the Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into; or

(B) there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.

If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

(b) Date when levy is considered made

The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given.

(Aug. 16, 1954, ch. 736, 68A Stat. 806; Pub. L. 89-719, title I, §113(b), Nov. 2, 1966, 80 Stat. 1146; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title I, §1015(u)(1), Nov. 10, 1988, 102 Stat. 3573; Pub. L. 101-239, title VII, §7811(k)(2), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 101-508, title XI, §11317(a), Nov. 5, 1990, 104 Stat. 1388-458; Pub. L. 105-206, title III, §3461(a), July 22, 1998, 112 Stat. 764.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206, §3461(a)(2), struck out first sentence of concluding provisions which read as follows: “The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.”

Subsec. (a)(2). Pub. L. 105-206, §3461(a)(1), added par. (2) and struck out former par. (2) which read as follows: “prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before the expiration of such 10-year period (or, if there is a release of levy under section 6343 after such 10-year period, then before such release).”

1990—Subsec. (a)(1). Pub. L. 101-508, §11317(a)(1), substituted “10 years” for “6 years”.

Subsec. (a)(2). Pub. L. 101-508, §11317(a)(2), substituted “10-year period” for “6-year period” wherever appearing.

1989—Subsec. (a). Pub. L. 101-239 substituted “unenforceable” for “enforceable” in last sentence.

1988—Subsec. (a). Pub. L. 100-647 amended last sentence generally. Prior to amendment, last sentence read as follows: “The period provided by this subsection during which a tax may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer.”

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

1966—Subsec. (a). Pub. L. 89-719 inserted sentence at end providing that the period provided by this subsection during which a tax may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendments by Pub. L. 105-206 applicable to requests to extend period of limitations made after Dec. 31, 1999, with special provisions relating to requests made on or before such date, see section 3461(c) of Pub. L. 105-206, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to taxes assessed after Nov. 5, 1990, and to taxes assessed on or before that date if the period specified in this section (determined without regard to the amendments made by Pub. L. 101-508) for collection of such taxes has not expired as of such date, see section 11317(c) of Pub. L. 101-508, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(u)(2), Nov. 10, 1988, 102 Stat. 3573, provided that: "The amendment made by this subsection [amending this section] shall apply to levies issued after the date of the enactment of this Act [Nov. 10, 1988]."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which the amendment would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten the time for bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6503. Suspension of running of period of limitation

(a) Issuance of statutory notice of deficiency

(1) General rule

The running of the period of limitations provided in section 6501 or 6502.¹ on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, gift and certain excise taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) Corporation joining in consolidated income tax return

If a notice under section 6212(a) in respect of a deficiency in tax imposed by subtitle A for

any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

(b) Assets of taxpayer in control or custody of court

The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

(c) Taxpayer outside United States

The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

(d) Extensions of time for payment of estate tax

The running of the period of limitation for collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161(a)(2) or (b)(2) or under the provisions of section 6163 or 6166.

(e) Extensions of time for payment of tax attributable to recoveries of foreign expropriation losses

The running of the period of limitations for collection of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of section 6167(f)) shall be suspended for the period of any extension of time for payment under subsection (a) or (b) of section 6167.

(f) Wrongful seizure of or lien on property of third party

(1) Wrongful seizure

The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

(2) Wrongful lien

In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be sus-

¹ So in original.

pendent for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released; or

(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.

(g) Suspension pending correction

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments or the collection by levy or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Secretary has extended the time for making correction under section 4963(e).

(h) Cases under title 11 of the United States Code

The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or collection shall, in a case under title 11 of the United States Code, be suspended for the period during which the Secretary is prohibited by reason of such case from making the assessment or from collecting and—

- (1) for assessment, 60 days thereafter, and
- (2) for collection, 6 months thereafter.

(i) Extension of time for payment of undistributed PFIC earnings tax liability

The running of any period of limitations for collection of any amount of undistributed PFIC earnings tax liability (as defined in section 1294(b)) shall be suspended for the period of any extension of time under section 1294 for payment of such amount.

(j) Extension in case of certain summonses

(1) In general

If any designated summons is issued by the Secretary to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

(A) during any judicial enforcement period—

- (i) with respect to such summons, or
- (ii) with respect to any other summons which is issued during the 30-day period

which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

(2) Designated summons

For purposes of this subsection—

(A) In general

The term “designated summons” means any summons issued for purposes of determining the amount of any tax imposed by this title if—

(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,

(ii) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

(iii) such summons clearly states that it is a designated summons for purposes of this subsection.

(B) Limitation

A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

(3) Judicial enforcement period

For purposes of this subsection, the term “judicial enforcement period” means, with respect to any summons, the period—

(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons.

(k) Cross references

For suspension in case of—

(1) Deficiency dividends of a personal holding company, see section 547(f).

(2) Receiverships, see subchapter B of chapter 70.

(3) Claims against transferees and fiduciaries, see chapter 71.

(4) Tax return preparers, see section 6694(c)(3).

(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h).

(Aug. 16, 1954, ch. 736, 68A Stat. 806; Aug. 6, 1956, ch. 1020, §2, 70 Stat. 1075; Pub. L. 85-866, title II, §206(d), Sept. 2, 1958, 72 Stat. 1685; Pub. L. 89-384, §1(e), Apr. 8, 1966, 80 Stat. 104; Pub. L. 89-719,

title I, §106, Nov. 2, 1966, 80 Stat. 1139; Pub. L. 91-172, title I, §101(g)(4), (j)(46), Dec. 30, 1969, 83 Stat. 525, 531; Pub. L. 93-406, title II, §1016(a)(15), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-452, §3(b), Oct. 2, 1976, 90 Stat. 1514; Pub. L. 94-455, title XII, §1203(h)(1), title XVI, §1601(f)(2), title XIX, §§1902(b)(2)(A), 1906(b)(13)(A), title XX, §2004(c)(4), Oct. 4, 1976, 90 Stat. 1694, 1746, 1806, 1834, 1868; Pub. L. 95-227, §4(d)(6), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95-600, title III, §362(d)(5), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 96-222, title I, §108(b)(1)(A), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96-589, §6(a), (i)(11), Dec. 24, 1980, 94 Stat. 3407, 3411; Pub. L. 96-596, §2(a)(4)(D), (E), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 97-34, title IV, §422(e)(7), Aug. 13, 1981, 95 Stat. 316; Pub. L. 98-369, div. A, title III, §305(b)(4), July 18, 1984, 98 Stat. 784; Pub. L. 99-514, title XII, §1235(d), title XVIII, §1875(d)(2)(B)(ii), Oct. 22, 1986, 100 Stat. 2575, 2896; Pub. L. 100-203, title X, §10712(c)(3), Dec. 22, 1987, 101 Stat. 1330-467; Pub. L. 101-508, title XI, §§11311(a), 11801(c)(20)(A), Nov. 5, 1990, 104 Stat. 1388-453, 1388-528; Pub. L. 104-168, title X, §1002(a)-(c), July 30, 1996, 110 Stat. 1468; Pub. L. 104-188, title I, §1702(h)(17), Aug. 20, 1996, 110 Stat. 1874; Pub. L. 105-34, title XII, §1237(c)(2), Aug. 5, 1997, 111 Stat. 1026; Pub. L. 105-206, title III, §3106(b)(3), July 22, 1998, 112 Stat. 734; Pub. L. 110-28, title VIII, §8246(a)(2)(E), May 25, 2007, 121 Stat. 201; Pub. L. 114-74, title XI, §1101(f)(4), Nov. 2, 2015, 129 Stat. 638.)

CODIFICATION

Pub. L. 94-452, §3(b), redesignated subsec. (i), relating to cross references, as subsec. (j) and added a new subsec. (i), relating to extension of time for collecting certain taxes.

Pub. L. 95-455, §1902(b)(2)(A), repealed subsec. (e) and (without reference to the amendment made by Pub. L. 94-452) renumbered subsecs. (f) to (i) as (e) to (h), with the result that the section was then comprised of subsecs. (a) to (h) and subsec. (j), relating to cross references.

Pub. L. 94-455, §§1203(h)(1), 1601(f)(2), and Pub. L. 95-600, §362(d)(5), amended the subsection relating to cross references, such subsection being described as either (h) or (i).

Pub. L. 96-596, §2(a)(4)(E) and (F), redesignated subsec. (j), relating to cross references, as subsec. (i) and provided that the above cited amendments by Pub. L. 94-455 and Pub. L. 95-600 shall be deemed to have been amendments of the redesignated subsec. (i).

Pub. L. 96-589 again redesignated subsec. (i), relating to cross references, as subsec. (j) and added a new subsec. (i), relating to cases under title 11.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-74 struck out “(or section 6229, but only with respect to a deficiency described in paragraph (2)(A) or (3) of section 6230(a))” after “section 6501 or 6502”.

2007—Subsec. (k)(4). Pub. L. 110-28 substituted “Tax return preparers” for “Income tax return preparers”.

1998—Subsec. (f). Pub. L. 105-206 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of the period of limitations on collection

after assessment shall be suspended under this subsection only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.”

1997—Subsec. (a)(1). Pub. L. 105-34 substituted “paragraph (2)(A) or (3) of section 6230(a)” for “section 6230(a)(2)(A)”.

1996—Subsec. (j). Pub. L. 104-188, §1702(h)(17)(A), which directed that the subsection relating to extension in case of certain summonses be redesignated as (j), could not be executed, because that subsection (formerly subsec. (k)) was previously redesignated (j) by Pub. L. 101-508, §11801(c)(20)(A). See 1990 Amendment note below.

Pub. L. 104-168, §1002(c), which directed that subsec. (k) be redesignated as (j), could not be executed, because that subsection was redesignated (j) by Pub. L. 101-508, §11801(c)(20)(A). See 1990 Amendment note below.

Subsec. (j)(1). Pub. L. 104-168, §1002(b), which directed substitution of “to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service” for “with respect to any return of tax by a corporation” in subsec. (k)(1), was executed by making the substitution in subsec. (j)(1) to reflect the probable intent of Congress and the amendment by Pub. L. 101-508, §11801(c)(20)(A), which redesignated subsec. (k) as (j). See 1990 Amendment note below.

Subsec. (j)(2)(A). Pub. L. 104-168, §1002(a), which directed addition of cl. (i) and redesignation of former cls. (i) and (ii) as (ii) and (iii), respectively, in subsec. (k)(2)(A), was executed by making the amendment in subsec. (j)(2)(A) to reflect the probable intent of Congress and the amendment by Pub. L. 101-508, §11801(c)(20)(A), which redesignated subsec. (k) as (j). See 1990 Amendment note below.

Subsec. (k). Pub. L. 104-188, §1702(h)(17)(B), redesignated the subsection relating to cross references (subsec. (l)) as (k).

Pub. L. 104-188, §1702(h)(17)(A), which directed that the subsection relating to extension in case of certain summonses be redesignated as (j), could not be executed, because that subsection (formerly subsec. (k)) was previously redesignated (j) by Pub. L. 101-508, §11801(c)(20)(A). See 1990 Amendment note below.

Pub. L. 104-168, §1002(c), which directed that subsec. (k) be redesignated as (j), could not be executed, because that subsection was redesignated (j) by Pub. L. 101-508, §11801(c)(20)(A). See 1990 Amendment note below.

Subsec. (l). Pub. L. 104-188, §1702(h)(17)(B), redesignated the subsection relating to cross references (subsec. (l)) as (k).

Pub. L. 104-168, §1002(c), which directed that subsec. (l) be redesignated as (k), could not be executed, because that subsection was redesignated (k) by Pub. L. 104-188, §1702(h)(17). See above and see Effective Date of 1996 Amendments note below.

1990—Subsecs. (h) to (j). Pub. L. 101-508, §11801(c)(20)(A), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) “Extension of time for collecting tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970” which read as follows: “The running of the period of limitations for collection of the tax attributable to a sale with respect to which the taxpayer makes an election under section 6158(a) shall be suspended for the period during which there are any unpaid installments of such tax.”

Subsec. (k). Pub. L. 101-508, §11801(c)(20)(A), redesignated subsec. (k) as (j).

Pub. L. 101-508, §11311(a), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 101-508, §11311(a), redesignated subsec. (k) as (l).

1987—Subsec. (g). Pub. L. 100-203 struck out “4951, 4952,” before “4971”.

1986—Subsec. (a)(1). Pub. L. 99-514, §1875(d)(2)(B)(ii), substituted “section 6501 or 6502 (or section 6229, but only with respect to a deficiency described in section 6230(a)(2)(A)).” for “section 6501 or 6502”.

Subsecs. (j), (k). Pub. L. 99-514, §1235(d), added subsec. (j) and redesignated former subsec. (j) as (k).

1984—Subsec. (g). Pub. L. 98-369 substituted “section 4963(e)” for “section 4962(e)”.

1981—Subsec. (d). Pub. L. 97-34 struck out reference to section 6166A.

1980—Subsec. (g). Pub. L. 96-596, §2(a)(4)(D), substituted “section 4962(e)” for “section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)”.

Pub. L. 96-222 substituted “4951, 4952, 4971, or 4975” for “4971, 4975, 4985, or 4986” and “4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)” for “4971(c)(3), 4975(f)(6), 4985(e)(4), or 4986(e)(2)”.

Subsec. (i). Pub. L. 96-589, §6(a), added subsec. (i) and redesignated former subsec. (i), relating to cross references, as (j). See Codification note set out above.

Pub. L. 96-596, §2(a)(4)(E), redesignated subsec. (j), relating to cross references, as (i). See Codification note set out above.

Subsec. (j). Pub. L. 96-589, §6(a), (i)(11), redesignated former subsec. (i), relating to cross references, as (j), and in par. (2) of subsec. (j) as so redesignated, struck out reference to bankruptcy. See Codification note set out above.

Pub. L. 96-596, §2(a)(4)(E), redesignated former subsec. (j), relating to cross references, as (i). See Codification note set out above.

1978—Subsec. (g). Pub. L. 95-227 inserted provisions relating to sections 4985 and 4986 and substituted “4975(f)(6)” for “4975(f)(4)”.

Subsec. (j)(5). Pub. L. 95-600, as amended by Pub. L. 96-596, §2(a)(4)(E) and (F), substituted “in the case of a regulated investment company or a real estate investment trust, see section 860(h)” for “of a real estate investment trust, see section 859(f)”. See Codification note above.

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

Subsec. (d). Pub. L. 94-455, §2004(c)(4), substituted “section 6163, 6166, or 6166A” for “section 6166”.

Subsec. (e). Pub. L. 94-455, §1902(b)(2)(A), redesignated subsec. (f) as (e). Former subsec. (e), which related to certain powers of appointment, was struck out.

Subsec. (f). Pub. L. 94-455, §§1902(b)(2)(A), 1906(b)(13)(A), redesignated subsec. (g) as (f), and struck out “or his delegate” after “Secretary” wherever appearing. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-455, §§1902(b)(2)(A), 1906(b)(13)(A), redesignated subsec. (h) as (g) and struck out “or his delegate” after “Secretary”. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 94-455, §1902(b)(2)(A), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g). See Codification note above.

Subsec. (i). Pub. L. 94-455, §1902(b)(2)(A), redesignated subsec. (i) as (h).

Pub. L. 94-452 added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 94-455, §§1203(h)(1), 1601(f)(2), as amended by Pub. L. 96-596, §2(a)(4)(E), (F), added pars. (4) and (5). See Codification note set out above.

Pub. L. 94-452 redesignated former subsec. (i) as (j).

1974—Subsec. (a)(1). Pub. L. 93-406, §1016(a)(15)(A), substituted “certain excise taxes” for “chapter 42 taxes”.

Subsec. (h). Pub. L. 93-406, §1016(a)(15)(B), inserted “or section 4971 or section 4975” after “section 507” and substituted “4945(i)(2), 4971(c)(3), or 4975(f)(4)” for “or 4945(h)(2)”.

1969—Subsec. (a)(1). Pub. L. 91-172, §101(j)(46), inserted reference to chapter 42 taxes.

Subsecs. (h), (i). Pub. L. 91-172, §101(g)(4), added subsec. (h) and redesignated former subsec. (h) as (i).

1966—Subsec. (b). Pub. L. 89-719, §106(a), struck out “(other than the estate of a decedent or of an incompetent)” after “assets of the taxpayer” and “or Territory” after “of any State”.

Subsec. (c). Pub. L. 89-719, §106(b), substituted “Taxpayer outside United States” for “Location of property outside the United States or removal of property from the United States” in heading, and “The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer’s return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months” for “In case collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States, the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period collection is so hindered or delayed. The total suspension of time under this subsection shall not in the aggregate exceed 6 years.”

Subsec. (f). Pub. L. 89-384 added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 89-719, §106(c), added subsec. (g) and redesignated former subsec. (g) as (h).

Pub. L. 89-384 redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 89-719, §106(c), redesignated former subsec. (g) as (h).

1958—Subsec. (d). Pub. L. 85-866 struck out “assessment or” after “period of limitations for” and inserted “or under the provisions of section 6166”.

1956—Subsecs. (e), (f). Act Aug. 6, 1956, added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, §1237(d), Aug. 5, 1997, 111 Stat. 1026, provided that: “The amendments made by this section [amending this section and section 6230 of this title] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pu b. L. 97-248].”

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Pub. L. 104-168, title X, §1002(d), July 30, 1996, 110 Stat. 1468, provided that: “The amendments made by this section [amending this section] shall apply to summonses issued after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11311(b), Nov. 5, 1990, 104 Stat. 1388-453, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act [Nov. 5, 1990]) if the period

prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the [sic] enactment.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1235(d) of Pub. L. 99-514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, see section 1235(h) of Pub. L. 99-514, set out as an Effective Date note under section 1291 of this title.

Amendment by section 1875(d)(2)(B)(ii) of Pub. L. 99-514 effective as if included in the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, see section 1875(d)(2)(C) of Pub. L. 99-514, set out as a note under section 6213 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable events occurring after Dec. 31, 1984, see section 305(c) of Pub. L. 98-369, set out as an Effective Date note under section 4962 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, see section 108(b)(4) of Pub. L. 96-222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95-600, set out as an Effective Date note under section 860 of this title.

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by section 1203(h)(1) of Pub. L. 94-455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as a note under section 7701 of this title.

For effective date of amendment by section 1601(f)(2) of Pub. L. 94-455, see section 1608(a) of Pub. L. 94-455, set out as a note under section 857 of this title.

Amendment by section 1902(b)(2)(A) of Pub. L. 94-455 applicable in the case of estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2012 of this title.

Amendment by section 2004(c)(4) of Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94-455, set out as a note under section 6166 of this title.

Amendment by Pub. L. 94-452 effective Oct. 1, 1977, see section 3(e) of Pub. L. 94-452, set out as a note under section 6151 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which the amendment would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten the time for bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)-(e) of Pub. L. 89-719, set out as a note under section 6323 of this title.

Amendment by Pub. L. 89-384 applicable with respect to amounts received after Dec. 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after Dec. 31, 1958, see section 2 of Pub. L. 89-384, set out as an Effective Date note under section 1351 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-866, see section 206(f) of Pub. L. 85-866, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 6, 1956, applicable in the case of decedents dying after Aug. 16, 1954, see section 3 of act Aug. 6, 1956, set out as a note set out under section 2055 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(20)(A) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES

Pub. L. 104-168, title X, §1003, July 30, 1996, 110 Stat. 1468, provided that: “Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147

and 1171–1177) or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

APPLICATION OF PRIOR AMENDMENTS

Pub. L. 96–596, §2(a)(4)(F), Dec. 24, 1980, 94 Stat. 3472, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976 [Pub. L. 94–455], and the amendment made by section 362(d)(5) of the Revenue Act of 1978 [Pub. L. 95–600], shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, subsec. (j)], as redesignated by section 6(a) of Pub. L. 96–589] (as redesignated by subparagraph (E) [redesignating subsec. (j) as (i)]).”

§ 6504. Cross references

For limitation period in case of—

(1) **Adjustments to accrued foreign taxes, see section 905(c).**

(2) **Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3).**

(3) **Involuntary conversion of property, see section 1033(a)(2)(C) and (D).**

(4) **Application by fiduciary for discharge from personal liability for estate tax, see section 2204.**

(5) **Insolvent banks and trust companies, see section 7507.**

(6) **Service in a combat zone, etc., see section 7508.**

(7) **Claims against transferees and fiduciaries, see chapter 71.**

(8) **Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, or 6427, see section 6206.**

(9) **Assessment and collection of interest, see section 6601(g).**

(10) **Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1).**

(Aug. 16, 1954, ch. 736, 68A Stat. 807; Apr. 2, 1956, ch. 160, §4(d), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(e)(5), 70 Stat. 397; Pub. L. 85–866, title I, §84(b), Sept. 2, 1958, 72 Stat. 1664; Pub. L. 88–272, title I, §112(d)(2), Feb. 26, 1964, 78 Stat. 24; Pub. L. 91–172, title II, §213(c)(3), Dec. 30, 1969, 83 Stat. 572; Pub. L. 91–614, title I, §101(d)(2), Dec. 31, 1970, 84 Stat. 1837; Pub. L. 93–625, §7(d)(4), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XII, §1203(h)(2), title XIX, 1901(b)(31)(D), (36)(C), (37)(D), (39)(B), 1906(a)(32), Oct. 4, 1976, 90 Stat. 1694, 1800, 1802, 1803, 1829; Pub. L. 95–30, title I, §101(d)(16), May 23, 1977, 91 Stat. 134; Pub. L. 95–600, title IV, §405(c)(6), title VII, §703(j)(10), Nov. 6, 1978, 92 Stat. 2871, 2942; Pub. L. 95–618, title II, §233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97–248, title IV, §402(c)(6), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97–424, title V, §515(b)(10), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 99–514, title I, §104(b)(18), Oct. 22, 1986, 100 Stat. 2106; Pub. L. 105–34, title III, §312(d)(13), Aug. 5, 1997, 111 Stat. 840; Pub. L. 114–74, title XI, §1101(f)(5), Nov. 2, 2015, 129 Stat. 638.)

AMENDMENTS

2015—Par. (11). Pub. L. 114–74 struck out par. (11) which read as follows: “Assessments of tax attributable to partnership items, see section 6229.”

1997—Pars. (4) to (12). Pub. L. 105–34 redesignated pars. (5) to (12) as (4) to (11), respectively, and struck out former par. (4) which read as follows: “Gain upon sale or exchange of principal residence, see section 1034(j).”

1986—Par. (2). Pub. L. 99–514 amended par. (2) generally, substituting “where taxpayer and his spouse make separate returns, see section 63(e)(3)” for “and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5)”.

1983—Par. (9). Pub. L. 97–424 struck out “6424 (relating to lubricating oil used for certain nontaxable purposes),” after “systems),”, and struck out “6424,” after “6421.”

1982—Par. (12). Pub. L. 97–248 added par. (12).

1978—Par. (4). Pub. L. 95–600, §405(c)(6), substituted “principal residence” for “residence”.

Par. (6). Pub. L. 95–600, §703(j)(10), amended directory language of Pub. L. 94–455, §1901(b)(37)(D). See 1976 Amendment note below.

Par. (9). Pub. L. 95–618 substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles”.

1977—Par. (2). Pub. L. 95–30 substituted “treatment with respect to itemized deductions and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5)” for “election with respect to the standard deduction where taxpayer and his spouse make separate returns, see section 144(b)”.

1976—Par. (1). Pub. L. 94–455, §§1901(b)(36)(C), 1906(a)(32)(B), redesignated par. (2) as (1). Former par. (1), which referred to section 1321 for adjustments incident to involuntary liquidation of inventory, was struck out.

Par. (2). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Par. (3). Pub. L. 94–455, §§1901(b)(31)(D), 1906(a)(32)(B), redesignated par. (4) as (3) and substituted “section 1033(a)(2)(C) and (D)” for “section 1033(a)(3)(C) and (D)”. Former par. (3) redesignated (2).

Par. (4). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Par. (5). Pub. L. 94–455, §§1901(b)(39)(B), 1906(a)(32)(B), redesignated par. (9) as (5). Former par. (5) redesignated (4).

Par. (6). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (10) as (6).

Pub. L. 94–455, §1901(b)(37)(D), as amended by Pub. L. 95–600, §703(j)(10), struck out par. (6) which referred to section 1335 for war loss recoveries where the prior benefit rule was elected.

Par. (7). Pub. L. 94–455, §§1901(b)(39)(B), 1906(a)(32)(B), redesignated par. (11) as (7). Former par. (7), which referred to section 1346 for recovery of unconstitutional federal taxes, was struck out.

Par. (8). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (12) as (8).

Par. (9). Pub. L. 94–455, §1906(a)(32)(A), (B), redesignated par. (13) as (9) and inserted provisions relating to sections 6421, 6424, and 6427. Former par. (9) redesignated (5).

Par. (10). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (15) as (10). Former par. (10) redesignated (6).

Par. (11). Pub. L. 94–455, §§1203(h)(2), 1906(a)(32)(B), added par. (11). Former par. (11) redesignated (7).

Par. (12). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (12) as (8).

Par. (13). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (13) as (9).

Par. (14). Pub. L. 94–455, §1906(a)(32)(A), struck out par. (14) which referred to section 6206 for assessments to recover excessive amounts paid under section 6421, and assessments of civil penalties under section 6675, and for excessive claims under section 6421.

Par. (15). Pub. L. 94–455, §1906(a)(32)(B), redesignated par. (15) as (10).

1975—Par. (15). Pub. L. 93–625 substituted reference to section 6601(g) for 6601(h).

1970—Par. (9). Pub. L. 91–614 substituted “fiduciary” for “executor”.

1969—Par. (8). Pub. L. 91-172 struck out par. (8).
 1964—Par. (3). Pub. L. 88-272 substituted “with respect to the” for “to take”.
 1958—Par. (15). Pub. L. 85-866 added par. (15).
 1956—Par. (13). Act. Apr. 2, 1956, added par. (13).
 Par. (14). Act June 29, 1956, added par. (14).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

Amendment by section 405(c)(6) of Pub. L. 95-600 applicable to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date, see section 405(d) of Pub. L. 95-600, set out as a note under section 1038 of this title.

Amendment by section 703(j)(10) of Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(2) of Pub. L. 94-455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as a note under section 7701 of this title.

Amendment by section 1901(b)(31)(D), (36)(C), (37)(D), (39)(B) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(32) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 213(d) of Pub. L. 91-172, set out as an Effective Date note under section 183 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

Subchapter B—Limitations on Credit or Refund

Sec.	
6511.	Limitations on credit or refund.
6512.	Limitations in case of petition to Tax Court.
6513.	Time return deemed filed and tax considered paid.
6514.	Credits or refunds after period of limitation.
6515.	Cross references.

§ 6511. Limitations on credit or refund

(a) Period of limitation on filing claim

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

(b) Limitation on allowance of credits and refunds

(1) Filing of claim within prescribed period

No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) Limit on amount of credit or refund**(A) Limit where claim filed within 3-year period**

If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) Limit where claim not filed within 3-year period

If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) Limit if no claim filed

If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

(c) Special rules applicable in case of extension of time by agreement

If an agreement under the provisions of section 6501(c)(4) extending the period for assessment of a tax imposed by this title is made within the period prescribed in subsection (a) for the filing of a claim for credit or refund—

(1) Time for filing claim

The period for filing claim for credit or refund or for making credit or refund if no claim is filed, provided in subsections (a) and (b)(1), shall not expire prior to 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof under section 6501(c)(4).

(2) Limit on amount

If a claim is filed, or a credit or refund is allowed when no claim was filed, after the execution of the agreement and within 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof, the amount of the credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection (b)(2) if a claim had been filed on the date the agreement was executed.

(3) Claims not subject to special rule

This subsection shall not apply in the case of a claim filed, or credit or refund allowed if no claim is filed, either—

(A) prior to the execution of the agreement or

(B) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(d) Special rules applicable to income taxes**(1) Seven-year period of limitation with respect to bad debts and worthless securities**

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) Special period of limitation with respect to net operating loss or capital loss carrybacks**(A) Period of limitation**

If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules**(i) In general**

If the allowance of a credit or refund of an overpayment of tax attributable to a

net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

(ii) Tentative carryback adjustments

If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

(iii) Determinations by courts to be conclusive

In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to—

(I) the net operating loss deduction and the effect of such deduction, and

(II) the determination of a short-term capital loss and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.

(3) Special rules relating to foreign tax credit

(A) Special period of limitation with respect to foreign taxes paid or accrued

If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year in which such taxes were actually paid or accrued.

(B) Exception in the case of foreign taxes paid or accrued

In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

(4) Special period of limitation with respect to certain credit carrybacks

(A) Period of limitation

If the claim for credit or refund relates to an overpayment attributable to a credit

carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules

If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding.

(C) Credit carryback defined

For purposes of this paragraph, the term “credit carryback” means any business carryback under section 39.

(5) Special period of limitation with respect to self-employment tax in certain cases

If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Commissioner of Social Security.

(6) Special period of limitation with respect to amounts included in income subsequently recaptured under qualified plan termination

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 4045 of the Employee Retirement Income Security Act of 1974, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund of the amount of the recapture, until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.

(7) Special period of limitation with respect to self-employment tax in certain cases

If—

(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7436, and

(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.

(8) Special rules when uniformed services retired pay is reduced as a result of award of disability compensation

(A) Period of limitation on filing claim

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(i) the reduction of uniformed services retired pay computed under section 1406 or 1407 of title 10, United States Code, or

(ii) the waiver of such pay under section 5305 of title 38 of such Code,

as a result of an award of compensation under title 38 of such Code pursuant to a determination by the Secretary of Veterans Affairs, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund based upon the amount of such reduction or waiver, until the end of the 1-year period beginning on the date of such determination.

(B) Limitation to 5 taxable years

Subparagraph (A) shall not apply with respect to any taxable year which began more than 5 years before the date of such determination.

[(e) Repealed. Pub. L. 101-508, title XI, § 11801(c)(22)(C), Nov. 5, 1990, 104 Stat. 1388-528]

(f) Special rule for chapter 42 and similar taxes

For purposes of any tax imposed by section 4912, chapter 42, or section 4975, the return referred to in subsection (a) shall be the return specified in section 6501(l)(1).

[(g) Repealed. Pub. L. 114-74, title XI, § 1101(f)(6), Nov. 2, 2015, 129 Stat. 638]

(h) Running of periods of limitation suspended while taxpayer is unable to manage financial affairs due to disability

(1) In general

In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

(2) Financially disabled

(A) In general

For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

(B) Exception where individual has guardian, etc.

An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.

(i) Cross references

(1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2014(b) and 2015.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013(b)(3).

(5) For limitations in case of payments under section 6420 (relating to gasoline used on farms), see section 6420(b).

(6) For limitations in case of payments under section 6421 (relating to gasoline used for certain non-highway purposes or by local transit systems), see section 6421(d).

(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 808; Apr. 2, 1956, ch. 160, § 4(e), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(e)(6), 70 Stat. 397; Pub. L. 85-866, title I, § 82, Sept. 2, 1958, 72 Stat. 1663; Pub. L. 86-280, § 1(a), Sept. 16, 1959, 73 Stat. 563; Pub. L. 87-794, title III, § 317(d), Oct. 11, 1962, 76 Stat. 891; Pub. L. 87-834, § 2(e)(2), Oct. 16, 1962, 76 Stat. 971; Pub. L. 88-272, title II, §§ 232(d), 239, Feb. 26, 1964, 78 Stat. 111, 128; Pub. L. 88-571, § 3(c), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89-331, § 9(c), Nov. 8, 1965, 79 Stat. 1278; Pub. L. 90-225, § 2(d), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title I, § 101(h), title III, § 311(d)(3), title V, § 512(e)(2), Dec. 30, 1969, 83 Stat. 525, 588, 640; Pub. L. 92-178, title VI, § 601(d)(2), Dec. 10, 1971, 85 Stat. 558; Pub. L. 93-406, title IV, § 4401(b), formerly § 4081(b), Sept.

2, 1974, 88 Stat. 1034, renumbered § 4401(b), Pub. L. 96-364, title I, § 108(a), Sept. 26, 1980, 94 Stat. 1267; Pub. L. 94-455, title XII, § 1203(h)(3), title XIX, § 1906(a)(33), title XXI, § 2107(g)(2)(B), Oct. 4, 1976, 90 Stat. 1694, 1829, 1904; Pub. L. 95-30, title II, § 202(d)(4)(B), May 23, 1977, 91 Stat. 149; Pub. L. 95-600, title II, § 212(b)(1), title VII, § 703(p)(3), Nov. 6, 1978, 92 Stat. 2819, 2944; Pub. L. 95-628, § 8(a), (b), Nov. 10, 1978, 92 Stat. 3630, 3631; Pub. L. 96-222, title I, §§ 102(a)(2)(B), 108(b)(1)(B), Apr. 1, 1980, 94 Stat. 208, 226; Pub. L. 96-223, title I, § 101(g)(2), Apr. 2, 1980, 94 Stat. 254; Pub. L. 96-598, § 1(c), Dec. 24, 1980, 94 Stat. 3486; Pub. L. 97-34, title II, § 221(b)(2)(A), title III, § 331(d)(2)(A), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 97-248, title IV, § 402(c)(7), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98-369, div. A, title I, § 163(b)(2), title II, § 211(d)(3)(I), title IV, § 474(r)(40), title VII, § 714(p)(2)(G), 735(c)(14), div. B, title VI, § 2663(j)(5)(F), July 18, 1984, 98 Stat. 698, 757, 847, 965, 984, 1171; Pub. L. 99-514, title I, § 141(b)(3), title II, § 231(d)(3)(I), title XVIII, § 1847(b)(15), Oct. 22, 1986, 100 Stat. 2117, 2180, 2857; Pub. L. 100-418, title I, § 1941(b)(2)(I), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §§ 1017(c)(11), 1018(u)(21), (51), Nov. 10, 1988, 102 Stat. 3577, 3591, 3593; Pub. L. 101-508, title XI, § 11801(c)(17)(B), (22)(C), Nov. 5, 1990, 104 Stat. 1388-527, 1388-528; Pub. L. 103-296, title I, § 108(h)(8), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 105-34, title X, § 1056(a), title XIV, § 1454(b)(1), Aug. 5, 1997, 111 Stat. 945, 1056; Pub. L. 105-206, title III, § 3202(a), July 22, 1998, 112 Stat. 740; Pub. L. 107-16, title V, § 532(c)(11), June 7, 2001, 115 Stat. 75; Pub. L. 110-245, title I, § 106(a), June 17, 2008, 122 Stat. 1630; Pub. L. 114-74, title XI, § 1101(f)(6), Nov. 2, 2015, 129 Stat. 638.)

REFERENCES IN TEXT

Section 218 of the Social Security Act, referred to in subsec. (d)(5), is classified to section 418 of Title 42, The Public Health and Welfare.

Section 4045 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(6), is classified to section 1345 of Title 29, Labor.

AMENDMENTS

2015—Subsec. (g). Pub. L. 114-74 struck out subsec. (g). Text read as follows: “In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter.”

2008—Subsec. (d)(8). Pub. L. 110-245 added par. (8).

2001—Subsec. (i)(2). Pub. L. 107-16 substituted “2014(b)” for “2011(c), 2014(b).”

1998—Subsecs. (h), (i). Pub. L. 105-206 added subsec. (h) and redesignated former subsec. (h) as (i).

1997—Subsec. (d)(3)(A). Pub. L. 105-34, § 1056(a), substituted “for the year in which such taxes were actually paid or accrued” for “for the year with respect to which the claim is made”.

Subsec. (d)(7). Pub. L. 105-34, § 1454(b)(1), added par. (7).

1994—Subsec. (d)(5). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1990—Subsec. (d)(2)(A). Pub. L. 101-508, § 11801(c)(17)(B), struck out before period at end of first sentence “; except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not ex-

pire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final”.

Subsec. (e). Pub. L. 101-508, § 11801(c)(22)(C), struck out subsec. (e) which related to special rules in case of manufactured sugar either exported, used as livestock feed, or for distillation or production of alcohol.

1988—Subsec. (d)(4)(C). Pub. L. 100-647, § 1018(u)(21), made technical correction to directory language of Pub. L. 99-514, § 231(d)(3)(I), see 1986 Amendment note below.

Subsec. (f). Pub. L. 100-647, § 1018(u)(51), substituted “similar taxes” for “certain chapter 43 taxes” in heading, and “section 4912, chapter 42,” for “chapter 42” in text.

Subsec. (h). Pub. L. 100-418, § 1941(b)(2)(I), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to special rules for windfall profit taxes.

Subsec. (i). Pub. L. 100-418, § 1941(b)(2)(I), redesignated subsec. (i) as (h).

Subsec. (i)(6). Pub. L. 100-647, § 1017(c)(11), substituted “section 6421(d)” for “section 6421(c)”.

1986—Subsec. (d)(2)(B). Pub. L. 99-514, § 141(b)(3), amended subpar. (B) generally, restating cl. (i) as cls. (i), (ii), and (iii) and striking out former cl. (ii) which read as follows: “A claim for credit or refund for a computation year (as defined in section 1302(c)(1)) shall be determined to relate to an overpayment attributable to a net operating loss carryback or a capital loss carryback, as the case may be, when such carryback relates to any base period year (as defined in section 1302(c)(3)).”

Subsec. (d)(4)(C). Pub. L. 99-514, § 231(d)(3)(I), as amended by Pub. L. 100-647, § 1018(u)(21), struck out “and any research credit carryback under section 30(g)(2)” after “under section 39”.

Subsec. (h)(1). Pub. L. 99-514, § 1847(b)(15)(A), substituted “section 6501(m)(1)(B)” for “section 6501(q)(1)(B)”.

Subsec. (h)(2). Pub. L. 99-514, § 1847(b)(15)(B), substituted “section 6501(m)(2)(B)” for “section 6501(q)(2)(B)”.

1984—Subsec. (d)(4)(C). Pub. L. 98-369, § 474(r)(40), substituted “business carryback under section 39 and any research credit carryback under section 30(g)(2)” for “investment credit carryback, work incentive program credit carryback, new employee credit carryback, research credit carryback, and employee stock ownership credit carryback”.

Subsec. (d)(5). Pub. L. 98-369, § 2663(j)(5)(F), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (d)(6), (7). Pub. L. 98-369, § 211(b)(25), redesignated par. (7) as (6) and struck out former par. (6) relating to a special period of limitation with respect to reduction of policyholders surplus account of life insurance companies.

Subsec. (f). Pub. L. 98-369, § 163(b)(2), substituted “section 6501(l)(1)” for “section 6501(n)(1)”.

Subsec. (h)(3). Pub. L. 98-369, § 714(p)(2)(G), amended par. (3) generally. Prior to amendment par. (3) related to partnership items of federally registered partnerships and provided that under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986.

Subsecs. (i), (j). Pub. L. 98-369, § 735(c)(14), redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to a special rule for certain tread rubber tax credits or refunds.

1982—Subsec. (g). Pub. L. 97-248 substituted “Special rule for claims with respect to partnership items” for “Special rule for partnership items of federally registered partnerships” in heading and, in text, substituted provisions that, in the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter for provisions that (1) in

the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership would not expire before the later of (A) the date which was 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or (B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item was made before the date specified in subpar. (A), the date 6 months after the expiration of such extension, with the amount of the credit or refund allowed to exceed the portion of the tax paid within the period provided in subsec. (b)(2) or (c), whichever was applicable, and (2) for purposes of this subsec., the terms “partnership item” and “federally registered partnership” would have the same meanings as such terms had when used in section 6501(o).

1981—Subsec. (d)(4)(C). Pub. L. 97-34, § 331(d)(2)(A), inserted reference to employee stock ownership credit carryback.

Pub. L. 97-34, § 221(b)(2)(A), inserted reference to research credit carryback.

1980—Subsec. (f). Pub. L. 96-222, § 108(b)(1)(B), inserted in heading “and certain chapter 43” after “chapter 42”, and in text “or section 4975” after “chapter 42”.

Subsec. (g)(2). Pub. L. 96-222, § 102(a)(2)(B), substituted “section 6501(o)” for “section 6501(q)”.

Subsec. (h). Pub. L. 96-223 added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (i). Pub. L. 96-598 added subsec. (i) and redesignated former subsec. (i) as (j).

Pub. L. 96-223 redesignated former subsec. (h) as (i).

Subsec. (j). Pub. L. 96-598 redesignated former subsec. (i) as (j).

1978—Subsec. (d)(2)(A). Pub. L. 95-628, § 8(a), substituted “3 years after the time prescribed by law for filing the return (including extensions thereof) for” for “with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of”.

Pub. L. 95-600, § 703(p)(3), struck out provisions relating to the period of limitations with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962.

Subsec. (d)(4). Pub. L. 95-628, § 8(b)(1), substituted in heading “certain credit carrybacks” for “investment credit carrybacks”, in subpar. (A), substituted “a credit carryback” for “an investment credit carryback”, “period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback” for “period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback”, and “(or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year)” for “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year),”, in subpar. (B), substituted “a credit carryback” for “an investment credit carryback”, “any credit” for “the investment credit”, and “affected by a credit carryback” for “affected by a carryback”; and added subpar. (C).

Subsec. (d)(7). Pub. L. 95-628, § 8(b)(2), redesignated par. (8) as (7). Former par. (7), which provided for a special period of limitation with respect to work incentive program credit carrybacks, was struck out.

Subsec. (d)(8). Pub. L. 95-628, § 8(b)(2)(B), redesignated par. (8) as (7).

Subsec. (d)(9). Pub. L. 95-628, § 8(b)(2)(A), struck out par. (9) which provided for a special period of limitation with respect to new employee credit carrybacks.

Subsecs. (g), (h). Pub. L. 95-600, § 212(b)(1), added subsec. (g) and redesignated former subsec. (g) as (h).

1977—Subsec. (d)(9). Pub. L. 95-30 added par. (9).

1976—Subsec. (d)(2)(A)(ii). Pub. L. 94-455, § 1906(a)(33)(A), struck out “September 1, 1959, or” after “shall not expire before” and “, whichever is the later” after “profits becomes final”.

Subsec. (d)(5). Pub. L. 94-455, § 1906(a)(33)(B), struck out “the later of the following dates: (A)” after “filed on or before” and “, or (B) December 31, 1965” after “Health, Education, and Welfare”.

Subsec. (d)(7). Pub. L. 94-455, § 2107(g)(2)(B), inserted “, an investment credit carryback,” after “net operating loss carryback”.

Subsec. (g)(7). Pub. L. 94-455, § 1203(h)(3), added par. (7).

1974—Subsec. (d)(8). Pub. L. 93-406 added par. (8).

1971—Subsec. (d)(7). Pub. L. 92-178 added par. (7).

1969—Subsec. (d)(2). Pub. L. 91-172, § 512(e)(2)(A), substituted “loss or capital loss carrybacks” for “loss carrybacks” in heading.

Subsec. (d)(2)(A). Pub. L. 91-172, § 512(e)(2)(B), (C), substituted “loss carryback or a capital loss carryback” for “loss carryback” and “operating loss or net capital loss which” for “operating loss which”.

Subsec. (d)(2)(B)(i). Pub. L. 91-172, § 512(e)(2)(D), (E), substituted “loss carryback or a capital loss carryback” for “loss carryback” and inserted reference to short-term capital loss.

Subsec. (d)(2)(B)(ii). Pub. L. 91-172, §§ 311(d)(3), 512(e)(2)(F), substituted references to section “1302(c)(1)” and “1302(c)(3)” for section “1302(e)(1)” and “1302(e)(3)”, respectively, and substituted “loss carryback or a capital loss carryback, as the case may be,” for “loss carryback”.

Subsec. (d)(4)(A). Pub. L. 91-172, § 512(e)(2)(G), substituted “loss carryback or a capital loss carryback” for “loss carryback”.

Subsecs. (f), (g). Pub. L. 91-172, § 101(h), added subsec. (f) and redesignated former subsec. (f) as (g).

1967—Subsec. (d)(4)(A). Pub. L. 90-225 inserted “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year)” after “the unused investment credit which results in such carryback”.

1965—Subsec. (e)(1). Pub. L. 89-331 inserted “or production” after “distillation” in heading.

1964—Subsec. (d)(6). Pub. L. 88-571 added par. (6).

Pub. L. 88-272 designated existing provisions as clause (i) and added clause (ii) in par. (2)(B), and added par. (5).

1962—Subsec. (d)(2)(A). Pub. L. 87-794 inserted provisions stating that, with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification under section 317 of the Trade Expansion Act of 1962, the period of limitations shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer.

Subsec. (d)(4). Pub. L. 87-834 added par. (4).

1959—Subsec. (d)(2)(A). Pub. L. 86-280 inserted in first sentence exception with respect to overpayment as a result of elimination of excess profits by renegotiation.

1958—Subsec. (a). Pub. L. 85-866, § 82(a), struck out from first sentence “required to be” after “3 years from the time the return was”, and “(determined without regard to any extension of time)” before “or 2 years”.

Subsec. (b)(2)(A). Pub. L. 85-866, § 82(b), substituted “Limit where claim not filed within 3-year period” for

“Limit to amount paid within years” in heading, and in text substituted “within the period,” for “within the 3 years”, inserted “equal to 3 years plus the period of any extension of time for filing the return” and struck out provision that if the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

Subsec. (b)(2)(B). Pub. L. 85-866, §82(c), substituted “Limit where claim not filed within 3-year period” for “Limit to amount paid within 2 years” in heading.

Subsec. (d)(2)(A). Pub. L. 85-866, §82(d), substituted in first sentence “15th day of the 40th month (or 39th month, in the case of a corporation)” for “15th day of the 39th month”.

1956—Subsec. (f)(5). Act Apr. 2, 1956, added par. (5).

Subsec. (f)(6). Act June 29, 1956, added par. (6).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-245, title I, §106(b), June 17, 2008, 122 Stat. 1630, provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims for credit or refund filed after the date of the enactment of this Act [June 17, 2008].”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3202(b), July 22, 1998, 112 Stat. 741, provided that: “The amendment made by subsection (a) [amending this section] shall apply to periods of disability before, on, or after the date of the enactment of this Act [July 22, 1998] but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of the date of the enactment of this Act.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1056(b), Aug. 5, 1997, 111 Stat. 945, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title X, §1454(c), Aug. 5, 1997, 111 Stat. 1057, provided that: “The amendments made by this section [enacting section 7436 of this title, amending this section and sections 7421, 7453, and 7481 of this title, and renumbering section 7436 of this title as 7437] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENTS

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

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 141(b)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 231(d)(3)(I) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(15) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 163(b)(2) of Pub. L. 98-369 applicable to expenditures with respect to which the second taxable year described in former section 118(b)(2)(B) of this title ends after Dec. 31, 1984, see section 163(c) of Pub. L. 98-369, set out as a note under section 118 of this title.

Amendment by section 211(b)(25) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 474(r)(40) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 714(p)(2)(G) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 735(c)(14) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

Amendment by section 2663(j)(5)(F) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(A) of Pub. L. 97-34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97-34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(A) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96-598, set out as a note under section 4071 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

Amendment by section 102(a)(2)(B) of Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

Amendment by section 108(b)(1)(B) of Pub. L. 96-222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, see section 108(b)(4) of Pub. L. 96-222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Pub. L. 95-628, §8(d), Nov. 10, 1978, 92 Stat. 3632, provided that: "The amendments made by this section [amending this section and sections 6501, 6601, and 6611 of this title] shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act [Nov. 10, 1978]."

Amendment by section 212(b)(1) of Pub. L. 95-600 applicable to partnership items arising in partnership taxable years beginning after Dec. 31, 1978, see section 212(c) of Pub. L. 95-600, set out as a note under section 6501 of this title.

Amendment by section 703(p)(3) of Pub. L. 95-600 applicable with respect to losses sustained in taxable years ending Nov. 6, 1978, see section 703(p)(4) of Pub. L. 95-600, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(3) of Pub. L. 94-455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as a note under section 7701 of this title.

Amendment by section 1906(a)(33) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Amendment by section 2107(g)(2)(B) of Pub. L. 94-455 applicable to parts and accessories sold after Oct. 4, 1976, see section 2108(b) of Pub. L. 94-455, set out as a note under section 6416 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Sept. 2, 1974, with exceptions specified in section 1461(b), (c) of Title 29, Labor, see section 1461(a) of Title 29.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(h) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 311(d)(3) of Pub. L. 91-172 applicable with respect to computation years (within the meaning of section 1302(c)(1) of this title) beginning after Dec. 31, 1969, and to base period years (within the meaning of section 1302(c)(3) of this title) applicable to such computation years, see section 311(e) of Pub. L. 91-172, set out as a note under section 1301 of this title.

Amendment by section 512(e)(2) of Pub. L. 91-172 applicable with respect to net capital losses sustained in

taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-331 effective Nov. 8, 1965, see section 14 of Pub. L. 89-331, Nov. 8, 1965, 79 Stat. 1281.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88-571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88-571, set out as a note under section 6501 of this title.

Amendment by Pub. L. 88-272, applicable to taxable years beginning after Dec. 31, 1964, see section 232(g) of Pub. L. 88-272, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-280, §1(c), Sept. 16, 1959, 73 Stat. 564, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided in part that: "The amendment made by subsection (a) [amending this section] shall apply with respect to claims for credit or refund resulting from the elimination of excessive profits by renegotiation to which section 6511(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies."

EFFECTIVE DATE OF 1958 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

TRANSITION RULES

Pub. L. 110-245, title I, §106(c), June 17, 2008, 122 Stat. 1630, as amended by Pub. L. 113-295, div. A, title II, §213(a), Dec. 19, 2014, 128 Stat. 4033, provided that: "In the case of a determination described in paragraph (8) of section 6511(d) of the Internal Revenue Code of 1986 (as added by this section) which is made by the Secretary of Veterans Affairs after December 31, 2000, and before the date of the enactment of this Act [June 17, 2008], such paragraph—

"(1) shall not apply with respect to any taxable year which began before January 1, 2001, and

"(2) shall be applied by substituting 'June 17, 2008' for 'the date of such determination' in subparagraph (A) thereof."

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

EXTENSION OF TIME FOR FILING CLAIMS FOR TAX
REFUNDS

Pub. L. 85-866, title I, § 96, Sept. 2, 1958, 72 Stat. 1672, authorized refunds and credits for tax overpayments for any taxable year beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, based upon business, trade, or education expenses, if the proper claim were filed on or before Sept. 2, 1958, or within 60 days thereafter.

§ 6512. Limitations in case of petition to Tax Court

(a) Effect of petition to Tax Court

If the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a) (or 7481(c) with respect to a determination of statutory interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final, and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final, and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive, and

(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63, and

(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).

(b) Overpayment determined by Tax Court

(1) Jurisdiction to determine

Except as provided by paragraph (3) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer. If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.

(2) Jurisdiction to enforce

If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(3) Limit on amount of credit or refund

No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) after the mailing of the notice of deficiency,

(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

(C) within the period which would be applicable under section 6511(b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency—

(i) which had not been disallowed before that date,

(ii) which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

(iii) in respect of which a suit for refund had been commenced before that date and within the period specified in section 6532.

In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.

(4) Denial of jurisdiction regarding certain credits and reductions

The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.

(c) Cross references

(1) For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.

(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430.

(Aug. 16, 1954, ch. 736, 68A Stat. 811; Pub. L. 87-870, § 4, Oct. 23, 1962, 76 Stat. 1161; Pub. L. 91-172, title I, § 101(j)(47), (48), title IX, § 960(b), Dec. 30, 1969, 83 Stat. 531, 734; Pub. L. 91-614, title I, § 102(d)(9), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93-406, title II, § 1016(a)(16), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, § 1307(d)(2)(F)(vii), title XVI, § 1605(b)(9), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1834; Pub. L. 95-600, title II, § 212(b)(2), Nov. 6, 1978, 92 Stat. 2819; Pub. L. 96-223, title I, § 101(f)(6), Apr. 2, 1980, 94 Stat. 253; Pub. L. 96-589, § 6(d)(3), Dec. 24, 1980, 94 Stat. 3408; Pub. L. 97-248, title IV, § 402(c)(8), (9), Sept. 3, 1982, 96 Stat. 668; Pub. L. 100-418, title I, § 1941(b)(2)(J), (K), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title VI, §§ 6244(a), (b)(2), 6246(b)(1), 6247(b)(1), Nov. 10, 1988, 102 Stat. 3750-3752; Pub. L. 105-34, title XII, §§ 1239(c)(2), 1282(a), title XIV, § 1451(a), (b), Aug. 5, 1997, 111 Stat. 1028, 1037, 1054; Pub. L. 105-206, title III, § 3464(b), (c), July 22, 1998, 112 Stat. 767; Pub. L. 106-554, § 1(a)(7) [title III, § 319(19)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 114-74, title XI, § 1101(f)(7), Nov. 2, 2015, 129 Stat. 638.)

AMENDMENTS

2015—Subsec. (b)(3). Pub. L. 114-74 struck out first set of concluding provisions “In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).” before “In a case described in subparagraph (B).”.

2000—Subsec. (a)(1), (2), (5). Pub. L. 106-554 substituted a comma for a semicolon before “and” at end.

1998—Subsec. (a)(5), (6). Pub. L. 105-206, § 3464(b), added pars. (5) and (6).

Subsec. (b)(1). Pub. L. 105-206, § 3464(c), inserted at end “If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.”

1997—Subsec. (b)(2). Pub. L. 105-34, § 1451(a), inserted at end “An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.”

Subsec. (b)(3). Pub. L. 105-34, § 1282(a), inserted concluding provisions “In a case described in subparagraph (B) where the date of the mailing of the notice of defi-

ciency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.”

Pub. L. 105-34, § 1239(c)(2), inserted concluding provisions “In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).”

Subsec. (b)(4). Pub. L. 105-34, § 1451(b), added par. (4). 1988—Subsec. (a). Pub. L. 100-647, § 6247(b)(1), substituted “interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)” for “interest”).

Pub. L. 100-647, § 6246(b)(1), inserted “(or 7481(c) with respect to a determination of statutory interest)” after “section 6213(a).”

Pub. L. 100-418, § 1941(b)(2)(J), substituted “or of tax imposed by chapter 41” for “of tax imposed by chapter 41” and struck out “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates”.

Subsec. (b)(1). Pub. L. 100-647, § 6244(a), substituted “paragraph (3)” for “paragraph (2).”

Pub. L. 100-418, § 1941(b)(2)(K), substituted “or of tax imposed by chapter 41” for “of tax imposed by chapter 41” and struck out “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates”.

Subsec. (b)(2), (3). Pub. L. 100-647, § 6244(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 100-647, § 6244(b)(2), substituted “references” for “reference” in heading, designated existing provisions as par. (1), and added par. (2).

1982—Subsec. (a)(4). Pub. L. 97-248, § 402(c)(8), added par. (4).

Subsec. (b)(2). Pub. L. 97-248, § 402(c)(9), substituted “(c), or (d)” for “(c), (d), or (g)” wherever appearing.

1980—Subsec. (a). Pub. L. 96-223, § 101(f)(6)(A), substituted “certain excise taxes” for “chapter 41, 42, 43, or 44 taxes” and “decendent, of tax imposed” for “decendent, or of tax imposed” and inserted “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 96-223, § 101(f)(6)(B), substituted “of tax imposed by chapter 41” for “or of tax imposed by chapter 41” and inserted “, or of tax imposed by chapter 45 for the same taxable period” after “to which such petition relates”.

Subsec. (c). Pub. L. 96-589 added subsec. (c). 1978—Subsec. (b)(2). Pub. L. 95-600 substituted “(c), (d), or (g)” for “(c), or (d)” wherever appearing.

1976—Subsecs. (a), (b)(1). Pub. L. 94-455 substituted reference to chapter 41, 42, 43, or 44 for reference to chapter 42 or 43 and reference to Secretary for reference to Secretary or his delegate.

1974—Subsec. (a). Pub. L. 93-406 inserted reference to chapter 43 in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 93-406 inserted reference to chapter 43.

1970—Pub. L. 91-614 substituted “the same calendar year or calendar quarter” for “the same calendar year” in two places.

1969—Subsec. (a). Pub. L. 91-172, § 101(j)(47), inserted references to chapter 42 taxes.

Subsec. (b)(1). Pub. L. 91-172, §§ 101(j)(48), 960(b), inserted reference to chapter 42 taxes and inserted reference to the exception to the Tax Court’s jurisdiction provided for in par. (2) and in section 7463 of this title.

1962—Subsec. (b)(2)(C). Pub. L. 87-870 added subpar. (C).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1239(c)(2) of Pub. L. 105-34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105-34, set out as a note under section 6501 of this title.

Pub. L. 105-34, title XII, §1282(b), Aug. 5, 1997, 111 Stat. 1038, provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, §1451(c), Aug. 5, 1997, 111 Stat. 1054, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 6244(a), (b)(2) of Pub. L. 100-647 applicable to overpayments determined by the Tax Court which have not been refunded by the 90th day after Nov. 10, 1988, see section 6244(c) of Pub. L. 100-647, set out as a note under section 6214 of this title.

Pub. L. 100-647, title VI, §6246(c), Nov. 10, 1988, 102 Stat. 3751, provided that: “The amendments made by this section [amending this section and section 7481 of this title] shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act [Nov. 10, 1988].”

Pub. L. 100-647, title VI, §6247(c), Nov. 10, 1988, 102 Stat. 3752, provided that: “The amendments made by this section [amending this section and section 7481 of this title] shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to partnership items arising in partnership taxable years beginning after Dec. 31, 1978, see section 212(c) of Pub. L. 95-600, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(vii) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years

beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(47), (48) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 960(b) of Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

§ 6513. Time return deemed filed and tax considered paid

(a) Early return or advance payment of tax

For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer and without regard to any election to pay the tax in installments.

(b) Prepaid income tax

For purposes of section 6511 or 6512—

(1) Any tax actually deducted and withheld at the source during any calendar year under chapter 24 shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31.

(2) Any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 for such taxable year (determined without regard to any extension of time for filing such return).

(3) Any tax withheld at the source under chapter 3 or 4 shall, in respect of the recipient of the income, be deemed to have been paid by such recipient on the last day prescribed for filing the return under section 6012 for the taxable year (determined without regard to any extension of time for filing) with respect to which such tax is allowable as a credit under section 1462 or 1474(b). For this purpose, any exemption granted under section 6012 from the requirement of filing a return shall be disregarded.

(c) Return and payment of social security taxes and income tax withholding

Notwithstanding subsection (a), for purposes of section 6511 with respect to any tax imposed by chapter 3, 4, 21, or 24—

(1) If a return for any period ending with or within a calendar year is filed before April 15

of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration or other amount paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) Overpayment of income tax credited to estimated tax

If any overpayment of income tax is, in accordance with section 6402(b), claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

(e) Payments of Federal unemployment tax

Notwithstanding subsection (a), for purposes of section 6511 any payment of tax imposed by chapter 23 which, pursuant to section 6157, is made for a calendar quarter or other period within a calendar year shall, if made before the last day prescribed for filing the return for the calendar year (determined without regard to any extension of time for filing), be considered made on such last day.

(Aug. 16, 1954, ch. 736, 68A Stat. 812; Pub. L. 89-809, title I, §105(f)(1), (2), Nov. 13, 1966, 80 Stat. 1567, 1568; Pub. L. 91-53, §2(d), Aug. 7, 1969, 83 Stat. 92; Pub. L. 98-76, title II, §231(b)(2)(C), Aug. 12, 1983, 97 Stat. 429; Pub. L. 100-647, title VII, §7106(c)(4), Nov. 10, 1988, 102 Stat. 3774; Pub. L. 111-147, title V, §501(c)(4), (5), Mar. 18, 2010, 124 Stat. 106.)

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111-147, §501(c)(4), inserted “or 4” after “chapter 3” and “or 1474(b)” after “section 1462”.

Subsec. (c). Pub. L. 111-147, §501(c)(5), inserted “4,” after “chapter 3,” in introductory provisions.

1988—Subsec. (e). Pub. L. 100-647 struck out last sentence which read as follows: “Notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.”

1983—Subsec. (e). Pub. L. 98-76 inserted provisions that notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.

1969—Subsec. (e). Pub. L. 91-53 added subsec. (e).

1966—Subsec. (b). Pub. L. 89-809, §105(f)(1), designated existing provisions as pars. (1) and (2) and added par. (3).

Subsec. (c). Pub. L. 89-809, §105(f)(2), inserted reference to chapter 3 in provisions preceding par. (1) and “or other amount” after “remuneration” in par. (2).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to payments made after Dec. 31, 2012, with certain exceptions, see section 501(d)(1), (2) of Pub. L. 111-147, set out as a note under section 1471 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 effective Nov. 13, 1966, see section 105(f)(4) of Pub. L. 89-809, set out as a note under section 6501 of this title.

§ 6514. Credits or refunds after period of limitation

(a) Credits or refunds after period of limitation

A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void—

(1) Expiration of period for filing claim

If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(2) Disallowance of claim and expiration of period for filing suit

In the case of a claim filed within the proper time and disallowed by the Secretary, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.

(3) Recovery of erroneous refunds

For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405.

(b) Credit after period of limitation

Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 6401(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 812; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6515. Cross references

For limitations in case of—

(1) Deficiency dividends of a personal holding company, see section 547.

(2) Tentative carry-back adjustments, see section 6411.

(3) **Service in a combat zone, etc., see section 7508.**

(4) **Suits for refund by taxpayers, see section 6532(a).**

(5) **Deficiency dividends of a regulated investment company or real estate investment trust, see section 860.**

(Aug. 16, 1954, ch. 736, 68A Stat. 813; Pub. L. 94-455, title XVI, §1601(f)(3), title XIX, §1901(b)(36)(D), (37)(E), Oct. 4, 1976, 90 Stat. 1746, 1802, 1803; Pub. L. 95-600, title III, §362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97-248, title IV, §402(c)(10), Sept. 3, 1982, 96 Stat. 668; Pub. L. 101-508, title XI, §11801(c)(17)(C), Nov. 5, 1990, 104 Stat. 1388-528; Pub. L. 114-74, title XI, §1101(f)(8), Nov. 2, 2015, 129 Stat. 638.)

AMENDMENTS

2015—Par. (6). Pub. L. 114-74 struck out par. (6) which read as follows: “Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.”

1990—Pub. L. 101-508 struck out par. (2) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (3) to (7)) by redesignating such pars. as (2) to (6), respectively. Prior to amendment, par. (2) provided a cross reference to section 1481 for overpayment in certain renegotiations of war contracts.

1982—Par. (7). Pub. L. 97-248 added par. (7).

1978—Par. (6). Pub. L. 95-600 inserted “regulated investment company or” before “real estate investment trust” and substituted “section 860” for “section 859”. Notwithstanding the directory language that the amendment be made to par. (5), the amendment was executed to par. (6) to reflect the probable intent of Congress.

1976—Par. (1). Pub. L. 94-455, §1901(b)(36)(D), (b)(37)(E), redesignated par. (3) as (1). Former par. (1), which referred to section 1321 for adjustments incident to involuntary liquidation of inventory, was struck out.

Par. (2). Pub. L. 94-455, §1901(b)(37)(E), redesignated par. (4) as (2). Former par. (2), which referred to section 1335 for war loss recoveries where the prior benefit rule was elected, was struck out.

Pars. (3) to (7). Pub. L. 94-455, §1901(b)(37)(E), redesignated pars. (3) to (7) as (1) to (5), respectively.

Par. (8). Pub. L. 94-455, §1601(f)(3), added par. (8) which was redesignated par. (6) by section 1901(b)(37)(E) of Pub. L. 94-455.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95-600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(f)(3) of Pub. L. 94-455, see section 1608(a) of Pub. L. 94-455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(D), (37)(E) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

Subchapter C—Mitigation of Effect of Period of Limitations

Sec.

6521. Mitigation of effect of limitation in case of related taxes under different chapters.

§ 6521. Mitigation of effect of limitation in case of related taxes under different chapters

(a) Self-employment tax and tax on wages

In the case of the tax imposed by chapter 2 (relating to tax on self-employment income) and the tax imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) If an amount is erroneously treated as self-employment income, or if an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises).

(b) Definitions

For purposes of subsection (a), the terms “self-employment income” and “wages” shall have the same meaning as when used in section 1402(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 814.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in subsec. (a), is act Aug. 16, 1954, ch. 736, §§3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

Subchapter D—Periods of Limitation in Judicial Proceedings

Sec.

6531. Periods of limitation on criminal prosecutions.

Sec.	
6532.	Periods of limitation on suits.
6533.	Cross references.

§ 6531. Periods of limitation on criminal prosecutions

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

(1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner;

(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof;

(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document);

(4) for the offense of willfully failing to pay any tax, or make any return (other than a return required under authority of part III of subchapter A of chapter 61) at the time or times required by law or regulations;

(5) for offenses described in sections 7206(1) and 7207 (relating to false statements and fraudulent documents);

(6) for the offense described in section 7212(a) (relating to intimidation of officers and employees of the United States);

(7) for offenses described in section 7214(a) committed by officers and employees of the United States; and

(8) for offenses arising under section 371 of Title 18 of the United States Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof.

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings. (The preceding sentence shall also be deemed an amendment to section 3748(a) of the Internal Revenue Code of 1939, and shall apply in lieu of the sentence in section 3748(a) which relates to the time during which a person committing an offense is absent from the district wherein the same is committed, except that such amendment shall apply only if the period of limitations under section 3748 would, without the application of such amendment, expire more than 3 years after the date of enactment of this title, and except that such period shall not, with the application of this amendment, expire prior to the date which is 3 years after the date of enactment of this title.) Where

a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is 9 months after the date of the making of the complaint before the commissioner of the United States. For the purpose of determining the periods of limitation on criminal prosecutions, the rules of section 6513 shall be applicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 815.)

REFERENCES IN TEXT

Section 3748(a) of the Internal Revenue Code of 1939, referred to in text, was classified to section 3748(a) of former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section 7851(a)(6)(B) of this title for applicability of section 3748 of former Title 26. See also section 7851(e) for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

The date of enactment of this title, referred to in text, is Aug. 16, 1986 [formerly I.R.C. 1954], the date of enactment of the Internal Revenue Code of 1954.

§ 6532. Periods of limitation on suits

(a) Suits by taxpayers for refund

(1) General rule

No suit or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum, shall be begun before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary renders a decision thereon within that time, nor after the expiration of 2 years from the date of mailing by certified mail or registered mail by the Secretary to the taxpayer of a notice of the disallowance of the part of the claim to which the suit or proceeding relates.

(2) Extension of time

The 2-year period prescribed in paragraph (1) shall be extended for such period as may be agreed upon in writing between the taxpayer and the Secretary.

(3) Waiver of notice of disallowance

If any person files a written waiver of the requirement that he be mailed a notice of disallowance, the 2-year period prescribed in paragraph (1) shall begin on the date such waiver is filed.

(4) Reconsideration after mailing of notice

Any consideration, reconsideration, or action by the Secretary with respect to such claim following the mailing of a notice by certified mail or registered mail of disallowance shall not operate to extend the period within which suit may be begun.

(5) Cross reference

For substitution of 120-day period for the 6-month period contained in paragraph (1) in a title 11 case, see section 505(a)(2) of title 11 of the United States Code.

(b) Suits by United States for recovery of erroneous refunds

Recovery of an erroneous refund by suit under section 7405 shall be allowed only if such suit is

begun within 2 years after the making of such refund, except that such suit may be brought at any time within 5 years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

(c) Suits by persons other than taxpayers

(1) General rule

Except as provided by paragraph (2), no suit or proceeding under section 7426 shall be begun after the expiration of 2 years from the date of the levy or agreement giving rise to such action.

(2) Period when claim is filed

If a request is made for the return of property described in section 6343(b), the 2-year period prescribed in paragraph (1) shall be extended for a period of 12 months from the date of filing of such request or for a period of 6 months from the date of mailing by registered or certified mail by the Secretary to the person making such request of a notice of disallowance of the part of the request to which the action relates, whichever is shorter.

(Aug. 16, 1954, ch. 736, 68A Stat. 816; Pub. L. 85-866, title I, § 89(b), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 89-719, title I, § 110(b), Nov. 2, 1966, 80 Stat. 1144; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, § 6(d)(4), Dec. 24, 1980, 94 Stat. 3408; Pub. L. 115-97, title I, § 11071(b), Dec. 22, 2017, 131 Stat. 2091.)

AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-97, § 11071(b)(1), substituted “2 years” for “9 months”.

Subsec. (c)(2). Pub. L. 115-97, § 11071(b)(2), substituted “2-year” for “9-month”.

1980—Subsec. (a)(5). Pub. L. 96-589 added par. (5).

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

1966—Subsec. (c). Pub. L. 89-719 added subsec. (c).

1958—Subsec. (a)(1), (4). Pub. L. 85-866 inserted “certified mail or” before “registered mail” wherever appearing.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to levies made after Dec. 22, 2017, and levies made on or before Dec. 22, 2017, if the 9-month period has not expired under section 6343(b) of this title (without regard to section 11071 of Pub. L. 115-97) as of such date, see section 11071(c) of Pub. L. 115-97, set out as a note under section 6343 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub.

L. 85-866, set out as a note under section 7502 of this title.

§ 6533. Cross references

(1) For period of limitation in respect of civil actions for fines, penalties, and forfeitures, see section 2462 of Title 28 of the United States Code.

(2) For extensions of time by reason of armed service in a combat zone, see section 7508.

(3) For suspension of running of statute until 3 years after termination of hostilities, see section 3287 of Title 18.

(Aug. 16, 1954, ch. 736, 68A Stat. 816.)

CHAPTER 67—INTEREST

Subchapter	Sec. ¹
A. Interest on underpayments	6601
B. Interest on overpayments	6611
C. Determination of interest rate; compounding of interest	6621
D. Notice requirements	6631

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3308(b), July 22, 1998, 112 Stat. 745, added item for subchapter D.

1982—Pub. L. 97-248, title III, § 344(b)(3)(B), Sept. 3, 1982, 96 Stat. 636, inserted “; compounding of interest” after “rate” in item for subchapter C.

1975—Pub. L. 93-625, § 7(d)(5), Jan. 3, 1975, 88 Stat. 2115, added item for subchapter C.

Subchapter A—Interest on Underpayments

Sec.	
6601.	Interest on underpayment, nonpayment, or extensions of time for payment, of tax.
6602.	Interest on erroneous refund recoverable by suit.
6603.	Deposits made to suspend running of interest on potential underpayments, etc.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, § 842(b), Oct. 22, 2004, 118 Stat. 1599, added item 6603.

§ 6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax

(a) General rule

If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at the underpayment rate established under section 6621 shall be paid for the period from such last date to the date paid.

(b) Last date prescribed for payment

For purposes of this section, the last date prescribed for payment of the tax shall be determined under chapter 62 with the application of the following rules:

(1) Extensions of time disregarded

The last date prescribed for payment shall be determined without regard to any extension of time for payment or any installment agreement entered into under section 6159.

(2) Installment payments

In the case of an election under section 6156(a)¹ to pay the tax in installments—

¹ Section numbers editorially supplied.

¹ See References in Text note below.

(A) The date prescribed for payment of each installment of the tax shown on the return shall be determined under section 6156(b),¹ and

(B) The last date prescribed for payment of the first installment shall be deemed the last date prescribed for payment of any portion of the tax not shown on the return.

(3) Jeopardy

The last date prescribed for payment shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy (as provided in chapter 70), prior to the last date otherwise prescribed for such payment.

(4) Accumulated earnings tax

In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year.

(5) Last date for payment not otherwise prescribed

In the case of taxes payable by stamp and in all other cases in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for tax arises (and in no event shall be later than the date notice and demand for the tax is made by the Secretary).

(c) Suspension of interest in certain income, estate, gift, and certain excise tax cases

In the case of a deficiency as defined in section 6211 (relating to income, estate, gift, and certain excise taxes), if a waiver of restrictions under section 6213(d) on the assessment of such deficiency has been filed, and if notice and demand by the Secretary for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period.

(d) Income tax reduced by carryback or adjustment for certain unused deductions

(1) Net operating loss or capital loss carryback

If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss or net capital loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect

to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(3) Certain credit carrybacks

(A) In general

If any credit allowed for any taxable year is increased by reason of a credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term “credit carryback” has the meaning given such term by section 6511(d)(4)(C).

(4) Filing date

For purposes of this subsection, the term “filing date” has the meaning given to such term by section 6611(f)(4)(A).

(e) Applicable rules

Except as otherwise provided in this title—

(1) Interest treated as tax

Interest prescribed under this section on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes. Any reference to this title (except subchapter B of chapter 63, relating to deficiency procedures) to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.

(2) Interest on penalties, additional amounts, or additions to the tax

(A) In general

Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68) only if such assessable penalty, additional amount, or addition to the tax is not paid within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000), and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(B) Interest on certain additions to tax

Interest shall be imposed under this section with respect to any addition to tax im-

posed by section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68 for the period which—

(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

(ii) ends on the date of payment of such addition to tax.

(3) Payments made within specified period after notice and demand

If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(f) Satisfaction by credits

If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment. The preceding sentence shall not apply to the extent that section 6621(d) applies.

(g) Limitation on assessment and collection

Interest prescribed under this section on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be collected.

(h) Exception as to estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(i) Exception as to Federal unemployment tax

This section shall not apply to any failure to make a payment of tax imposed by section 3301 for a calendar quarter or other period within a taxable year required under authority of section 6157.

(j) 2-percent rate on certain portion of estate tax extended under section 6166

(1) In general

If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

(A) interest on the 2-percent portion of such amount shall be paid at the rate of 2 percent, and

(B) interest on so much of such amount as exceeds the 2-percent portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

(2) 2-percent portion

For purposes of this subsection, the term “2-percent portion” means the lesser of—

(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of \$1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

(ii) the applicable credit amount in effect under section 2010(c), or

(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

(3) Inflation adjustment

In the case of estates of decedents dying in a calendar year after 1998, the \$1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

(A) \$1,000,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 1997” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the next lowest multiple of \$10,000.

(4) Treatment of payments

If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 2-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 2-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 2-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.

(k) No interest on certain adjustments

For provisions prohibiting interest on certain adjustments in tax, see section 6205(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 817; Pub. L. 85-866, title I, §§66(c), 83(a)(1), 84(a), title II, §206(e), Sept. 2, 1958, 72 Stat. 1658, 1663, 1664, 1685; Pub. L. 87-61, title II, §203(c)(2), June 29, 1961, 75 Stat. 126; Pub. L. 87-834, §2(e)(3), Oct. 16, 1962, 76 Stat. 972; Pub. L. 88-571, §3(d), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89-384, §1(f), Apr. 8, 1966, 80 Stat. 104; Pub. L. 90-225, §2(e), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-53, §2(e), Aug. 7, 1969, 83 Stat. 92; Pub. L. 91-172, title I, §101(j)(49), title V, §512(e)(3), Dec. 30, 1969, 83 Stat. 531, 641; Pub. L. 92-178, title VI, §601(d)(3), Dec. 10, 1971, 85 Stat. 559; Pub. L. 93-406, title II, §1016(a)(17), Sept. 2, 1974, 88 Stat. 930; Pub. L. 93-625, §7(a)(2)(A), (b)(1), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-452, §3(c)(3), Oct. 2, 1976, 90 Stat. 1514; Pub. L. 94-455, title XIII, §1307(d)(2)(H), title XVI, §1605(b)(10), title XIX, §§1906(a)(34), (b)(13)(A), title XX, §2004(b), title XXI, §2107(g)(2)(C), Oct. 4, 1976, 90 Stat. 1728, 1755, 1829, 1834, 1867, 1904; Pub. L. 95-30, title II, §202(d)(4)(C), May 23, 1977, 91 Stat. 150; Pub. L. 95-628, §8(c)(2), Nov. 10, 1978, 92 Stat. 3632; Pub. L. 96-223, title I, §101(f)(7), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97-248, title III,

§§344(b)(1), 346(c)(2), Sept. 3, 1982, 96 Stat. 635, 637; Pub. L. 98-76, title II, §231(b)(2)(D), Aug. 12, 1983, 97 Stat. 429; Pub. L. 98-369, div. A, title I, §158(a), title II, §211(b)(26), title IV, §412(b)(7), title VII, §714(n)(1), July 18, 1984, 98 Stat. 696, 757, 792, 963; Pub. L. 99-514, title XIV, §1404(c)(3), title XV, §§1511(c)(11), 1512(a), 1564(a), Oct. 22, 1986, 100 Stat. 2714, 2745, 2746, 2762; Pub. L. 100-203, title X, §10301(b)(5), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 100-647, title I, §§1015(b)(2)(C), 1018(u)(42), title VI, §6234(b)(1), title VII, §7106(c)(5), Nov. 10, 1988, 102 Stat. 3569, 3592, 3736, 3774; Pub. L. 101-239, title VII, §7721(c)(8), Dec. 19, 1989, 103 Stat. 2400; Pub. L. 101-508, title XI, §11801(c)(20)(B), Nov. 5, 1990, 104 Stat. 1388-528; Pub. L. 104-168, title III, §303(a), (b)(1), July 30, 1996, 110 Stat. 1458; Pub. L. 105-34, title V, §§501(e), 503(a), (c)(2), (3), title X, §1055(a), title XII, §1242(a), Aug. 5, 1997, 111 Stat. 846, 852, 853, 944, 1029; Pub. L. 105-206, title III, §3301(b), July 22, 1998, 112 Stat. 741; Pub. L. 109-135, title IV, §409(a)(2), Dec. 21, 2005, 119 Stat. 2635; Pub. L. 114-74, title XI, §1101(f)(9), Nov. 2, 2015, 129 Stat. 638; Pub. L. 115-97, title I, §11002(d)(1)(JJ), Dec. 22, 2017, 131 Stat. 2060.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

REFERENCES IN TEXT

Section 6156, referred to in subsec. (b)(2), was repealed by Pub. L. 108-357, title VIII, §867(b)(1), Oct. 22, 2004, 118 Stat. 1622.

AMENDMENTS

2017—Subsec. (j)(3)(B). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (c). Pub. L. 114-74 struck out at end “In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.”

2005—Subsec. (d)(4). Pub. L. 109-135 substituted “6611(f)(4)(A)” for “6611(f)(3)(A)”.

1998—Subsec. (f). Pub. L. 105-206 inserted at end “The preceding sentence shall not apply to the extent that section 6621(d) applies.”

1997—Subsec. (c). Pub. L. 105-34, §1242(a), inserted at end “In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.”

Subsec. (d)(2) to (4). Pub. L. 105-34, §1055(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (j). Pub. L. 105-34, §503(c)(3), substituted “2-percent” for “4-percent” in heading.

Subsec. (j)(1). Pub. L. 105-34, §503(a), reenacted par. heading without change and amended text generally. Prior to amendment, text read as follows: “If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the

amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.”

Subsec. (j)(2). Pub. L. 105-34, §503(a), amended heading and text generally. Prior to amendment, text read as follows: “For purposes of this subsection, the term ‘4-percent portion’ means the lesser of—

“(A) \$345,800 reduced by the amount of the credit allowable under section 2010(a); or

“(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.”

Subsec. (j)(3). Pub. L. 105-34, §501(e), added par. (3). Former par. (3) redesignated (4).

Subsec. (j)(4). Pub. L. 105-34, §503(c)(2), substituted “2-percent” for “4-percent” wherever appearing.

Pub. L. 105-34, §501(e), redesignated par. (3) as (4).

1996—Subsec. (e)(2)(A). Pub. L. 104-168, §303(b)(1), substituted “21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000)” for “10 days from the date of notice and demand therefor”.

Subsec. (e)(3). Pub. L. 104-168, §303(a), substituted “specified period” for “10 days” in heading and amended text generally. Prior to amendment, text read as follows: “If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.”

1990—Subsec. (b)(2). Pub. L. 101-508 struck out “or 6158(a)” after “6156(a)” in introductory provisions, struck out “or 6158(a), as the case may be” after “6156(a)” in subpar. (A), and struck out at end “For purposes of subparagraph (A), section 6158(a) shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.”

1989—Subsec. (e)(2). Pub. L. 101-239 substituted “section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68” for “section 6651(a)(1), 6653, 6659, 6660, or 6661” in subpars. (A) and (B).

1988—Subsec. (b)(1). Pub. L. 100-647, §6234(b)(1), inserted “or any installment agreement entered into under section 6159” after “time for payment”.

Subsec. (b)(2). Pub. L. 100-647, §1018(u)(42), made technical correction to directory language of Pub. L. 99-514, §1404(c)(3), see 1986 Amendment note below.

Subsec. (e)(2)(A), (B). Pub. L. 100-647, §1015(b)(2)(C), substituted “6653, 6659” for “6659”.

Subsec. (i). Pub. L. 100-647, §7106(c)(5), struck out “or 3321” after “3301”.

1987—Subsec. (h). Pub. L. 100-203 substituted “section 6654 or 6655” for “section 6154 or 6654”.

1986—Subsec. (a). Pub. L. 99-514, §1511(c)(11), substituted “the underpayment rate established under section 6621” for “an annual rate established under section 6621”.

Subsec. (b)(2). Pub. L. 99-514, §1404(c)(3), as amended by Pub. L. 100-647, §1018(u)(42), substituted “6156(a) or 6158(a)” for “6152(a), 6156(a), or 6158(a)” in introductory provisions and “6156(b) or 6158(a)” for “6152(b), 6156(b), or 6158(a)” in subpar. (A).

Subsec. (b)(4), (5). Pub. L. 99-514, §1512(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 99-514, §1564(a), inserted “and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period”.

1984—Subsec. (d)(2)(A). Pub. L. 98-369, §714(n)(1), made technical correction to directory language of Pub. L. 97-248, §346(c)(2)(B). See 1982 Amendment note below.

Subsec. (d)(3), (4). Pub. L. 98-369, §211(b)(26), redesignated par. (4) as (3) and struck out former par. (3) which had provided that if the amount of any tax imposed by subtitle A was reduced by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such reduction in tax would not affect the com-

putation of interest under this section for the period ending with the last day of the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2).

Subsec. (e)(2). Pub. L. 98-369, §158(a), in amending par. (2) generally, inserted “(other than an addition to tax imposed under section 6651(a)(1), 6659, 6660, or 6661)”, and added subpar. (B).

Subsec. (h). Pub. L. 98-369, §412(b)(7), amended subsec. (h) generally, substituting “any estimated tax required to be paid by section 6154 or 6654” for “estimated tax required by section 6153 or section 6154”.

1983—Subsec. (i). Pub. L. 98-76 inserted “or 3321” after “3301”.

1982—Subsec. (d)(1). Pub. L. 97-248, §346(c)(2)(A), substituted “the filing date for the taxable year” for “the last day of the taxable year”.

Subsec. (d)(2)(A). Pub. L. 97-248, §346(c)(2)(B), as amended by Pub. L. 98-369, §346(c)(2)(B), substituted “the filing date for” for “the last day of” in two places.

Subsec. (d)(4). Pub. L. 97-248, §346(c)(2)(C), added par. (4).

Subsec. (e). Pub. L. 97-248, §344(b)(1), struck out par. (2) which had provided that no interest under this section was to be imposed on the interest provided by this section, and redesignated pars. (3) and (4) as (2) and (3), respectively.

1980—Subsec. (c). Pub. L. 96-223 substituted “certain excise tax cases” for “chapter 41, 42, 43, or 44 tax cases” in heading.

1978—Subsec. (d)(2). Pub. L. 95-628, §8(c)(2)(A), substituted in heading “Certain credit carrybacks” for “Investment credit carryback”, designated existing provision as subpar. (A), and in subpar. (A) as so designated, inserted heading “In general” and in text extended the application of the provision to credit carrybacks, previously limited to investment credit carrybacks, included other credit carrybacks, and added subpar. (B).

Subsec. (d)(4), (5). Pub. L. 95-628, §8(c)(2)(B), struck out pars. (4) and (5) which provided for work incentive program credit carrybacks and new employee credit carrybacks, respectively.

1977—Subsec. (d)(5). Pub. L. 95-30 added par. (5).

1976—Subsec. (b)(2). Pub. L. 94-452 substituted “, 6156(a), or 6158(a)” for “or 6156(a)” and “, 6156(b), or 6158(a)” for “or 6156(b)” and inserted requirement that for purposes of subparagraph (A), section 6158(a) of this title shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.

Subsec. (b)(4). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §§1307(d)(2)(H), 1605(b)(10), substituted in heading “chapter 41, 42” for “chapter 42” and “43, or 44” for “or 43”.

Subsec. (d)(4). Pub. L. 94-455, §2107(g)(2)(C), inserted “, an investment credit carryback,” after “net operating loss carryback”.

Subsec. (h). Pub. L. 94-455, §1906(a)(34), struck out “(or section 59 of the Internal Revenue Code of 1939)”.

Subsecs. (j), (k). Pub. L. 94-455, §2004(b), added subsec. (j) and redesignated former subsec. (j) as (k).

1975—Subsec. (a). Pub. L. 93-625, §7(a)(2)(A), substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

Subsecs. (b) to (l). Pub. L. 93-625, §7(b)(1), struck out subsec. (b) relating to extensions of time for payment of estate tax, redesignated subsecs. (c) to (i) as (b) to (h), respectively, struck out subsec. (j) relating to extensions of time for payment of tax attributable to recoveries of foreign expropriation losses, and redesignated subsecs. (k) and (l) as (i) and (j), respectively.

1974—Subsec. (d). Pub. L. 93-406 inserted reference to chapter 43 in heading, and substituted “certain excise” for “chapter 42” in text.

1971—Subsec. (e)(4). Pub. L. 92-178 added par. (4).

1969—Subsec. (d). Pub. L. 91-172, §101(j)(49), inserted reference to chapter 42 both in subsec. heading and in text.

Subsec. (e)(1). Pub. L. 91-172, §512(e)(3)(A), (B), substituted “loss or capital loss carryback” for “loss carryback” in heading, and “net operating loss or net capital loss” for “net operating loss” wherever it appears in text.

Subsec. (e)(2). Pub. L. 91-172, §512(e)(3)(C), substituted “loss carryback or a capital loss carryback” for “loss carryback”.

Subsecs. (k), (l). Pub. L. 91-53 added subsec. (k) and redesignated former subsec. (k) as (l).

1967—Subsec. (e)(2). Pub. L. 90-225 inserted “, or with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year,” after “the investment credit carryback arises”.

1966—Subsecs. (j), (k). Pub. L. 89-384 added subsec. (j) and redesignated former subsec. (j) as (k).

1964—Subsec. (e). Pub. L. 88-571 added par. (3) and inserted “or adjustment for certain unused deductions” in heading.

1962—Subsec. (e). Pub. L. 87-834 designated existing provisions as par. (1) and added par. (2).

1961—Subsec. (c)(2). Pub. L. 87-61 substituted “6152(a) or 6156(a)” for “6152(a)” in introductory provisions, and “6152(b) or 6156(b), as the case may be” for “6152(b)” in subpar. (A).

1958—Subsec. (b). Pub. L. 85-866, §§66(c), 206(e), inserted reference to section 6166, and substituted “if the time for payment of an amount of such tax is postponed or extended as provided by section 6163” for “if postponement of the payment of an amount of such tax is permitted by section 6163(a)”.

Subsecs. (g) to (j). Pub. L. 85-866, §§83(a)(1), 84(a), added subsecs. (g) and (h) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 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 409(d) of Pub. L. 109-135, set out as a note under section 961 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3301(c), July 22, 1998, 112 Stat. 741, as amended by Pub. L. 105-277, div. J, title IV, §4002(d), Oct. 21, 1998, 112 Stat. 2681-906, provided that:

“(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section [amending this section and section 6621 of this title] shall apply to interest for periods beginning after the date of the enactment of this Act [July 22, 1998].

“(2) SPECIAL RULE.—Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

“(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies; and

“(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.”

EFFECTIVE DATE OF 1997 AMENDMENT

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

Amendment by section 503(a), (c)(2), (3) of Pub. L. 105-34 applicable to estates of decedents dying after Dec. 31, 1997, with special rule in case of estate of any decedent dying before Jan. 1, 1998, with respect to which there is an election under section 6166 of this title, see section 503(d) of Pub. L. 105-34, set out as a note under section 163 of this title.

Pub. L. 105-34, title X, §1055(c), Aug. 5, 1997, 111 Stat. 945, provided that: "The amendments made by this section [amending this section and section 6611 of this title] shall apply to foreign tax credit carrybacks arising in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

Pub. L. 105-34, title XII, §1242(b), Aug. 5, 1997, 111 Stat. 1029, provided that: "The amendment made by this section [amending this section] shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §303(c), July 30, 1996, 110 Stat. 1458, provided that: "The amendments made by this section [amending this section and section 6651 of this title] shall apply in the case of any notice and demand given after December 31, 1996."

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(b)(2)(C) of Pub. L. 100-647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100-647, set out as a note under section 6013 of this title.

Amendment by section 1018(u)(42) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 6234(b)(1) of Pub. L. 100-647 applicable to agreements entered into after Nov. 10, 1988, see section 6234(c) of Pub. L. 100-647, set out as an Effective Date note under section 6159 of this title.

Amendment by section 7106(c)(5) of Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1404(c)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(11) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Pub. L. 99-514, title XV, §1512(b), Oct. 22, 1986, 100 Stat. 2746, provided that: "The amendments made by this section [amending this section] shall apply to re-

turns the due date for which (determined without regard to extensions) is after December 31, 1985."

Pub. L. 99-514, title XV, §1564(b), Oct. 22, 1986, 100 Stat. 2762, provided that:

"(1) EFFECTIVE DATE.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1982.

"(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §158(b), July 18, 1984, 98 Stat. 696, provided that: "The amendment made by this section [amending this section] shall apply to interest accrued after the date of the enactment of this Act [July 18, 1984], except with respect to additions to tax for which notice and demand is made before such date."

Amendment by section 211(b)(26) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 412(b)(7) of Pub. L. 98-369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98-369, set out as a note under section 6654 of this title.

Amendment by section 714(n)(1) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 344(b)(1) of Pub. L. 97-248 applicable to interest accruing after Dec. 31, 1982, see section 344(c) of Pub. L. 97-248, set out as an Effective Date note under section 6622 of this title.

Amendment by section 346(c)(2) of Pub. L. 97-248 applicable to interest accruing after the 30th day after Sept. 3, 1982, see section 346(d)(2) of Pub. L. 97-248, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95-628, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by section 2004(b) of Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94-455, set out as a note under section 6166 of this title.

Amendment by Pub. L. 94-452 effective Oct. 1, 1977, see section 3(e) of Pub. L. 94-452, set out as a note under section 6151 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(49) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 512(e)(3) of Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as an Effective Date of 1969 Amendment note under section 1212 of this title. Amendment by Pub. L. 91-53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-384 applicable with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after December 31, 1958, see section 2 of Pub. L. 89-384, set out as an Effective Date note under section 1351 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88-571, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective July 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by sections 66(c) and 84(a) of Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub.

L. 85-866, set out as a note under section 165 of this title.

Pub. L. 85-866, title I, §83(d), Sept. 2, 1958, 72 Stat. 1664, provided that: "The amendments made by subsections (a) [amending this section and section 3794 of I.R.C. 1939], (b) [amending section 6611 of this title and section 3771 of I.R.C. 1939], and (c) [amending section 6611 of this title] shall apply only in respect of overpayments credited after December 31, 1957."

For effective date of amendment by section 206(e) of Pub. L. 85-866, see section 206(f) of Pub. L. 85-866, set out as a note under section 6161 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

ADMINISTRATION OF PENALTIES AND INTEREST

Pub. L. 105-206, title III, §3801, July 22, 1998, 112 Stat. 782, provided that: "The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

"(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101-239, see Tables for classification]); and

"(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of the enactment of this Act [July 22, 1998]."

INTEREST NOT PAYABLE ON UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Pub. L. 95-30, title III, §305, May 23, 1977, 91 Stat. 152, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "No interest shall be payable for any period before April 16, 1977 (March 16, 1977, in the case of a corporation), on any underpayment of a tax imposed by the Internal Revenue Code of 1986 [formerly I.R.C. 1954], to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

INTEREST ON UNDERPAYMENT

Pub. L. 91-172, title IX, §946(a), Dec. 30, 1969, 83 Stat. 729, provided that in the case of any taxable year ending before Dec. 30, 1969, no interest on underpayment of taxes, to the extent that such underpayment was attributable to the amendments made by Pub. L. 91-172, was not to be assessed or collected for any period before the 90th day after Dec. 30, 1969.

INTEREST ATTRIBUTABLE TO NET OPERATING LOSS CARRYBACK FOR CERTAIN TAXABLE YEARS ENDING IN 1954

Pub. L. 85-866, title I, §83(e), Sept. 2, 1958, 72 Stat. 1664, provided that if by reason of the enactment of section 172(b)(1)(A) of this title, a deficiency resulted for the first taxable year preceding a taxable year ending after Dec. 31, 1953 but before Aug. 17, 1954 and an overpayment resulted in the second preceding taxable year, then no interest was payable for any portion of such deficiency for any period during which there existed a corresponding overpayment to which interest was not payable.

§ 6602. Interest on erroneous refund recoverable by suit

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by suit pursuant to section 7405, shall bear interest at the underpayment rate established under section 6621 from the date of the payment of the refund.

(Aug. 16, 1954, ch. 736, 68A Stat. 818; Pub. L. 93-625, § 7(a)(2)(B), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 99-514, title XV, § 1511(c)(12), Oct. 22, 1986, 100 Stat. 2745.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “the underpayment rate established under section 6621” for “an annual rate established under section 6621”.

1975—Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

§ 6603. Deposits made to suspend running of interest on potential underpayments, etc.

(a) Authority to make deposits other than as payment of tax

A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

(b) No interest imposed

To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

(c) Return of deposit

Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

(d) Payment of interest

(1) In general

For purposes of section 6611 (relating to interest on overpayments), except as provided in paragraph (4), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

(2) Disputable tax

(A) In general

For purposes of this section, the term “disputable tax” means the amount of tax specified at the time of the deposit as the taxpayer’s reasonable estimate of the maximum amount of any tax attributable to disputable items.

(B) Safe harbor based on 30-day letter

In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

(3) Other definitions

For purposes of paragraph (2)—

(A) Disputable item

The term “disputable item” means any item of income, gain, loss, deduction, or credit if the taxpayer—

(i) has a reasonable basis for its treatment of such item, and

(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer’s treatment of such item.

(B) 30-day letter

The term “30-day letter” means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

(4) Rate of interest

The rate of interest under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

(e) Use of deposits

(1) Payment of tax

Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

(2) Returns of deposits

Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.

(Added Pub. L. 108-357, title VIII, § 842(a), Oct. 22, 2004, 118 Stat. 1598.)

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 842(c), Oct. 22, 2004, 118 Stat. 1599, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to deposits made after the date of the enactment of this Act [Oct. 22, 2004].

“(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84-58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.”

Subchapter B—Interest on Overpayments

Sec. 6611.	Interest on overpayments.
6612.	Cross references.

§ 6611. Interest on overpayments**(a) Rate**

Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the overpayment rate established under section 6621.

(b) Period

Such interest shall be allowed and paid as follows:

(1) Credits

In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken.

(2) Refunds

In the case of a refund, from the date of the overpayment to a date (to be determined by the Secretary) preceding the date of the refund check by not more than 30 days, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(3) Late returns

Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

[(c) Repealed. Pub. L. 85-866, title I, § 83(c), Sept. 2, 1958, 72 Stat. 1664]

(d) Advance payment of tax, payment of estimated tax, and credit for income tax withholding

The provisions of section 6513 (except the provisions of subsection (c) thereof, applicable in determining the date of payment of tax for purposes of determining the period of limitation on credit or refund, shall be applicable in determining the date of payment for purposes of subsection (a).

(e) Disallowance of interest on certain overpayments**(1) Refunds within 45 days after return is filed**

If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(2) Refunds after claim for credit or refund

If—

(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

(3) IRS initiated adjustments

If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.

(4) Certain withholding taxes

In the case of any overpayment resulting from tax deducted and withheld under chapter 3 or 4, paragraphs (1), (2), and (3) shall be applied by substituting “180 days” for “45 days” each place it appears.

(f) Refund of income tax caused by carryback or adjustment for certain unused deductions**(1) Net operating loss or capital loss carryback**

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(3) Certain credit carrybacks**(A) In general**

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term “credit carryback” has the meaning given such term by section 6511(d)(4)(C).

(4) Special rules for paragraphs (1), (2), and (3)**(A) Filing date**

For purposes of this subsection, the term “filing date” means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

(B) Coordination with subsection (e)**(i) In general**

For purposes of subsection (e)—

(I) any overpayment described in paragraph (1), (2), or (3) shall be treated as an overpayment for the loss year,

(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

(ii) Loss year

For purposes of this subparagraph, the term “loss year” means—

(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises,

(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and

(III) in the case of a credit carryback (as defined in paragraph (3)(B)), the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year).

(C) Application of subparagraph (B) where section 6411(a) claim filed

For purposes of subparagraph (B)(i)(II), if a taxpayer—

(i) files a claim for refund of any overpayment described in paragraph (1), (2), or (3) with respect to the taxable year to which a loss or credit is carried back, and

(ii) subsequently files an application under section 6411(a) with respect to such overpayment,

then the claim for overpayment shall be treated as having been filed on the date the application under section 6411(a) was filed.

(g) No interest until return in processible form

(1) For purposes of subsections (b)(3) and (e), a return shall not be treated as filed until it is filed in processible form.

(2) For purposes of paragraph (1), a return is in a processible form if—

(A) such return is filed on a permitted form, and

(B) such return contains—

(i) the taxpayer's name, address, and identifying number and the required signature, and

(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return.

(h) Prohibition of administrative review

For prohibition of administrative review, see section 6406.

(Aug. 16, 1954, ch. 736, 68A Stat. 819; Pub. L. 85-866, title I, §§42(b), 83(b), (c), Sept. 2, 1958, 72 Stat. 1640, 1664; Pub. L. 87-834, §2(e)(4), Oct. 16, 1962, 76 Stat. 972; Pub. L. 88-571, §3(e), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89-721, §1(a), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90-225, §2(f), Dec. 27, 1967, 81 Stat. 732; Pub. L. 91-172, title V, §512(e)(4), Dec. 30, 1969, 83 Stat. 641; Pub. L. 92-178, title VI, §601(d)(4), Dec. 10, 1971, 85 Stat. 559; Pub. L. 93-17, §3(i)(2), Apr. 10, 1973, 87 Stat. 19; Pub. L. 93-625, §7(a)(2)(C), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1904(b)(10)(A)(iv), 1906(b)(13)(A), title XXI, §2107(g)(2)(D), Oct. 4, 1976, 90 Stat. 1817, 1834, 1904; Pub. L. 95-30, title II, §202(d)(4)(D), May 23, 1977, 91 Stat. 150; Pub. L. 95-628, §8(c)(3), Nov. 10, 1978, 92 Stat. 3632; Pub. L. 96-223, title I, §101(h), Apr. 2, 1980, 94 Stat. 254; Pub. L. 97-248, title III, §346(a)-(c)(1), Sept. 3, 1982, 96 Stat. 636, 637; Pub. L. 98-369, div. A, title II, §211(b)(27), title VII, §714(n)(2)(A), July 18, 1984, 98 Stat. 757, 963; Pub. L. 99-514, title XV, §1511(c)(13), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-418, title I, §1941(b)(2)(L), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 103-66, title XIII, §13271(a), Aug. 10, 1993, 107 Stat. 541; Pub. L. 105-34, title X, §1055(b), Aug. 5, 1997, 111 Stat. 944; Pub. L. 105-206, title VI, §6010(I), July 22, 1998, 112 Stat. 816; Pub. L. 106-554, §1(a)(7) [title III, §319(20)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 111-147, title V, §501(b), Mar. 18, 2010, 124 Stat. 105.)

AMENDMENTS

2010—Subsec. (e)(4). Pub. L. 111-147 added par. (4).

2000—Subsec. (g)(1). Pub. L. 106-554 struck out comma after “(b)(3)”.

1998—Subsec. (g)(1). Pub. L. 105-206 substituted “and (e)” for “(e), and (h)”.

1997—Subsec. (f)(2), (3). Pub. L. 105-34, §1055(b)(1), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 105-34, §1055(b)(1), (2)(A)(i), redesignated par. (3) as (4) and substituted “paragraphs (1), (2), and (3)” for “paragraphs (1) and (2)” in heading.

Subsec. (f)(4)(B)(i)(I). Pub. L. 105-34, §1055(b)(2)(A), substituted “paragraph (1), (2), or (3)” for “paragraph (1) or (2)”.

Subsec. (f)(4)(B)(ii)(II). Pub. L. 105-34, §1055(b)(2)(B), added subcl. (II). Former subcl. (II) redesignated (III).

Subsec. (f)(4)(B)(ii)(III). Pub. L. 105-34, §1055(b)(2)(B), (C), redesignated subcl. (II) as (III) and inserted “(as defined in paragraph (3)(B))” after “case of a credit carryback”.

Subsec. (f)(4)(C)(i). Pub. L. 105-34, §1055(b)(2)(A), substituted “paragraph (1), (2), or (3)” for “paragraph (1) or (2)”.

Subsecs. (g) to (i). Pub. L. 105-34, §1055(b)(2)(D), redesignated subsecs. (h) and (i) as (g) and (h), respectively, and struck out former subsec. (g) which read as follows:

“(g) REFUND OF INCOME TAX CAUSED BY CARRYBACK OF FOREIGN TAXES.—For purposes of subsection (a), if any overpayment of tax results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been paid or accrued prior to the filing date (as defined in subsection (f)(3)) for the taxable year under this subtitle in which such taxes were in fact paid or accrued.”

1993—Subsec. (e). Pub. L. 103-66 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “If any overpayment of tax imposed by subtitle A is refunded within 45 days after the last date

prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.”

1988—Subsecs. (h) to (j). Pub. L. 100-418 redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which related to special rule for windfall profit tax.

1986—Subsec. (a). Pub. L. 99-514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1984—Subsec. (f)(3)(C). Pub. L. 98-369, § 114(n)(2)(A), added subpar. (C).

Subsec. (f)(4). Pub. L. 98-369, § 211(b)(27), struck out par. (4) which provided that for purposes of subsection (a), if any overpayment of tax imposed by subtitle A arose by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such overpayment would be deemed not to have been made prior to the close of the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2).

1982—Subsec. (b)(3). Pub. L. 97-248, § 346(a), added par. (3).

Subsec. (f)(1). Pub. L. 97-248, § 346(c)(1)(A), substituted “the filing date for the taxable year” for “the close of the taxable year”.

Subsec. (f)(2)(A). Pub. L. 97-248, § 346(c)(1)(B), substituted “the filing date for” for “the close of” wherever appearing.

Subsec. (f)(3), (4). Pub. L. 97-248, § 346(c)(1)(C), added par. (3) and redesignated former par. (3) as (4).

Subsec. (g). Pub. L. 97-248, § 346(c)(1)(D), substituted “the filing date (as defined in subsection (f)(3)) for the taxable year” for “the close of the taxable year”.

Subsecs. (i), (j). Pub. L. 97-248, § 346(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1980—Subsecs. (h), (i). Pub. L. 96-223 added subsec. (h) and redesignated former subsec. (h) as (i).

1978—Subsec. (f)(2). Pub. L. 95-628, § 8(c)(3)(A), substituted in heading “Certain credit carrybacks” for “Investment credit carryback”, designated existing provision as subpar. (A), and in subpar. (A) as so designated inserted heading “In general” and extended the application of provision to credit carrybacks, previously limited to investment credit carrybacks, included other credit carrybacks, and added subpar. (B).

Subsec. (f)(4), (5). Pub. L. 95-628, § 8(c)(3)(B), struck out pars. (4) and (5) which provided for work incentive program credit carrybacks and new employee credit carrybacks, respectively.

1977—Subsec. (f)(5). Pub. L. 95-30 added par. (5).

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

Subsec. (f)(4). Pub. L. 94-455, § 2107(g)(2)(D), inserted “, an investment credit carryback,” after “net operating loss carryback”.

Subsecs. (h), (i). Pub. L. 94-455, § 1904(b)(10)(A)(iv), redesignated subsec. (i) as (h). Former subsec. (h), which related to a refund within 45 days after filing claim for refund of interest equalization tax paid on securities sold to foreigners, was struck out.

1975—Subsec. (a). Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

1973—Subsecs. (h), (i). Pub. L. 93-17 added subsec. (h) and redesignated former subsec. (h) as (i).

1971—Subsec. (f)(4). Pub. L. 92-178 added par. (4).

1969—Subsec. (f)(1). Pub. L. 91-172, § 512(e)(4)(A), (B), substituted “loss or capital loss carryback” for “loss carryback” in heading, and “net operating loss or net capital loss” for “net operating loss” wherever appearing in text.

Subsec. (f)(2). Pub. L. 91-172, § 512(e)(4)(C), substituted “loss carryback or a capital loss carryback” for “loss carryback”.

1967—Subsec. (f)(2). Pub. L. 90-225 inserted “, or, with respect to any portion of an investment credit carry-

back from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year” after “such investment credit carryback arises”.

1966—Subsec. (e). Pub. L. 89-721 inserted “or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed” after “(determined without regard to any extension of time for filing the return)” and changed heading to reflect amendment.

1964—Subsec. (f). Pub. L. 88-571 added par. (3) and inserted “or adjustment for certain unused deductions” in heading.

1962—Subsec. (f). Pub. L. 87-834 designated existing provisions as par. (1) and added par. (2).

1958—Subsec. (b)(1). Pub. L. 85-866, § 83(b), struck out “, but if the amount against which the credit is taken is an additional assessment, then to the date of the assessment of that amount” after “taken”.

Subsec. (c). Pub. L. 85-866, § 83(c), repealed subsec. (c) which defined “additional assessment”.

Subsecs. (g), (h). Pub. L. 85-866, § 42(b), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable, with respect to subsec. (e)(1) of this section, to returns due (without regard to extensions) after Mar. 18, 2010; with respect to subsec. (e)(2) of this section, to claims for credit or refund of any overpayment filed after Mar. 18, 2010 (regardless of the taxable period to which such refund relates); and with respect to subsec. (e)(3) of this section, to refunds paid after Mar. 18, 2010 (regardless of the taxable period to which such refund relates), see section 501(d) of Pub. L. 111-147, set out as an Effective Date note under section 1471 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to foreign tax credit carrybacks arising in taxable years beginning after Aug. 5, 1997, see section 1055(c) of Pub. L. 105-34, set out as a note under section 6601 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, § 13271(b), Aug. 10, 1993, 107 Stat. 542, provided that:

“(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

“(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

“(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986,

see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 211(b)(27) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 714(n)(2)(A) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Pub. L. 99-514, title XVIII, §1875(d)(3), Oct. 22, 1986, 100 Stat. 2896, provided that: “Notwithstanding section 715 of the Tax Reform Act of 1984 [Pub. L. 98-369], the amendments made by section 714(n)(2) of such Act [amending this section and section 6411 of this title] shall apply only to applications filed after July 18, 1984.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §346(d), Sept. 3, 1982, 96 Stat. 638, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall apply to returns filed after the 30th day after the date of the enactment of this Act [Sept. 3, 1982].

“(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section and section 6601 of this title] shall apply to interest accruing after the 30th day after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95-628, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-721, §1(b), Nov. 2, 1966, 80 Stat. 1150, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to refunds made more than 45 days after the date of the enactment of this Act [Nov. 2, 1966].”

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88-571, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 42(b) of Pub. L. 85-866 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 42(c) of Pub. L. 85-866, set out as a note under section 904 of this title.

Amendment by section 83(b), (c) of Pub. L. 85-866 applicable only in respect of overpayments credited after Dec. 31, 1957, see section 83(d) of Pub. L. 85-866, set out as a note under section 6601 of this title.

NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED

Pub. L. 94-12, title I, §101(b), Mar. 29, 1975, 89 Stat. 28, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “In applying section 6611(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, ‘60 days’ shall be substituted for ‘45 days’ each place it appears in such section 6611(e).”

§ 6612. Cross references

(a) Interest on judgments for overpayments

For interest on judgments for overpayments, see 28 U.S.C. 2411(a).

(b) Adjustments

For provisions prohibiting interest on certain adjustments in tax, see section 6413(a).

(c) Other restrictions on interest

For other restrictions on interest, see 2014(e)¹ (relating to refunds attributable to foreign tax credits), 6412 (relating to floor stock refunds), 6413(d) (relating to taxes under the Federal Unemployment Tax Act), 6416 (relating to certain taxes on sales and services), 6419 (relating to the excise tax on wagering), and 6420 (relating to payments in the case of gasoline used on the farm for farming purposes), and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems).

(Aug. 16, 1954, ch. 736, 68A Stat. 820; Apr. 2, 1956, ch. 160, §4(f), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(e)(7), 70 Stat. 397; Pub. L. 107-16, title V, §532(c)(12), June 7, 2001, 115 Stat. 75.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (c), is act Aug. 16, 1954, ch. 736, §§3301 to 3311,

¹ So in original. Probably should be preceded by “sections”.

68A Stat. 454, as amended, which is classified generally to chapter 23 (§3301 et seq.) of this title. For complete classification of this Act to the Code, see section 3311 of this title and Tables.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107-16 struck out “section 2011(c) (relating to refunds due to credit for State taxes),” after “see”.

1956—Subsec. (c). Act June 29, 1956, inserted reference to section 6421 of this title.

Act Apr. 2, 1956, inserted reference to section 6420 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

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

Subchapter C—Determination of Interest Rate; Compounding of Interest

Sec.	
6621.	Determination of rate of interest.
6622.	Interest compounded daily.

AMENDMENTS

1982—Pub. L. 97-248, title III, §344(b)(3)(A), Sept. 3, 1982, 96 Stat. 636, inserted “; Compounding of Interest” after “Rate” in heading for subchapter C.

Pub. L. 97-248, title III, §344(b)(2), Sept. 3, 1982, 96 Stat. 636, added item 6622.

§ 6621. Determination of rate of interest

(a) General rule

(1) Overpayment rate

The overpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points (2 percentage points in the case of a corporation).

To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3), applied by substituting “overpayment” for “underpayment”) exceeds \$10,000, subparagraph (B) shall be applied by substituting “0.5 percentage point” for “2 percentage points”.

(2) Underpayment rate

The underpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points.

(b) Federal short-term rate

For purposes of this section—

(1) General rule

The Secretary shall determine the Federal short-term rate for the first month in each calendar quarter.

(2) Period during which rate applies

(A) In general

Except as provided in subparagraph (B), the Federal short-term rate determined

under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

(B) Special rule for individual estimated tax

In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

(3) Federal short-term rate

The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of $\frac{1}{2}$ of 1 percent, such rate shall be increased to the next highest full percent).

(c) Increase in underpayment rate for large corporate underpayments

(1) In general

For purposes of determining the amount of interest payable under section 6601 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting “5 percentage points” for “3 percentage points”.

(2) Applicable date

For purposes of this subsection—

(A) In general

The applicable date is the 30th day after the earlier of—

(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

(ii) the date on which the deficiency notice under section 6212 is sent.

The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.

(B) Special rules

(i) Nondeficiency procedures

In the case of any underpayment of any tax imposed by this title to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which notifies the taxpayer of the assessment or proposed assessment of the tax.

(ii) Exception where amounts paid in full

For purposes of subparagraph (A), a letter or notice shall be disregarded if, during the 30-day period beginning on the day on which it was sent, the taxpayer makes a payment equal to the amount shown as due in such letter or notice, as the case may be.

(iii) Exception for letters or notices involving small amounts

For purposes of this paragraph, any letter or notice shall be disregarded if the

amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than \$100,000 (determined by not taking into account any interest, penalties, or additions to tax).

(3) Large corporate underpayment

For purposes of this subsection—

(A) In general

The term “large corporate underpayment” means any underpayment of a tax by a C corporation for any taxable period if the amount of such underpayment for such period exceeds \$100,000.

(B) Taxable period

For purposes of subparagraph (A), the term “taxable period” means—

- (i) in the case of any tax imposed by subtitle A, the taxable year, or
- (ii) in the case of any other tax, the period to which the underpayment relates.

(d) Elimination of interest on overlapping periods of tax overpayments and underpayments

To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.

(Added Pub. L. 93-625, §7(a)(1), Jan. 3, 1975, 88 Stat. 2114; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §4(b), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 97-34, title VII, §711(a)-(c), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97-248, title III, §345(a), Sept. 3, 1982, 96 Stat. 636; Pub. L. 98-369, div. A, title I, §144(a), July 18, 1984, 98 Stat. 682; Pub. L. 99-514, title XV, §§1511(a), (c)(1), 1535(a), Oct. 22, 1986, 100 Stat. 2744, 2750; Pub. L. 100-647, title I, §1015(d), Nov. 10, 1988, 102 Stat. 3569; Pub. L. 101-239, title VII, §7721(b), Dec. 19, 1989, 103 Stat. 2399; Pub. L. 101-508, title XI, §11341(a), Nov. 5, 1990, 104 Stat. 1388-470; Pub. L. 103-465, title VII, §713(a), Dec. 8, 1994, 108 Stat. 5001; Pub. L. 104-188, title I, §1702(c)(6), (7), Aug. 20, 1996, 110 Stat. 1870; Pub. L. 105-34, title XIV, §1463(a), title XVI, §1604(b)(1), Aug. 5, 1997, 111 Stat. 1057, 1097; Pub. L. 105-206, title III, §§3301(a), 3302(a), July 22, 1998, 112 Stat. 741.)

AMENDMENTS

1998—Subsec. (a)(1)(B). Pub. L. 105-206, §3302(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “2 percentage points.”

Subsec. (d). Pub. L. 105-206, §3301(a), added subsec. (d). 1997—Subsec. (a)(1). Pub. L. 105-34, §1604(b)(1), substituted “subsection (c)(3), applied by substituting ‘overpayment’ for ‘underpayment’” for “subsection (c)(3)” in concluding provisions.

Subsec. (c)(2)(B)(iii). Pub. L. 105-34, §1463(a), added cl. (iii).

1996—Subsec. (c)(2)(A). Pub. L. 104-188, §1702(c)(6), inserted closing provisions “The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.”

Subsec. (c)(2)(B)(i). Pub. L. 104-188, §1702(c)(7), substituted “this title” for “this subtitle”.

1994—Subsec. (a)(1). Pub. L. 103-465 inserted concluding provisions.

1990—Subsec. (c). Pub. L. 101-508 added subsec. (c).

1989—Subsec. (c). Pub. L. 101-239 repealed subsec. (c) which related to attribution of interest on substantial underpayments to tax motivated transactions.

1988—Subsec. (a)(1)(A), (2)(A). Pub. L. 100-647, §1015(d)(1), substituted “Federal short-term” for “short-term Federal”.

Subsec. (b). Pub. L. 100-647, §1015(d)(2), substituted “Federal short-term” for “short-term Federal” in heading.

Subsec. (b)(1). Pub. L. 100-647, §1015(d)(1), substituted “Federal short-term” for “short-term Federal”.

1986—Subsec. (a). Pub. L. 99-514, §1511(a), added subsec. (a) and struck out former subsec. (a) which read as follows: “The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b).”

Subsec. (b). Pub. L. 99-514, §1511(a), added subsec. (b) relating to determination of Federal short-term rate and struck out former subsec. (b) which related to interest rate adjustments and establishment of adjusted rates.

Subsec. (c). Pub. L. 99-514, §1511(a), (c)(1), redesignated subsec. (d) as (c), in par. (1), struck out “annual” before “rate of interest” and substituted “the underpayment rate established under this section” for “the adjusted rate established under subsection (b)”, and struck out former subsec. (c) definition of prime rate, which read as follows: “For purposes of subsection (b), the term ‘adjusted prime rate charged by banks’ means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.”

Subsec. (c)(3)(A)(v). Pub. L. 99-514, §1535(a), added cl. (v).

Subsec. (d). Pub. L. 99-514, §1511(c)(1)(A), redesignated subsec. (d) as (c).

1984—Subsec. (d). Pub. L. 98-369 added subsec. (d).

1982—Subsec. (b). Pub. L. 97-248 substituted provisions that if the adjusted prime rate charged by banks (rounded to the nearest full percent) during the 6-month period ending on September 30 of any calendar year, or during the 6-month period ending on March 31 of any calendar year, differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate, and that any adjusted rate of interest established under paragraph (1) shall become effective on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B), for provisions that the Secretary was to establish an adjusted rate of interest for the purpose of subsection (a) not later than October 15 of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, was at least a full percentage point more or less than the interest rate which was then in effect, and that any such adjusted rate of interest would be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and would become effective on January 1 of the immediately succeeding year.

1981—Subsec. (b). Pub. L. 97-34, §711(a), struck out provision that an adjustment provided for under this subsection not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

Pub. L. 97-34, §711(c), substituted “January 1” for “February 1”.

Subsec. (c). Pub. L. 97-34, §711(b), struck out “90 percent of” before “the average predominant prime rate”.

1979—Subsec. (a). Pub. L. 96-167 substituted provisions setting the annual rate established under this section to be such adjusted rate as is established by the Secretary under subsec. (b) of this section for provision that the rate of interest under sections 6601(a), 6602,

6611(a), 6332(c)(1), and 7426(g) of this title, and under section 2411(a) of title 28 was to be 9 percent per annum, or such adjusted rate as was established by the Secretary under subsection (b).

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3301(a) of Pub. L. 105-206 applicable to interest for periods beginning after July 22, 1998, and, subject to applicable statutes of limitation, to interest for periods beginning before July 22, 1998, if taxpayer reasonably identifies and establishes periods of overpayments and underpayments for which zero rate applies, and not later than Dec. 31, 1999, requests application of subsec. (d) of this section to such periods, see section 3301(c) of Pub. L. 105-206, set out as a note under section 6601 of this title.

Pub. L. 105-206, title III, §3302(b), July 22, 1998, 112 Stat. 742, provided that: “The amendment made by this section [amending this section] shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1463(b), Aug. 5, 1997, 111 Stat. 1058, provided that: “The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1997.”

Amendment by section 1604(b)(1) of Pub. L. 105-34 effective as if included in the sections of the Uruguay Round Agreements Act, Pub. L. 103-465, to which it relates, see section 1604(b)(4) of Pub. L. 105-34, set out as a note under section 412 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, §713(b), Dec. 8, 1994, 108 Stat. 5002, provided that: “The amendment made by this section [amending this section] shall apply for purposes of determining interest for periods after December 31, 1994.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11341(b), Nov. 5, 1990, 104 Stat. 1388-471, provided that: “The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1511(a), (c)(1) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Pub. L. 99-514, title XV, §1535(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1984; except that such amendment shall not apply in the case of any underpayment with respect to which there was a final court decision before the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §144(c), July 18, 1984, 98 Stat. 684, provided that: “The amendments made by this section [amending this section and section 6214 of this title] shall apply with respect to interest accruing after December 31, 1984.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §345(b), Sept. 3, 1982, 96 Stat. 636, as amended by Pub. L. 98-369, div. A, title VII, §714(m), July 18, 1984, 98 Stat. 963, provided that: “The amendment made by this section [amending this section] shall apply to adjustments taking effect on or after January 1, 1983.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §711(d), Aug. 13, 1981, 95 Stat. 340, provided that:

“(1) FOR SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to adjustments made after the date of the enactment of this Act [Aug. 13, 1981].

“(2) FOR SUBSECTION (c).—The amendment made by subsection (c) [amending this section] shall apply to adjustments made for periods after 1982.”

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-167, §4(c)(2), Dec. 29, 1979, 93 Stat. 1276, provided that: “The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 29, 1979].”

EFFECTIVE DATE

Pub. L. 93-625, §7(e), Jan. 3, 1975, 88 Stat. 2116, provided that: “The amendments made by this section [enacting this section and amending sections 514, 6163, 6166, 6167, 6332, 6504, 6601, 6602, 6611, 6654, 6655, and 7426 of this title and section 2411 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 1, 1975, and apply to amounts outstanding on such date or arising thereafter.”

REGULATIONS

Pub. L. 99-514, title XV, §1511(b), Oct. 22, 1986, 100 Stat. 2744, provided that: “The Secretary of the Treasury or his delegate may issue regulations to coordinate section 6621 of the Internal Revenue Code of 1954 [now 1986] (as amended by this section) with section 6601(f) of such Code. Such regulations shall not apply to any period after the date 3 years after the date of the enactment of this Act [Oct. 22, 1986].”

§ 6622. Interest compounded daily

(a) General rule

In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

(b) Exception for penalty for failure to file estimated tax

Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655.

(Added Pub. L. 97-248, title III, §344(a), Sept. 3, 1982, 96 Stat. 635.)

EFFECTIVE DATE

Pub. L. 97-248, title III, §344(c), Sept. 3, 1982, 96 Stat. 636, provided that: “The amendments made by this section [enacting this section and amending section 6601 of this title] shall apply to interest accruing after December 31, 1982.”

Subchapter D—Notice Requirements

Sec.
6631. Notice requirements.

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title III, §319(22)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647, substituted “Requirements” for “requirements” in subchapter heading.

§ 6631. Notice requirements

The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.

(Added Pub. L. 105-206, title III, §3308(a), July 22, 1998, 112 Stat. 745.)

EFFECTIVE DATE

Pub. L. 105-206, title III, §3308(c), July 22, 1998, 112 Stat. 745, as amended by Pub. L. 106-554, §1(a)(7) [title III, §302(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-632, provided that: “The amendments made by this section [enacting this subchapter] shall apply to notices issued after June 30, 2001. In the case of any notice issued after June 30, 2001, and before July 1, 2003, to which section 6631 of the Internal Revenue Code of 1986 applies, the requirements of section 6631 of such Code shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the taxpayer’s payment history relating to interest amounts included in such notice.”

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter	Sec. ¹
A. Additions to the tax and additional amounts	6651
B. Assessable penalties	6671
C. Procedural requirements	6751

AMENDMENTS

1998—Pub. L. 105-206, title III, §3306(b), July 22, 1998, 112 Stat. 744, added item for subchapter C.

Subchapter A—Additions to the Tax and Additional Amounts

Part	
I. General provisions.	
II. Accuracy-related and fraud penalties.	
III. Applicable rules.	

AMENDMENTS

1989—Pub. L. 101-239, title VII, §7721(c)(13), Dec. 19, 1989, 103 Stat. 2400, added part analysis consisting of parts I to III.

PART I—GENERAL PROVISIONS

Sec.
6651. Failure to file tax return or pay tax.¹

¹ Section numbers editorially supplied.

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

6652.	Failure to file certain information returns, registration statements, etc.
6653.	Failure to pay stamp tax.
6654.	Failure by individual to pay estimated income tax.
6655.	Failure by corporation to pay estimated income tax.
6656.	Failure to make deposit of taxes.
6657.	Bad checks.
6658.	Coordination with title 11.
[6659 to 6661. Repealed.]	

AMENDMENTS

1996—Pub. L. 104-188, title I, §1704(t)(19), Aug. 20, 1996, 110 Stat. 1888, struck out item 6662 “Applicable rules”.

1989—Pub. L. 101-239, title VII, §§7721(c)(13), (14), 7742(b), Dec. 19, 1989, 103 Stat. 2400, 2405, added part heading, substituted “Failure to pay stamp tax” for “Additions to tax for negligence and fraud” in item 6653, substituted “of taxes” for “of taxes or overstatement of deposits” in item 6656, and struck out items 6659 “Addition to tax in the case of valuation overstatements for purposes of the income tax”, 6659A “Addition to tax in case of overstatements of pension liabilities”, 6660 “Addition to tax in the case of valuation understatement for purposes of estate or gift taxes”, and 6661 “Substantial understatement of liability”.

1986—Pub. L. 99-514, title XI, §1138(b), title XV, §1503(d)(2), Oct. 22, 1986, 100 Stat. 2486, 2743, substituted “Additions to tax for negligence and fraud” for “Failure to pay tax” in item 6653 and added item 6659A.

1984—Pub. L. 98-369, div. A, title I, §155(c)(2)(B), July 18, 1984, 98 Stat. 695, added item 6660.

1982—Pub. L. 97-248, title III, §323(b), Sept. 3, 1982, 96 Stat. 615, added item 6661 and redesignated former item 6660 as 6662. See Codification note set out under section 6662 of this title.

1981—Pub. L. 97-34, title VII, §§722(a)(2), 724(b)(2), Aug. 13, 1981, 95 Stat. 342, 345, inserted “or overstatement of deposits” in item 6656, added item 6659, and redesignated item 6659 as 6660.

1980—Pub. L. 96-589, §6(e)(2), Dec. 24, 1980, 94 Stat. 3408, added item 6658.

1979—Pub. L. 96-167, §6(b), Dec. 29, 1979, 93 Stat. 1276, struck out item 6658 “Addition to tax in case of jeopardy”.

1974—Pub. L. 93-406, title II, §1031(b)(1)(B)(ii), Sept. 2, 1974, 88 Stat. 946, inserted “, registration statements, etc.” in item 6652.

1969—Pub. L. 91-172, title IX, §943(c)(5), 83 Stat. 729, inserted “or pay tax” in item 6651.

§ 6651. Failure to file tax return or to pay tax

(a) Addition to the tax

In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of \$205 or 100 percent of the amount required to be shown as tax on such return.

(b) Penalty imposed on net amount due

For purposes of—

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) Limitations and special rule

(1) Additions under more than one paragraph

With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addi-

tion under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) Amount of tax shown more than amount required to be shown

If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) Increase in penalty for failure to pay tax in certain cases

(1) In general

In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting “1 percent” for “0.5 percent” each place it appears.

(2) Description

For purposes of paragraph (1), the day described in this paragraph is the earlier of—

(A) the day 10 days after the date on which notice is given under section 6331(d), or

(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a).

(e) Exception for estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(f) Increase in penalty for fraudulent failure to file

If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

(1) by substituting “15 percent” for “5 percent” each place it appears, and

(2) by substituting “75 percent” for “25 percent”.

(g) Treatment of returns prepared by Secretary under section 6020(b)

In the case of any return made by the Secretary under section 6020(b)—

(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).

(h) Limitation on penalty on individual's failure to pay for months during period of installment agreement

In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting “0.25” for “0.5” each place it appears for purposes of determining the addition to tax for any month during which an installment agreement

under section 6159 is in effect for the payment of such tax.

(i) Adjustment for inflation

(1) In general

In the case of any return required to be filed in a calendar year beginning after 2014, the \$205 dollar amount under subsection (a) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1) is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 90-364, title I, §103(e)(4), June 28, 1968, 82 Stat. 264; Pub. L. 91-172, title IX, §943(a), Dec. 30, 1969, 83 Stat. 727; Pub. L. 92-9, §3(j)(1), Apr. 1, 1971, 85 Stat. 22; Pub. L. 94-455, title XIX, §1904(b)(10)(A)(v), Oct. 4, 1976, 90 Stat. 1817; Pub. L. 97-248, title III, §318(a), (b), Sept. 3, 1982, 96 Stat. 610; Pub. L. 98-369, div. A, title IV, §412(b)(8), July 18, 1984, 98 Stat. 792; Pub. L. 99-514, title XV, §1502(a), (b), Oct. 22, 1986, 100 Stat. 2741; Pub. L. 100-203, title X, §10301(b)(6), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 101-239, title VII, §7741(a), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 104-168, title III, §303(b)(2), title XIII, §1301(a), July 30, 1996, 110 Stat. 1458, 1475; Pub. L. 105-206, title III, §3303(a), July 22, 1998, 112 Stat. 742; Pub. L. 110-245, title III, §303(a), June 17, 2008, 122 Stat. 1649; Pub. L. 113-295, div. B, title II, §208(a), Dec. 19, 2014, 128 Stat. 4072; Pub. L. 114-125, title IX, §921(a), (b), Feb. 24, 2016, 130 Stat. 281; Pub. L. 115-97, title I, §11002(d)(1)(KK), Dec. 22, 2017, 131 Stat. 2060.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2017—Subsec. (i)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2016—Subsec. (a). Pub. L. 114-125, §921(a), substituted “\$205” for “\$135” in concluding provisions.

Subsec. (i)(1). Pub. L. 114-125, §921(b), substituted “\$205” for “\$135”.

2014—Subsec. (i). Pub. L. 113-295 added subsec. (i).

2008—Subsec. (a). Pub. L. 110-245 substituted “\$135” for “\$100” in concluding provisions.

1998—Subsec. (h). Pub. L. 105-206 added subsec. (h).

1996—Subsec. (a)(3). Pub. L. 104-168, §303(b)(2), substituted “21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000)” for “10 days of the date of the notice and demand therefor”.

Subsec. (g). Pub. L. 104-168, §1301(a), added subsec. (g).

1989—Subsec. (f). Pub. L. 101-239 added subsec. (f).

1987—Subsec. (e). Pub. L. 100-203 substituted “section 6654 or 6655” for “section 6154 or 6654”.

1986—Subsec. (c)(1). Pub. L. 99-514, §1502(b), amended par. (1) generally, striking out the designation “(A)” before “With respect to”, inserting “(or fraction thereof)”, and striking out subpar. (B) which read as follows: “With respect to any return, the maximum amount of the addition permitted under paragraph (3) of sub-

section (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) (determined without regard to the last sentence of such subsection) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.”

Subsecs. (d), (e). Pub. L. 99-514, §1502(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (d). Pub. L. 98-369 in amending subsec. (d) generally, substituted in heading “estimated tax” for “declarations of estimated tax”, struck out provisions making section inapplicable to any failure to file a declaration of estimated tax required by section 6015 or to any failure to pay any estimated tax required to be paid by section 6153, and made section inapplicable to any failure to pay any estimated tax required to be paid by section 6654.

1982—Subsec. (a). Pub. L. 97-248, §318(a), inserted provision that, in the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under par. (1) shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.

Subsec. (c)(1)(A). Pub. L. 97-248, §318(b)(1), inserted provision that in any case described in last sentence of subsec. (a), the amount of the addition under par. (1) of subsec. (a) shall not be reduced under first sentence of this subpar. below the amount provided in such last sentence.

Subsec. (c)(1)(B). Pub. L. 97-248, §318(b)(2), inserted “(determined without regard to the last sentence of such subsection)” after “paragraph (1) of subsection (a)”.

1976—Subsec. (e). Pub. L. 94-455 struck out subsec. (e) which related to certain interest equalization tax returns.

1971—Subsec. (e). Pub. L. 92-9 added subsec. (e).

1969—Subsec. (a). Pub. L. 91-172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b). Pub. L. 91-172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 91-172 added subsec. (c), redesignated former subsec. (c) as (d) and struck out reference to section 6016 of this title and provided that this section would not be applicable for failure to pay any estimated tax required under section 6153 or 6154 of this title.

1968—Subsec. (c). Pub. L. 90-364 struck out reference to section 6016.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-125, title IX, §921(c), Feb. 24, 2016, 130 Stat. 281, provided that: “The amendments made by this section [amending this section] shall apply to returns required to be filed in calendar years after 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. B, title II, §208(h), Dec. 19, 2014, 128 Stat. 4074, provided that: “The amendments made by this section [amending this section and sections 6652, 6695, 6698, 6699, 6721, and 6722 of this title] shall apply to returns required to be filed after December 31, 2014.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-245, title III, §303(b), June 17, 2008, 122 Stat. 1649, provided that: “The amendment made by this section [amending this section] shall apply to returns required to be filed after December 31, 2008.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3303(b), July 22, 1998, 112 Stat. 742, provided that: “The amendment made by this section [amending this section] shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 303(b)(2) of Pub. L. 104-168 applicable in case of any notice and demand given after Dec. 31, 1996, see section 303(c) of Pub. L. 104-168, set out as a note under section 6601 of this title.

Pub. L. 104-168, title XIII, §1301(b), July 30, 1996, 110 Stat. 1475, provided that: “The amendment made by subsection (a) [amending this section] shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7741(b), Dec. 19, 1989, 103 Stat. 2405, provided that: “The amendment made by subsection (a) [amending this section] shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1502(c), Oct. 22, 1986, 100 Stat. 2741, provided that:

“(1) SUBSECTION (a).—The amendments made by subsection (a) [amending this section] shall apply—

“(A) to failures to pay which begin after December 31, 1986, and

“(B) to failures to pay which begin on or before December 31, 1986, if after December 31, 1986—

“(i) notice (or renote) under section 6331(d) of the Internal Revenue Code of 1954 [now 1986] is given with respect to such failure, or

“(ii) notice and demand for immediate payment of the underpayment is made under the last sentence of section 6331(a) of such Code.

In the case of a failure to pay described in subparagraph (B), paragraph (2) of section 6651(d) of such Code (as added by subsection (a)) shall be applied by taking into account the first notice (or renote) after December 31, 1986.

“(2) SUBSECTION (b).—The amendment made by subsection (b) [amending this section] shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date.”

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §318(c), Sept. 3, 1982, 96 Stat. 610, provided that: “The amendments made by this section [amending this section] shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.”

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-9, §3(j)(3), Apr. 1, 1971, 85 Stat. 22, provided that: “The amendments made by this subsection [amending this section and section 6680 of this title] shall apply with respect to returns required to be filed on or after the date of the enactment of this Act [Apr. 1, 1971].”

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §943(d), Dec. 30, 1969, 83 Stat. 729, provided that: “The amendments made by subsections (a) [amending this section] and (c) [amending sections 3121, 5684, and 6653 of this title] shall apply with respect to returns the date prescribed by law (without regard to any extension of time) for filing of which is after December 31, 1969, and with respect to notices and demands for payment of tax made after December 31, 1969. The amendment made by subsection (b) [amending section 6656 of this title] shall apply with respect to deposits the time for making of which is after December 31, 1969.”

EFFECTIVE DATE OF 1968 AMENDMENT

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

ILLEGAL TAX PROTESTER DESIGNATION

Pub. L. 105-206, title III, §3707, July 22, 1998, 112 Stat. 778, provided that:

“(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

“(1) shall not designate taxpayers as illegal tax protesters (or any similar designation); and

“(2) in the case of any such designation made on or before the date of the enactment of this Act [July 22, 1998]—

“(A) shall remove such designation from the individual master file; and

“(B) shall disregard any such designation not located in the individual master file.

“(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

“(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act [July 22, 1998], except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.”

§ 6652. Failure to file certain information returns, registration statements, etc.

(a) Returns with respect to certain payments aggregating less than \$10

In the case of each failure to file a statement of a payment to another person required under the authority of—

(1) section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), or

(2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(b) Failure to report tips

In the case of failure by an employee to report to his employer on the date and in the manner

prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) Returns by exempt organizations and by certain trusts

(1) Annual returns under section 6033(a)(1) or 6012(a)(6)

(A) Penalty on organization

In the case of—

(i) a failure to file a return required under section 6033(a)(1) (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under section 6033(a)(1) or section 6012(a)(6) or to show the correct information,

there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033(a)(1) or section 6012(a)(6) for such year, in applying the first sentence of this subparagraph, the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

(B) Managers

(i) In general

The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) Failure to comply with demand

If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply \$10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with re-

spect to any 1 return shall not exceed \$5,000.

(C) Public inspection of annual returns and reports

In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing) or report required under section 527(j), there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return or report shall not exceed \$10,000.

(D) Public inspection of applications for exemption and notice of status

In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) or notice materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues.

(E) No penalty for certain annual notices

This paragraph shall not apply with respect to any notice required under section 6033(i).

(2) Returns under section 6034 or 6043(b)

(A) Penalty on organization or trust

In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

(B) Managers

The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed \$5,000.

(C) Split-interest trusts

In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

(ii) in the case of any trust with gross income in excess of \$250,000, in applying the first sentence of paragraph (1)(A), the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and in lieu of applying the second sentence of paragraph (1)(A), the maximum penalty under paragraph (1)(A) shall not exceed \$50,000, and

(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.

(3) Disclosure under section 6033(a)(2)

(A) Penalty on entities

In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) \$100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed \$50,000.

(B) Written demand

(i) In general

The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

(ii) Failure to comply with demand

If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply \$100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed \$10,000.

(C) Definitions

Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.

(4) Notices under section 506

(A) Penalty on organization

In the case of a failure to submit a notice required under section 506(a) (relating to organizations required to notify Secretary of intent to operate as 501(c)(4)) on the date and in the manner prescribed therefor, there shall be paid by the organization failing to so submit \$20 for each day during which such

failure continues, but the total amount imposed under this subparagraph on any organization for failure to submit any one notice shall not exceed \$5,000.

(B) Managers

The Secretary may make written demand on an organization subject to penalty under subparagraph (A) specifying in such demand a reasonable future date by which the notice shall be submitted for purposes of this subparagraph. If such notice is not submitted on or before such date, there shall be paid by the person failing to so submit \$20 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to submit any one notice shall not exceed \$5,000.

(5) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(6) Other special rules

(A) Treatment as tax

Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) Joint and several liability

If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) Person

For purposes of this subsection, the term “person” means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(7) Adjustment for inflation

(A) In general

In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014, each of the dollar amounts under paragraphs (1), (2), and (3) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(B) Rounding

If any amount adjusted under subparagraph (A)—

(i) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(ii) is not described in clause (i) and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(d) Annual registration and other notification by pension plan

(1) Registration

In the case of any failure to file a registration statement required under section 6057(a)

(relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed \$5,000.

(2) Notification of change of status

In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed \$1,000.

(e) Information required in connection with certain plans of deferred compensation, etc.

In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$25 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed \$15,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(Y).

(f) Returns required under section 6039C

(1) In general

In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) Amount of penalty

For purposes of paragraph (1), the amount determined under this paragraph with respect

to any failure shall be \$25 for each day during which such failure continues.

(3) Limitation

The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

(A) \$25,000, or

(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

[(g) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(39)(B), Dec. 19, 2014, 128 Stat. 4043]

(h) Failure to give notice to recipients of certain pension, etc., distributions

In the case of each failure to provide notice as required by section 3405(e)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000.

(i) Failure to give written explanation to recipients of certain qualifying rollover distributions

In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(j) Failure to file certification with respect to certain residential rental projects

In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to \$100 for each such failure.

(k) ¹ Failure to make reports required under section 1202

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall

¹ See 1993 Amendment note below.

be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting “\$100” for “\$50”. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(l) Failure to file return with respect to certain corporate transactions

In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to \$500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed \$100,000.

(m) Alcohol and tobacco taxes

For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

(n) Failure to make reports required under sections 3511, 6053(c)(8), and 7705

In the case of a failure to make a report required under section 3511, 6053(c)(8), or 7705 which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard the preceding sentence shall be applied by substituting “\$100” for “\$50”.

(o) Failure to provide notices with respect to qualified small employer health reimbursement arrangements

In the case of each failure to provide a written notice as required by section 9831(d)(4), unless it is shown that such failure is due to reasonable cause and not willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written notice, an amount equal to \$50 per employee per incident of failure to provide such notice, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$2,500.

(p) Failure to provide notice under section 83(i)

In the case of each failure to provide a notice as required by section 83(i)(6), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to

willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 85-866, title I, §85, Sept. 2, 1958, 72 Stat. 1664; Pub. L. 87-834, §19(d), Oct. 16, 1962, 76 Stat. 1057; Pub. L. 88-272, title II, §221(b)(2), Feb. 26, 1964, 78 Stat. 74; Pub. L. 89-97, title III, §313(e)(2)(B), (3), July 30, 1965, 79 Stat. 385; Pub. L. 89-212, §2(e), Sept. 29, 1965, 79 Stat. 859; Pub. L. 91-172, title I, §101(d)(4), Dec. 30, 1969, 83 Stat. 522; Pub. L. 93-406, title II, §1031(b)(1)(A), (B)(i), Sept. 2, 1974, 88 Stat. 945, 946; Pub. L. 94-455, title XII, §1207(e)(3)(B), (C), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1708, 1834; Pub. L. 96-167, §7(b)(1), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 96-223, title I, §101(d)(2)(A), Apr. 2, 1980, 94 Stat. 251; Pub. L. 96-499, title XI, §1123(b), Dec. 5, 1980, 94 Stat. 2689; Pub. L. 96-603, §1(d)(2), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 97-34, title III, §311(f), title VII, §723(a)(1), (3), (4), Aug. 13, 1981, 95 Stat. 281, 343, 344; Pub. L. 97-248, title III, §§309(b)(2), 315(a), (b), Sept. 3, 1982, 96 Stat. 595, 605, 606; Pub. L. 97-448, title II, §201(i)(2), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98-67, title I, §105(b)(1), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98-369, div. A, title I, §§145(b)(1), (2), 146(b)(1), (2), 148(b)(1), (2), 149(b)(1), 155(b)(2)(A), title IV, §491(d)(50), title V, §531(b)(4)(B), title VII, §714(j)(3), July 18, 1984, 98 Stat. 685, 686, 688, 689, 693, 852, 882, 963; Pub. L. 98-397, title II, §207(b), Aug. 23, 1984, 98 Stat. 1450; Pub. L. 98-611, §1(d)(2), Oct. 31, 1984, 98 Stat. 3177; Pub. L. 98-612, §1(b)(2), Oct. 31, 1984, 98 Stat. 3181; Pub. L. 99-514, title XI, §1151(b), title XIII, §1301(g), title XV, §1501(d)(1)(A), title XVII, §1702(b), title XVIII, §§1810(f)(9), 1811(c)(2), Oct. 22, 1986, 100 Stat. 2502, 2656, 2740, 2774, 2828, 2833; Pub. L. 100-203, title X, §§10502(d)(11), 10704(a), Dec. 22, 1987, 101 Stat. 1330-444, 1330-461; Pub. L. 100-647, title I, §§1011B(a)(10), 1017(b), 1018(u)(36), title III, §3021(a)(10), Nov. 10, 1988, 102 Stat. 3484, 3575, 3592, 3630; Pub. L. 101-140, title II, §203(a)(1), Nov. 8, 1989, 103 Stat. 830; Pub. L. 101-239, title VII, §§7208(b)(2), 7841(d)(5), Dec. 19, 1989, 103 Stat. 2338, 2428; Pub. L. 102-318, title V, §522(b)(2)(F), July 3, 1992, 106 Stat. 314; Pub. L. 103-66, title XIII, §13113(c), Aug. 10, 1993, 107 Stat. 429; Pub. L. 104-168, title XIII, §§1314(a), (b), July 30, 1996, 110 Stat. 1480; Pub. L. 104-188, title I, §§1455(c), (d)(2), 1704(s), Aug. 20, 1996, 110 Stat. 1818, 1887; Pub. L. 105-34, title XII, §1281(a), (b), title XVI, §1602(d)(2)(B), Aug. 5, 1997, 111 Stat. 1037, 1094; Pub. L. 105-277, div. J, title I, §1004(b)(2)(B), (C), Oct. 21, 1998, 112 Stat. 2681-890; Pub. L. 106-230, §§1(c), 2(c), 3(c), July 1, 2000, 114 Stat. 479, 482, 483; Pub. L. 109-222, title V, §516(c), May 17, 2006, 120 Stat. 371; Pub. L. 109-280, title XII, §§1201(b)(2), 1223(d), Aug. 17, 2006, 120 Stat. 1065, 1091; Pub. L. 113-295, div. A, title II, §221(a)(39)(B), div. B, title II, §§206(c)(4), 208(b), Dec. 19, 2014, 128 Stat. 4043, 4071, 4072; Pub. L. 114-113, div. Q, title IV, §405(c), Dec. 18, 2015, 129 Stat. 3119; Pub. L. 114-255, div. C, title XVIII, §18001(a)(5), Dec. 13, 2016, 130 Stat. 1342; Pub. L. 115-97, title I, §§11002(d)(1)(LL), 13603(e), Dec. 22, 2017, 131 Stat. 2060, 2164.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

CODIFICATION

Sections 1201(b)(2) and 1223(d) of Pub. L. 109-280, which directed the amendment of section 6652 without specifying the act to be amended, were executed to this section, which is section 6652 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

Pub. L. 101-140, §203(a)(1), amended this section to read as if the amendments made by section 1151(b) of Pub. L. 99-514 (enacting subsec. (l)) had not been enacted. Subsequent to enactment by Pub. L. 99-514, subsec. (l) was amended by Pub. L. 100-203, Pub. L. 100-647, and Pub. L. 101-239. See 1989, 1988, and 1987 Amendment notes below.

AMENDMENTS

2017—Subsec. (c)(7)(A). Pub. L. 115-97, §11002(d)(1)(LL), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

Subsec. (p). Pub. L. 115-97, §13603(e), added subsec. (p).

2016—Subsec. (o). Pub. L. 114-255 added subsec. (o).

2015—Subsec. (c)(4) to (7). Pub. L. 114-113 added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively.

2014—Subsec. (c)(1)(A). Pub. L. 113-295, §208(b)(2)(A), substituted “in applying the first sentence of this subparagraph, the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and” for “the first sentence of this subparagraph shall be applied by substituting ‘\$100’ for ‘\$20’ and”.

Subsec. (c)(2)(C)(ii). Pub. L. 113-295, §208(b)(2)(B), substituted “in applying the first sentence of paragraph (1)(A), the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and in lieu of applying the second sentence of paragraph (1)(A), the maximum penalty under paragraph (1)(A) shall not exceed \$50,000, and” for “the first sentence of paragraph (1)(A) shall be applied by substituting ‘\$100’ for ‘\$20’, and the second sentence thereof shall be applied by substituting ‘\$50,000’ for ‘\$10,000’, and”.

Subsec. (c)(6). Pub. L. 113-295, §208(b)(1), added par. (6).

Subsec. (g). Pub. L. 113-295, §221(a)(39)(B), struck out subsec. (g). Text read as follows: “In the case of failure to make a report required by section 219(f)(4) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$25 for each participant with respect to whom there was a failure to file such information, multiplied by the number of years during which such failure continues, but the total amount imposed under this subsection on any person for failure to file shall not exceed \$10,000. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.”

Subsec. (n). Pub. L. 113-295, §206(c)(4), added subsec. (n).

2006—Subsec. (c)(1). Pub. L. 109-222, §516(c)(2), substituted “6033(a)(1)” for “6033” wherever appearing in heading and text.

Subsec. (c)(1)(E). Pub. L. 109-280, §1223(d), added subpar. (E). See Codification note above.

Subsec. (c)(2)(C). Pub. L. 109-280, §1201(b)(2), added subpar. (C). See Codification note above.

Subsec. (c)(3) to (5). Pub. L. 109-222, §516(c)(1), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

2000—Subsec. (c)(1). Pub. L. 106-230, §3(c)(4), inserted “or 6012(a)(6)” after “section 6033” in heading.

Subsec. (c)(1)(A). Pub. L. 106-230, §3(c)(3), inserted “or section 6012(a)(6)” after “section 6033” in last sentence.

Subsec. (c)(1)(A)(i). Pub. L. 106-230, §3(c)(1), inserted “or section 6012(a)(6) (relating to returns by political organizations)” after “organizations”.

Subsec. (c)(1)(A)(ii). Pub. L. 106-230, §3(c)(2), inserted “or section 6012(a)(6)” after “section 6033”.

Subsec. (c)(1)(C). Pub. L. 106-230, §2(c), in heading inserted “and reports” after “returns” and in text inserted “or report required under section 527(j)” after “filing” and “or report” after “1 return”.

Subsec. (c)(1)(D). Pub. L. 106-230, §1(c), in heading inserted “and notice of status” after “exemption” and in text inserted “or notice materials (as defined in such section)” after “section”.

1998—Subsec. (c)(1)(C). Pub. L. 105-277, §1004(b)(2)(B), substituted “section 6104(d) with respect to any annual return” for “subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns)”.

Subsec. (c)(1)(D). Pub. L. 105-277, §1004(b)(2)(C), substituted “section 6104(d) with respect to any exempt status application materials (as defined in such section)” for “section 6104(e)(2) (relating to public inspection of applications for exemption)”.

1997—Subsec. (e). Pub. L. 105-34, §1602(d)(2)(B), substituted “section 6724(d)(2)(Y)” for “section 6724(d)(2)(X)”.

Subsec. (g). Pub. L. 105-34, §1281(a), inserted at end “No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.”

Subsec. (k). Pub. L. 105-34, §1281(b), inserted at end “No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.”

1996—Subsec. (c)(1)(A). Pub. L. 104-168 in concluding provisions, substituted “\$20” for “\$10” and “\$10,000” for “\$5,000” and inserted at end “In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting ‘\$100’ for ‘\$20’ and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.”

Subsec. (c)(1)(C). Pub. L. 104-188, §1704(s)(1), substituted “\$20” for “\$10” and “\$10,000” for “\$5,000”.

Subsec. (c)(1)(D). Pub. L. 104-188, §1704(s)(2), substituted “\$20” for “\$10”.

Subsec. (e). Pub. L. 104-188, §1455(d)(2), inserted at end “This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).”

Subsec. (i). Pub. L. 104-188, §1455(c), substituted “\$100” and “\$50,000” for “the \$10” and “\$5,000”, respectively.

1993—Subsec. (k). Pub. L. 103-66, which directed amendment of section by adding subsec. (k) before the last subsection, was executed by adding subsec. (k) after subsec. (j) to reflect the probable intent of Congress.

1992—Subsec. (h). Pub. L. 102-318 substituted “3405(e)(10)(B)” for “3405(d)(10)(B)”.

1989—Subsec. (k). Pub. L. 101-239, §7841(d)(5)(B), redesignated the subsec. (k), relating to alcohol and tobacco taxes, as (l).

Pub. L. 101-239, §7841(d)(5)(A), redesignated the subsection relating to information with respect to includible employee benefits as (k), see Codification note above.

Pub. L. 101-140 amended this section to read as if amendments by Pub. L. 99-514, §1151(b), had not been enacted, see Codification note above and 1986 Amendment note below.

Subsec. (l). Pub. L. 101-239, §7208(b)(2), added subsec. (l) and redesignated former subsec. (l) as (m).

Pub. L. 101-239, §7841(d)(5)(B), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (l).

Subsec. (m). Pub. L. 101-239, § 7208(b)(2), redesignated subsec. (l) as (m).

1988—Subsec. (j). Pub. L. 100-647, § 1017(b), amended subsec. (j) as it existed prior to its repeal by Pub. L. 100-203, § 10502(d)(11), by inserting “(and the corresponding provision of section 4041(d)(1))” after “section 4041(a)(1)”, see 1987 Amendment note below.

Subsec. (k)(2)(B). Pub. L. 100-647, § 3021(a)(10), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3) thereof) with respect to the employee to whom such failure relates.” See Codification note above.

Pub. L. 100-647, § 1011B(a)(10), substituted “subsection (g)(3)(C)(i)” for “subsection (g)(3)”. See Codification note above.

Subsec. (k)(4). Pub. L. 100-647, § 1018(u)(36), substituted “or part II of subchapter B of this chapter” for “or section 6678”. See Codification note above.

1987—Subsec. (c). Pub. L. 100-203, § 10704(a), amended subsec. (c) generally, revising and restating as pars. (1) to (4) provisions of former pars. (1) to (3).

Subsec. (j). Pub. L. 100-203, § 10502(d)(11), struck out subsec. (j), as added by section 1702(b) of Pub. L. 99-514, which related to failure to give written notice to certain sellers of diesel fuel.

Subsecs. (k), (l). Pub. L. 100-203, § 10502(d)(11), redesignated subsec. (l), relating to information with respect to includible employee benefits, as (k), and directed the redesignation of a nonexistent subsec. (m) as (l). See Codification note above.

1986—Subsec. (a). Pub. L. 99-514, § 1501(d)(1)(A), redesignated subsec. (b) as (a), substituted “Returns with respect to certain payments aggregating less than \$10” for “Other returns” in heading, and struck out former subsec. (a) which provided penalties for failure to file returns relating to information at source, payments of dividends, etc. and certain transfers of stock.

Pub. L. 99-514, § 1811(c)(2), inserted “(other than by subsection (d) of such section)” in par. (3)(A)(ii).

Subsecs. (b) to (f). Pub. L. 99-514, § 1501(d)(1)(A)(i), redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b) redesignated (a).

Subsec. (g). Pub. L. 99-514, § 1501(d)(1)(A)(i), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 99-514, § 1810(f)(9)(C), struck out “etc.” after “Returns” in heading.

Subsec. (g)(1). Pub. L. 99-514, § 1810(f)(9)(A), in amending par. (1) generally, struck out “(A)” after “In the case of each failure”, and struck out “(B) to furnish a statement required by section 6039C(b)(3),” before “on the date required”.

Subsec. (g)(3). Pub. L. 99-514, § 1810(f)(9)(B), in amending par. (3) generally, designated former subpar. (B) of par. (3) as the entire paragraph, struck out former subpar. (A) setting a limitation of \$25,000 with respect to each subsection for failure to meet the requirements of subsection (a) or (b) of section 6039C, struck out former subpar. (B) heading “For failure to meet requirements of section 6039C(c)” and in text substituted “requirements of section 6039C” for “requirements of subsection (c) of section 6039C” and inserted “(A)” before “\$25,000” and “(B)” before “5 percent”.

Subsecs. (h), (i). Pub. L. 99-514, § 1501(d)(1)(A)(i), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 99-514, § 1702(b), added subsec. (j) relating to failure to give written notice to certain sellers of diesel fuel, and redesignated former subsec. (j), relating to alcohol and tobacco taxes, as (k).

Pub. L. 99-514, § 1301(g), added subsec. (j) relating to failure to file certification with respect to certain residential properties.

Pub. L. 99-514, § 1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Former subsec. (j), relating to failure to give written explanation to recipients of certain qualifying rollover distributions, redesignated (i). Such subsec. (j), relating

to alcohol and tobacco taxes, was subsequently redesignated as subsec. (k) by section 1301(g) of Pub. L. 99-514, and also by section 1702(b) of Pub. L. 99-514, both of which added a new subsec. (j), see above.

Subsec. (k). Pub. L. 99-514, § 1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Subsequently, such subsec. (j) was redesignated as subsec. (k) by section 1301(g) of Pub. L. 99-514, and also by section 1702(b) of Pub. L. 99-514.

Subsecs. (l), (m). Pub. L. 99-514, § 1151(b), directed the redesignation of a nonexistent subsec. (l) as (m), and added a new subsec. (l) relating to information with respect to includible employee benefits.

1984—Subsec. (a)(1)(B)(v). Pub. L. 98-369, § 145(b)(1), added cl. (v).

Subsec. (a)(1)(B)(vi). Pub. L. 98-369, § 146(b)(1), added cl. (vi).

Subsec. (a)(1)(B)(vii). Pub. L. 98-369, § 148(b)(1), added cl. (vii).

Subsec. (a)(1)(B)(viii). Pub. L. 98-369, § 149(b)(1), added cl. (viii).

Subsec. (a)(1)(B)(ix). Pub. L. 98-369, § 155(b)(2)(A), added cl. (ix).

Subsec. (a)(3)(A)(iii). Pub. L. 98-369, § 148(b)(2), substituted “, 6050I, or 6050J” for “or 6050I”.

Pub. L. 98-369, § 146(b)(2), substituted “, 6050H or 6050I” for “or section 6050H”.

Pub. L. 98-369, § 145(b)(2), inserted “or section 6050H” after “section 6041A(b)”.

Subsec. (f). Pub. L. 98-611, § 1(d)(2), and Pub. L. 98-612, § 1(b)(2), made identical amendments, substituting “6039D (relating to returns and records with respect to certain fringe benefit plans)” for “125(h) (relating to information with respect to cafeteria plans)”.

Pub. L. 98-369, § 531(b)(4)(B)(i), which directed the amendment of subsec. (f) by striking out “or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans)” and inserting in lieu thereof “, 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 125(h) (relating to information with respect to cafeteria plans)”, was executed by substituting the quoted phrase for “or 6047 (relating to information relating to certain trusts and annuity plans)”, as the probable intent of Congress.

Pub. L. 98-369, § 531(b)(4)(B)(ii), inserted “; etc.” in heading.

Pub. L. 98-369, § 491(d)(50), struck out “and bond purchase” after “trusts and annuity”.

Subsec. (i). Pub. L. 98-369, § 714(j)(3), added subsec. (i). Former subsec. (i), relating to alcohol and tobacco taxes, redesignated (j).

Subsec. (j). Pub. L. 98-397, § 207(b), added subsec. (j). Former subsec. (j), relating to alcohol and tobacco taxes, redesignated (k).

Pub. L. 98-369, § 714(j)(3), redesignated former subsec. (i), relating to alcohol and tobacco taxes, as (j).

Subsec. (k). Pub. L. 98-397, § 207(b), redesignated subsec. (j), relating to alcohol and tobacco taxes, as (k).

1983—Subsec. (a)(1)(A). Pub. L. 98-67, § 105(b)(1)(B), struck out cls. (ii), (iii), and (iv), redesignated cls. (v) and (vi) as (ii) and (iii), respectively, and in cl. (iii), as so redesignated, struck out “6042(e), 6044(f), 6049(e), or” before “6051(d)”.

Subsec. (a)(2), (3). Pub. L. 98-67, § 105(b)(1)(A), (C), added par. (2), redesignated former par. (2) as (3), and in par. (3), as so redesignated, inserted references to paragraph (2) in provisions preceding subpar. (A) and in provisions of subpar. (A) preceding cl. (i).

Subsec. (a). Pub. L. 97-448, which directed that “or” be struck out at end of subpar. (F) of par. (1), “or” be inserted at end of par. (2), a new par. (3) be added, and that in provision following par. (3), “paragraph (2) or (3)” be substituted for “paragraph (2)”, was executed by striking out “or” at end of subpar. (A)(vi) of par. (1), inserting “or” at end of subpar. (B)(iv) of par. (1), redesignating par. (3) as subpar. (C) and adding such subpar. (C), to par. (1), and in provision following subpar. (C) substituting “subparagraph (B) or (C)” for “subparagraph (B)”, to reflect the probable intent of Congress

and the intervening amendment of subsec. (a) by section 315(a) of Pub. L. 97-248 which redesignated former par. (1) as subpar. (A), former subpars. (A) to (F) as cls. (i) to (vi), and former par. (2) as subpar. (B), and in provision following subpar. (B) as so redesignated, substituted “subparagraph (B)” for “paragraph (2)”.

1982—Subsec. (a). Pub. L. 97-248, §315(a), designated existing provisions as par. (1) with a heading “In general”, redesignated former par. (1) as subpar. (A), in subpar. (A) as so redesignated struck out “aggregate” before “amount”, redesignated former subpars. (A) through (F) as cls. (i) through (vi), respectively, in cls. (ii) and (iii) as so redesignated struck out “aggregating \$10 or more” after “dividends”, in cl. (iv) as so redesignated substituted “(a)” for “(a)(1)” and struck out “aggregating \$10 or more” after “interest”, in cl. (vi) as so redesignated inserted “6042(e), 6044(f), 6049(e), or” before “6051(d)”, redesignated former par. (2) as subpar. (B), in subpar. (B) as so redesignated designated from “section 6052(a)” through the end of the parenthesis as cl. (iii) and struck out “with respect to group-term life insurance on the life of an employee” thereafter, added cls. (i), (ii), and (iv), in text after cl. (iv) substituted “subparagraph (A)” for “paragraph (1)”, “subparagraph (B)” for “paragraph (2)”, “\$50 for each such failure” for “\$10 for each such failure”, and “shall not exceed \$50,000” for “shall not exceed \$25,000”, and added par. (2).

Subsec. (b). Pub. L. 97-248, §309(b)(2), struck out pars. (3) and (4) which referred to section 6049(a)(2) and section 6049(a)(3), respectively, as sources of authority for the requirement of filing a statement of payment to another person.

Subsec. (f). Pub. L. 97-248, §315(b), substituted “\$25” and “\$15,000” for “\$10” and “\$5,000”, respectively.

1981—Subsec. (a). Pub. L. 97-34, §723(a)(4), inserted in heading “information at source,” before “payments of dividends”.

Subsec. (a)(1). Pub. L. 97-34, §723(a)(1), added subpars. (A), (E), and (F), and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (b). Pub. L. 97-34, §723(a)(3), substituted provisions relating to failure to file required statement of payment to another person under authority of section 6042(a)(2), 6044(a)(2), or 6049(a)(2) or (3), and imposition of penalties with a maximum of \$1,000 for all failures during the calendar year, for provisions relating to failure to file required statement of payment to another person under authority of section 6041, 6042(a)(2), 6044(a)(2), 6049(a)(2) or (3), 6050A(a) or (b), 6050C, 6051(d), or 6053(b), and imposition of penalties with a maximum of \$1,000 for all failures during the calendar year.

Subsecs. (h), (i). Pub. L. 97-34, §311(f), added subsec. (h) and redesignated former subsec. (h) as (i).

1980—Subsec. (b). Pub. L. 96-223 inserted reference to statement required by section 6050C (relating to information regarding windfall profit tax on crude oil).

Subsec. (d)(3). Pub. L. 96-603 substituted in heading “returns” for “reports” and in text “failure to comply” for “failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply”, “failing to meet such requirements” for “failing so to file or meet the publicity requirement”, and “failure with respect” for “failure to file or comply with the requirements of section 6104(d) with regard”.

Subsecs. (g), (h). Pub. L. 96-499 added subsec. (g) and redesignated former subsec. (g) as (h).

1979—Subsec. (a). Pub. L. 96-167 inserted “or” after “\$10 or more,” in par. (1), struck out par. (2) relating to failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, redesignated par. (3) as (2), and in closing provision substituted “return referred to in paragraph (2)” for “return referred to in paragraph (2) or (3)”.

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

Subsec. (b). Pub. L. 94-455, §§1207(e)(3)(B), (C), 1906(b)(13)(A), inserted “in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),” after “income tax withheld,” and “or section

6050A(b) (relating to statements furnished by certain fishing boat operators),” after “respect to tips,” and struck out “or his delegate” after “Secretary”.

Subsecs. (d) to (f). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” whenever appearing.

1974—Pub. L. 93-406, §1031(b)(1)(B)(i), inserted “, registration statements, etc.” in section catchline.

Subsecs. (e) to (g). Pub. L. 93-406, §1031(b)(1)(A), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1969—Subsecs. (d), (e). Pub. L. 91-172 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (b). Pub. L. 89-97, §313(e)(2)(B), inserted “and in the case of each failure to furnish a statement required by section 6053(b) (relating to statements furnished by employers with respect to tips),” after “income tax withheld”).

Subsec. (c). Pub. L. 89-212 inserted “or which are compensation (as defined in section 3231(e))” and “or section 3201 (as the case may be)”.

Pub. L. 89-97, §313(e)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89-97, §313(e)(3), redesignated former subsec. (c) as (d).

1964—Subsec. (a). Pub. L. 88-272 provided a penalty for failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, and by section 6052(a) with respect to group-term life insurance on the life of an employee.

1962—Subsec. (a). Pub. L. 87-834 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-834 redesignated former subsec. (a) as (b), and substituted “section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10), section 6049(a)(2) (relating to payments of interest aggregating less than \$10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld)” for “section 6042(1) (relating to payments of corporate dividends), section 6044 (relating to patronage dividends), or section 6051(d) (relating to information returns with respect to income tax withheld)”. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-834 redesignated former subsec. (b) as (c).

1958—Subsec. (a). Pub. L. 85-866 substituted “section 6042(1)” for “section 6042” and “(upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so file the statement, \$1 for each such statement not so filed” for “by the person failing to file the statement, upon notice and demand by the Secretary or his delegate and in the same manner as tax, \$1 for each such statement not filed”, deleted “section 6045 (relating to returns of brokers)” after “patronage dividends” and inserted “on the date prescribed therefor (determined with regard to any extension of time for filing)” after “income tax withheld”).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(1)(LL) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

Amendment by section 13603(e) of Pub. L. 115-97 applicable to failures to provide notice after Dec. 31, 2017, see section 13603(f)(2) of Pub. L. 115-97, set out as a note under section 83 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-255 applicable to notices with respect to years beginning after Dec. 31, 2016, see section 18001(a)(7)(D) of Pub. L. 114-255, set out in a note under section 36B of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to organizations which are described in section 501(c)(4) of this

title and organized after Dec. 18, 2015, and to certain then-existing organizations, see section 405(f) of Pub. L. 114-113, set out as an Effective Date note under section 506 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 221(a)(39)(B) of Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of div. A of Pub. L. 113-295, set out as a note under section 1 of this title.

Amendment by section 206(c)(4) of Pub. L. 113-295 applicable with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after Dec. 19, 2014, see section 206(g)(1) of div. B of Pub. L. 113-295, set out as a note under section 3302 of this title.

Amendment by section 208(b) of div. B of Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of div. B of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1201(b)(2) of Pub. L. 109-280 applicable to returns for taxable years beginning after Dec. 31, 2006, see section 1201(c)(2) of Pub. L. 109-280, set out as a note under section 6034 of this title.

Amendment by section 1223(d) of Pub. L. 109-280 applicable to notices and returns with respect to annual periods beginning after 2006, see section 1223(f) of Pub. L. 109-280, set out as a note under section 6033 of this title.

Amendment by Pub. L. 109-222 applicable to disclosures the due date for which are after May 17, 2006, see section 516(d)(2) of Pub. L. 109-222, set out as an Effective Date note under section 4965 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(c) of Pub. L. 106-230 effective July 1, 2000, see section 1(d) of Pub. L. 106-230, set out as a note under section 527 of this title.

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, §1281(e), Aug. 5, 1997, 111 Stat. 1037, provided that: “The amendments made by this section [amending this section and sections 6683 and 7519 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1602(d)(2)(B) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 1455(c), (d)(2) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

Pub. L. 104-168, title XIII, §1314(c), July 30, 1996, 110 Stat. 1481, provided that: “The amendments made by this section [amending this section] shall apply to returns for taxable years ending on or after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102-318, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENTS

Amendment by section 7208(b)(2) of Pub. L. 101-239 applicable to transactions after Mar. 31, 1990, see section 7208(b)(4) of Pub. L. 101-239, set out as a note under section 6043 of this title.

Amendment by Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1011B(a)(10), 1017(b), 1018(u)(36) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 3021(a)(10) of Pub. L. 100-647 effective as if included in the amendments by section 1151 of Pub. L. 99-514, see section 3021(d)(1) of Pub. L. 100-647, set out as a note under section 129 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10502(d)(11) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

Pub. L. 100-203, title X, §10704(d), Dec. 22, 1987, 101 Stat. 1330-463, provided that: “The amendments made by this section [amending this section and sections 6685 and 7207 of this title] shall apply—

“(1) to returns for years beginning after December 31, 1986, and

“(2) on and after the date of the enactment of this Act [Dec. 22, 1987] in the case of applications submitted to the Internal Revenue Service—

“(A) after July 15, 1987, or

“(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(b) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1301(g) of Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Amendment by section 1501(d)(1)(A) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1702(b) of Pub. L. 99-514 applicable to sales after first calendar quarter beginning more than 60 days after Oct. 22, 1986, see section 1702(c) of Pub. L. 99-514, set out as a note under section 4041 of this title.

Amendment by sections 1810(f)(9) and 1811(c)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-612 effective Jan. 1, 1985, see section 1(d)(2) of Pub. L. 98-612, Oct. 31, 1984, 98 Stat. 3181.

Amendment by Pub. L. 98-611 effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98-611, set out as a note under section 127 of this title.

Amendment by Pub. L. 98-397 applicable to distributions after Dec. 31, 1984, see section 302(c) of Pub. L. 98-397, set out as a note under section 1001 of Title 29, Labor.

Amendment by section 145(b)(1), (2) of Pub. L. 98-369 applicable to amounts received after Dec. 31, 1984, see section 145(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050H of this title.

Amendment by section 146(b)(1), (2) of Pub. L. 98-369 applicable to amounts received after Dec. 31, 1984, see section 146(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050I of this title.

Amendment by section 148(b)(1), (2) of Pub. L. 98-369 applicable with respect to acquisitions of property and abandonments of property after Dec. 31, 1984, see section 148(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050J of this title.

Amendment by section 149(b)(1) of Pub. L. 98-369 applicable with respect to exchanges after Dec. 31, 1984, see section 149(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050K of this title.

Amendment by section 155(b)(2)(A) of Pub. L. 98-369 applicable to contributions made after Dec. 31, 1984, in taxable years ending after such date, see section 155(d)(1) of Pub. L. 98-369, set out as an Effective Date note under section 6050L of this title.

Amendment by section 491(d)(50) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Amendment by section 531(b)(4)(B) of Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

Amendment by section 714(j)(3) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

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

Pub. L. 97-448, title II, §203(a), (b), Jan. 12, 1983, 96 Stat. 2397, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—Except as provided in subsection (b), any amendment made by this title [amending this section and sections 44D, 46, 48, 193, 613A, 4988, 4989, 4991-4997, 6015, 6154, 6654, 6655, and 6678 of this title, enacting provisions set out as notes under section 4996 of this title, and amending a provision set out as a note under section 44E of this title] shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 [Pub. L. 96-223] to which such amendment relates.

“(b) EXCEPTIONS.—

“(1) DEFINITION OF INDEPENDENT PRODUCER.—The amendment made by section 201(d)(1) [amending section 4992 of this title] shall take effect on January 1, 1983.

“(2) PENALTY PROVISION.—The amendments made by section 201(i) [amending this section and sections 4997 and 6678 of this title] shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act [Jan. 12, 1983].

“(3) AMENDMENTS TO SECTION 613A.—

“(A) The amendment made by section 202(d)(1) [amending section 613A of this title] shall apply to

transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to periods after December 31, 1979.

“(B) The amendment made by section 202(d)(2) [amending section 613A of this title] shall apply to bulk sales after September 18, 1982.

“(4) NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1986 by reason of the amendment made by section 201(h)(2)(A) of this Act [amending section 4996 of this title] before the date on which regulations with respect to such amendment are published in the Federal Register.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 309(b)(2) of Pub. L. 97-248 applicable to amounts paid (or treated as paid) after Dec. 31, 1982, see section 309(c) of Pub. L. 97-248, set out as a note under section 6049 of this title.

Pub. L. 97-248, title III, §315(d), Sept. 3, 1982, 96 Stat. 607, provided that: “The amendments made by this section [amending this section and section 6678 of this title] shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 311(f) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97-34, set out as a note under section 219 of this title.

Pub. L. 97-34, title VII, §723(c), Aug. 13, 1981, 95 Stat. 344, provided that: “The amendments made by this section [amending this section and sections 6041 and 6678 of this title] shall apply to returns and statements required to be furnished after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

Amendment by Pub. L. 96-499, applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as an Effective Date note under section 897 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-167, §7(c), Dec. 29, 1979, 93 Stat. 1277, provided that: “The amendments made by this section [amending this section and sections 6039 and 6678 of this title] shall apply with respect to calendar years beginning after 1979.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(e)(3)(B), (C) of Pub. L. 94-455 applicable to calendar years beginning after Oct. 4, 1976, see section 1207(f)(4) of Pub. L. 94-455, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as an Effective Date note under section 6057 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89-212 effective only with respect to tips received after 1965, see section 6 of Pub. L. 89-212, set out as a note under section 3201 of this title.

Amendment by Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88-272, set out as an Effective Date note under section 79 of this title.

Amendment by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1963, except for par. (2) of subsec. (a) which shall apply to stock transferred pursuant to options exercised on or after Jan. 1, 1964, see section 221(e) of Pub. L. 88-272, set out as a note under section 421 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87-834, set out as a note under section 6042 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 6653. Failure to pay stamp tax

Any person (as defined in section 6671(b)) who—

(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons,

tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 822; Pub. L. 85-866, title I, §86, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 91-172, title I, §101(j)(50), title IX, §943(c)(6), Dec. 30, 1969, 83 Stat. 531, 729; Pub. L. 91-679, §2, Jan. 12, 1971, 84 Stat. 2063; Pub. L. 93-406, title II, §1016(a)(18), Sept. 2, 1974, 88 Stat. 931; Pub. L. 96-223, title I, §101(f)(8), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97-34, title V, §501(b), title VII, §722(b)(1), Aug. 13, 1981, 95 Stat. 326, 342; Pub. L. 97-248, title III, §325(a), Sept. 3, 1982, 96 Stat. 616; Pub. L. 97-448, title I, §§105(a)(1)(D), 107(a)(3), Jan. 12, 1983, 96 Stat. 2384, 2391; Pub. L. 98-67, title I, §106, Aug. 5, 1983, 97 Stat. 382; Pub. L. 98-369, div. A, title I, §179(b)(3), July 18, 1984, 98 Stat. 718; Pub. L. 99-44, §1(b), May 24, 1985, 99 Stat. 77; Pub. L. 99-514, title XV, §1503(a), (b), (c)(2), (3), (d)(1), Oct. 22, 1986, 100 Stat. 2742, 2743; Pub. L. 100-647, title I, §1015(b)(2)(A), (B), (3), Nov. 10, 1988, 102 Stat. 3569; Pub. L. 101-239, title VII, §7721(c)(1), Dec. 19, 1989, 103 Stat. 2399.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “Failure to pay stamp tax” for “Additions to tax for negligence and fraud” in section catchline and amended text generally, substituting a single par. for former subsecs. (a) to (g).

1988—Subsec. (a)(1). Pub. L. 100-647, §1015(b)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

“(A) 5 percent of the underpayment, and

“(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of such underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).”

Subsec. (b)(1). Pub. L. 100-647, §1015(b)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

“(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

“(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.”

Subsec. (g). Pub. L. 100-647, §1015(b)(3), inserted at end “If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a).”

1986—Pub. L. 99-514, §1503(d)(1), substituted “Additions to tax for negligence and fraud” for “Failure to pay tax” in section catchline.

Subsec. (a). Pub. L. 99-514, §1503(a), added subsec. (a) and struck out former subsec. (a) which added percentage to tax due for underpayment of taxes where negligence or intentional disregard of rules and regulations with respect to income, gift, or windfall profit taxes was involved, and also provided additional interest penalty for portion of underpayment attributable to negligence, etc.

Subsec. (b). Pub. L. 99-514, §1503(b), added subsec. (b) and struck out former subsec. (b) which added percentage to tax due for underpayment of taxes where fraud was involved, and also provided for additional interest penalty, but stated that there would be no negligence addition where there was addition for fraud, and concluded with special rule for joint returns.

Subsec. (d). Pub. L. 99-514, §1503(c)(2), substituted "portion of the underpayment which is attributable to fraud" for "same underpayment".

Subsec. (f). Pub. L. 99-514, §1503(c)(3), struck out "or intentional disregard of rules and regulations (but without intent to defraud)" after "underpayment due to negligence".

Subsec. (g). Pub. L. 99-514, §1503(b), amended subsec. (g) generally, substituting provisions relating to special rule for amounts shown on information returns for provisions relating to special rule in case of interest or dividend payments, and struck out provision that penalty was to apply only to portion of underpayment due to failure to include interest or dividend payment.

1985—Subsec. (h). Pub. L. 99-44 repealed Pub. L. 98-369, §179(b)(3), which added subsec. (h), and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered as if section 179(b)(3) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (h). Pub. L. 98-369 added subsec. (h) which provided for a special rule in the case of underpayment attributable to failure to meet the substantiation requirements of section 274(d) of this title. See 1985 Amendment note above.

1983—Subsec. (a)(2)(B). Pub. L. 97-448, §107(a)(3), inserted "(or, if earlier, the date of the payment of the tax)" after "assessment of the tax".

Subsec. (f). Pub. L. 97-448, §105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97-34, as (f) and substituted "unrecognized gain" for "unrealized gain" in heading.

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

Pub. L. 97-448, §105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97-34, as (f).

1982—Subsec. (b). Pub. L. 97-248 designated first sentence of existing provisions as par. (1) with heading "In general", struck out second sentence which provided that in the case of income taxes and gift taxes, the amount under this subsec. shall be in lieu of any amount determined under subsec. (a), added pars. (2) and (3), designated last sentence as par. (4) with heading "Special rule for joint returns", and in par. (4) as so designated substituted "of the spouse" for "of a spouse".

1981—Subsec. (a). Pub. L. 97-34, §722(b)(1), designated existing provisions as par. (1), inserted heading, struck out "(relating to income taxes and gift taxes)", and added par. (2) after "subtitle B".

Subsec. (g). Pub. L. 97-34, §501(b), added subsec. (g).

1980—Subsec. (a). Pub. L. 96-223 substituted "., gift, or windfall profit taxes" for "or gift taxes" in heading, and in text substituted "., for "or" before "by chapter 12" and inserted "., or by chapter 45 (relating to windfall profit tax)" before "is due to negligence".

1974—Subsec. (c)(1). Pub. L. 93-406 substituted "certain excise" for "chapter 42" in heading and text.

1971—Subsec. (b). Pub. L. 91-679 inserted sentence making subsection inapplicable, in the case of a joint return under section 6013 of this title, with respect to the tax of a spouse unless some part of the underpayment is due to the fraud of such spouse.

1969—Subsec. (c)(1). Pub. L. 91-172, §101(j)(50), inserted reference to chapter 42 taxes in heading and text.

Subsec. (d). Pub. L. 91-172, §943(c)(6), inserted "or pay tax" after "such return".

1958—Subsec. (c)(1). Pub. L. 85-866, inserted "on or" after "such return was filed".

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(b)(2)(A), (B) of Pub. L. 100-647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100-647, set out as a note under section 6013 of this title.

Amendment by section 1015(b)(3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1503(e), Oct. 22, 1986, 100 Stat. 2743, provided that: "The amendments made by this section [amending this section and section 6222 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-44 effective as if included in the amendments made by section 179(b) of Pub. L. 98-369, see section 6(a) of Pub. L. 99-44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98-369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

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

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §325(b), Sept. 3, 1982, 96 Stat. 617, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act [Sept. 3, 1982]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 501(b) of Pub. L. 97-34 applicable to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date, and applicable when so elected with respect to property held on June 23, 1981, see section 508 of Pub. L. 97-34, set out as an Effective Date note under section 1092 of this title.

Pub. L. 97-34, title VII, §722(b)(2), Aug. 13, 1981, 95 Stat. 343, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to taxes the last date prescribed for payment of which is after December 31, 1981."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-679 applicable to all taxable years to which this title applies, see section 3 of Pub. L. 91-679, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(50) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 943(c)(6) of Pub. L. 91-172 applicable with respect to tax returns the date prescribed by law for filing of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out subsec. (h) of this section as added by section 179(b)(3) of Pub. L. 98-369 to have no force and effect, see section 1(c) of Pub. L. 99-44, set out as a note under section 274 of this title.

§ 6654. Failure by individual to pay estimated income tax**(a) Addition to the tax**

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1¹ the tax under chapter 2, and the tax under chapter 2A for the taxable year an amount determined by applying—

- (1) the underpayment rate established under section 6621,
- (2) to the amount of the underpayment,
- (3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

- (A) the required installment, over
- (B) the amount (if any) of the installment paid on or before the due date for the installment.

(2) Period of underpayment

The period of the underpayment shall run from the due date for the installment to

whichever of the following dates is the earlier—

- (A) the 15th day of the 4th month following the close of the taxable year, or
- (B) with respect to any portion of the underpayment, the date on which such portion is paid.

(3) Order of crediting payments

For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) Number of required installments; due dates

For purposes of this section—

(1) Payable in 4 installments

There shall be 4 required installments for each taxable year.

(2) Time for payment of installments

In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	January 15 of the following taxable year.

(d) Amount of required installments

For purposes of this section—

(1) Amount**(A) In general**

Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment

For purposes of subparagraph (A), the term “required annual payment” means the lesser of—

- (i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or
- (ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

(C) Limitation on use of preceding year's tax**(i) In general**

If the adjusted gross income shown on the return of the individual for the preceding taxable year beginning in any calendar year exceeds \$150,000, clause (ii) of subparagraph (B) shall be applied by substituting the applicable percentage for “100 percent”. For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

If the preceding taxable year begins in:	The applicable percentage is:
1998	105

¹ So in original. A comma probably should appear.

If the preceding taxable year begins in:	The applicable percentage is:
1999	108.6
2000	110
2001	112
2002 or thereafter	110.

This clause shall not apply in the case of a preceding taxable year beginning in calendar year 1997.

(ii) Separate returns

In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting “\$75,000” for “\$150,000”.

(iii) Special rule

In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

(D) Special rule for 2009

(i) In general

Notwithstanding subparagraph (C), in the case of any taxable year beginning in 2009, clause (ii) of subparagraph (B) shall be applied to any qualified individual by substituting “90 percent” for “100 percent”.

(ii) Qualified individual

For purposes of this subparagraph, the term “qualified individual” means any individual if—

(I) the adjusted gross income shown on the return of such individual for the preceding taxable year is less than \$500,000, and

(II) such individual certifies that more than 50 percent of the gross income shown on the return of such individual for the preceding taxable year was income from a small business.

A certification under subclause (II) shall be in such form and manner and filed at such time as the Secretary may by regulations prescribe.

(iii) Income from a small business

For purposes of clause (ii), income from a small business means, with respect to any individual, income from a trade or business the average number of employees of which was less than 500 employees for the calendar year ending with or within the preceding taxable year of the individual.

(iv) Separate returns

In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (ii)(I) shall be applied by substituting “\$250,000” for “\$500,000”.

(v) Estates and trusts

In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

(2) Lower required installment where annualized income installment is less than amount determined under paragraph (1)

(A) In general

In the case of any required installment, if the individual establishes that the annualized income installment is less than the amount determined under paragraph (1)—

(i) the amount of such required installment shall be the annualized income installment, and

(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

(B) Determination of annualized income installment

In the case of any required installment, the annualized income installment is the excess (if any) of—

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(C) Special rules

For purposes of this paragraph—

(i) Annualization

The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

(ii) Applicable percentage

In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90.

(iii) Adjusted self-employment income

The term “adjusted self-employment income” means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

(D) Treatment of subpart F and section 936 income

(i) In general

Any amounts required to be included in gross income under section 936(h) or 951(a)

(and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(ii) Prior year safe harbor

If a taxpayer elects to have this clause apply to any taxable year—

(I) clause (i) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (i) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(e) Exceptions

(1) Where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than \$1,000.

(2) Where no tax liability for preceding taxable year

No addition to tax shall be imposed under subsection (a) for any taxable year if—

(A) the preceding taxable year was a taxable year of 12 months,

(B) the individual did not have any liability for tax for the preceding taxable year, and

(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

(3) Waiver in certain cases

(A) In general

No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

(B) Newly retired or disabled individuals

No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

(i) the taxpayer—

(I) retired after having attained age 62, or

(II) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

(ii) such underpayment was due to reasonable cause and not to willful neglect.

(f) Tax computed after application of credits against tax

For purposes of this section, the term “tax” means—

(1) the tax imposed by chapter 1 (other than any increase in such tax by reason of section 143(m)), plus

(2) the tax imposed by chapter 2, plus

(3) the taxes imposed by chapter 2A, minus

(4) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages).

(g) Application of section in case of tax withheld on wages

(1) In general

For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(2) Separate application

The taxpayer may apply paragraph (1) separately with respect to—

(A) wage withholding, and

(B) all other amounts withheld for which credit is allowed under section 31.

(h) Special rule where return filed on or before January 31

If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

(i) Special rules for farmers and fishermen

For purposes of this section—

(1) In general

If an individual is a farmer or fisherman for any taxable year—

(A) there shall be only 1 required installment for the taxable year,

(B) the due date for such installment shall be January 15 of the following taxable year,

(C) the amount of such installment shall be equal to the required annual payment determined under subsection (d)(1)(B) by substituting “66⅔ percent” for “90 percent” and without regard to subparagraph (C) of subsection (d)(1), and

(D) subsection (h) shall be applied—

(i) by substituting “March 1” for “January 31”, and

(ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

(2) Farmer or fisherman defined

An individual is a farmer or fisherman for any taxable year if—

(A) the individual's gross income from farming or fishing (including oyster farming) for the taxable year is at least 66⅔ percent of the total gross income from all sources for the taxable year, or

(B) such individual's gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66⅔ percent of the total gross income from all sources shown on such return.

(j) Special rules for nonresident aliens

In the case of a nonresident alien described in section 6072(c):

(1) Payable in 3 installments

There shall be 3 required installments for the taxable year.

(2) Time for payment of installments

The due dates for required installments under this subsection shall be determined under the following table:

In the case of the following required installments:	The due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

(3) Amount of required installments

(A) First required installment

In the case of the first required installment, subsection (d) shall be applied by substituting "50 percent" for "25 percent" in subsection (d)(1)(A).

(B) Determination of applicable percentage

The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90.

(k) Fiscal years and short years

(1) Fiscal years

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(l) Estates and trusts

(1) In general

Except as otherwise provided in this subsection, this section shall apply to any estate or trust.

(2) Exception for estates and certain trusts

With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

(A) the estate of such decedent, or

(B) any trust—

(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

(ii) to which the residue of the decedent's estate will pass under his will (or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

(3) Exception for charitable trusts and private foundations

This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

(4) Special rule for annualizations

In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting "ending before the date 1 month before the due date for the installment" for "ending before the due date for the installment".

(m) Special rule for Medicare tax

For purposes of this section, the tax imposed under section 3101(b)(2) (to the extent not withheld) shall be treated as a tax imposed under chapter 2.

(n) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 823; Pub. L. 87-682, §1(a)(4), Sept. 25, 1962, 76 Stat. 575; Pub. L. 89-368, title I, §§102(b)(1)–(3), 103(a), Mar. 15, 1966, 80 Stat. 62–64; Pub. L. 91-172, title III, §301(b)(13), Dec. 30, 1969, 83 Stat. 586; Pub. L. 92-5, title II, §203(b)(7), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92-336, title II, §203(b)(7), July 1, 1972, 86 Stat. 420; Pub. L. 93-66, title II, §203(b)(7), (d), July 9, 1973, 87 Stat. 153; Pub. L. 93-233, §5(b)(7), (d), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93-625, §7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(a)(35), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 95-30, title I, §102(b)(16), May 23, 1977, 91 Stat. 139; Pub. L. 95-600, title IV, §421(e)(9), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-34, title VI, §601(a)(6)(A), title VII, §725(b), (c)(5), Aug. 13, 1981, 95 Stat. 336, 346; Pub. L. 97-248, title II, §207(d)(7), formerly §207(c)(7), title III, §§307(a)(14), 308(a), 328(a), Sept. 3, 1982, 96 Stat. 420, 590, 591, 618, renumbered §207(d)(7), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-448, title I, §§106(a)(4)(C), 107(c)(1), title II, §201(j)(3), Jan. 12, 1983, 96 Stat. 2390, 2391, 2396; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, §411, July 18, 1984, 98 Stat. 788; Pub. L. 99-514, title XIV, §1404(a), title XV, §§1511(c)(14), 1541(a), (b), title XVIII, §1841, Oct. 22, 1986, 100 Stat. 2713, 2745, 2751, 2852; Pub. L. 100-418, title I, §1941(b)(6)(A), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100-647, title I, §1014(d)(1), (2), title IV, §4005(g)(5), Nov. 10, 1988, 102 Stat. 3560, 3651; Pub. L. 101-239, title VII, §7811(j)(5), (6), Dec. 19, 1989, 103 Stat. 2411, 2412; Pub. L. 102-164, title IV, §403(a), (b), Nov. 15, 1991, 105 Stat. 1062, 1064; Pub. L. 103-66, title XIII, §13214(a), (b), Aug.

10, 1993, 107 Stat. 475; Pub. L. 103-465, title VII, § 711(b), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 105-34, title X, § 1091(a), title XII, § 1202(a), Aug. 5, 1997, 111 Stat. 962, 994; Pub. L. 105-277, div. J, title II, § 2003(a), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-170, title V, § 531(a), Dec. 17, 1999, 113 Stat. 1928; Pub. L. 111-5, div. B, title I, § 1212, Feb. 17, 2009, 123 Stat. 336; Pub. L. 111-152, title I, § 1402(a)(2), (b)(2), Mar. 30, 2010, 124 Stat. 1062, 1063.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-152, § 1402(a)(2)(A), substituted “the tax under chapter 2, and the tax under chapter 2A” for “and the tax under chapter 2” in introductory provisions.

Subsec. (f)(2). Pub. L. 111-152, § 1402(a)(2)(B)(i), substituted “plus” for “minus”.

Subsec. (f)(3), (4). Pub. L. 111-152, § 1402(a)(2)(B)(ii), added par. (3) and redesignated former par. (3) as (4).

Subsecs. (m), (n). Pub. L. 111-152, § 1402(b)(2), added subsec. (m) and redesignated former subsec. (m) as (n).

2009—Subsec. (d)(1)(D). Pub. L. 111-5 added subpar. (D).

1999—Subsec. (d)(1)(C)(i). Pub. L. 106-170 in table substituted items assigning applicable percentages of 108.6 for 1999 and 110 for 2000 for item assigning applicable percentage of 106 for 1999 or 2000.

1998—Subsec. (d)(1)(C)(i). Pub. L. 105-277 in table substituted items assigning applicable percentages of 105 for 1998 and 106 for 1999 or 2000 for item assigning applicable percentage of 105 for 1998, 1999, or 2000.

1997—Subsec. (d)(1)(C)(i). Pub. L. 105-34, § 1091(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds \$150,000, clause (ii) of subparagraph (B) shall be applied by substituting ‘110 percent’ for ‘100 percent’.”

Subsec. (e)(1). Pub. L. 105-34, § 1202(a), substituted “\$1,000” for “\$500”.

1994—Subsec. (d)(2)(D). Pub. L. 103-465 added subpar. (D).

1993—Subsec. (d)(1)(C) to (F). Pub. L. 103-66, § 1321(a), added subpar. (C) and struck out former subpars. (C) to (F) which related to limitation on use of preceding year’s tax, modified adjusted gross income for current year, qualified pass-thru item, and other definitions and special rules, respectively.

Subsec. (j)(3)(A). Pub. L. 103-66, § 1321(b)(1), struck out before period at end “and subsection (d)(1)(C)(iii) shall not apply”.

Subsec. (l)(4). Pub. L. 103-66, § 1321(b)(2), substituted “subsection (d)(2)(B)(i)” for “paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)”.

1991—Subsec. (d)(1)(C) to (F). Pub. L. 102-164, § 403(a), added subpars. (C) to (F).

Subsec. (i)(1)(C). Pub. L. 102-164, § 403(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting ‘66⅔ percent’ for ‘90 percent’, and”.

Subsec. (j)(3)(A). Pub. L. 102-164, § 403(b)(2), inserted before period at end “and subsection (d)(1)(C)(iii) shall not apply”.

Subsec. (l)(4). Pub. L. 102-164, § 403(b)(3), substituted “paragraphs (l)(C)(iv) and (2)(B)(i) of subsection (d)” for “subsection (d)(2)(B)(i)”.

1989—Subsec. (l)(1). Pub. L. 101-239, § 7811(j)(5), substituted “this section shall” for “this subsection shall”.

Subsec. (l)(2)(B)(ii). Pub. L. 101-239, § 7811(j)(6), inserted before period at end “(or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)”.

1988—Subsec. (f)(1). Pub. L. 100-647, § 4005(g)(5), inserted “(other than any increase in such tax by reason of section 143(m))” after “chapter 1”.

Subsec. (f)(3). Pub. L. 100-418 amended par. (3) generally. Prior to amendment par. (3) read as follows: “the sum of—

“(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

Subsec. (l). Pub. L. 100-647, § 1014(d)(2), substituted “Estates and trusts” for “Trusts and certain estates” in heading and amended text generally. Prior to amendment, text read as follows: “This section shall apply to—

“(1) any trust, and

“(2) any estate with respect to any taxable year ending 2 or more years after the date of the death of the decedent’s death.”

Pub. L. 100-647, § 1014(d)(1), made clarifying amendment to directory language of Pub. L. 99-514, § 1404(a), to reflect prior redesignation of subsec. (k) as (l) by section 1841 of Pub. L. 99-514, see 1986 Amendment note below.

1986—Subsec. (a)(1). Pub. L. 99-514, § 1511(c)(14), substituted “the underpayment rate established under section 6621” for “the applicable annual rate established under section 6621”.

Subsec. (d)(1)(B)(i). Pub. L. 99-514, § 1541(a), substituted “90 percent” for “80 percent” in two places.

Subsec. (d)(2)(C)(ii). Pub. L. 99-514, § 1541(b)(1), in table of applicable percentages increased applicable percentages from “20” to “22.5”, from “40” to “45”, from “60” to “67.5”, and from “80” to “90”, respectively.

Subsec. (i)(1)(C). Pub. L. 99-514, § 1541(b)(2), substituted “90 percent” for “80 percent”.

Subsec. (j). Pub. L. 99-514, § 1841, added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3)(B). Pub. L. 99-514, § 1541(b)(3), which directed the amendment of the table in subpar. (B) by substituting “45” for “40”, “65.5” for “60”, and “90” for “80”, could not be executed because the higher figures appear in the text as enacted by section 1841 of Pub. L. 99-514.

Subsec. (k). Pub. L. 99-514, § 1841, redesignated former subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 99-514, § 1404(a), as amended by Pub. L. 100-647, § 1014(d)(1), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: “This section shall not apply to any estate or trust.”

Pub. L. 99-514, § 1841, redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 99-514, § 1841, redesignated former subsec. (l) as (m).

1984—Subsec. (a). Pub. L. 98-369 amended subsec. (a) generally, setting out the exception provision as initial phrase, previously set out as second phrase, substituting “subsection (d)” for “this section”; and substituting “determined by applying—” and provisions designated cls. (1) to (3) for provisions reading “determined at an annual rate established under section 6621 upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c))”.

Subsec. (b). Pub. L. 98-369 amended subsec. (b) generally, substituting provisions relating to amount and period of underpayment for provisions relating only to amount of underpayment.

Subsec. (c). Pub. L. 98-369 amended subsec. (c) generally, substituting provisions relating to number of required installments and due dates for provisions respecting period of underpayment. See subsec. (b)(2) of this section.

Subsec. (d). Pub. L. 98-369 amended subsec. (d) generally, substituting provisions relating to amount of required installments for provisions designated “Exception” and describing conditions for nonimposition of an addition to the tax with respect to any underpayment of any installment.

Subsec. (e). Pub. L. 98-369 amended subsec. (e) generally, substituting provisions relating to exceptions for provisions relating to application of section in case of tax withheld on wages. See subsec. (g) of this section.

Subsec. (f). Pub. L. 98-369 amended subsec. (f) generally, substituting provisions relating to tax computed after application of credits against tax for provisions relating to exception where tax is small amount. See subsec. (e)(1) of this section.

Subsec. (g). Pub. L. 98-369 amended subsec. (g) generally, substituting provisions relating to application of section in case of tax withheld on wages for provisions relating to tax computed after application of credits against tax. See subsec. (f) of this section.

Subsec. (h). Pub. L. 98-369 amended subsec. (h) generally, substituting provisions relating to special rule for returns filed on or before January 31 for provisions relating to exception for no tax liability for preceding taxable year. See subsec. (e)(2) of this section.

Subsec. (i). Pub. L. 98-369 amended subsec. (i) generally, substituting provisions relating to special rules for farmers and fishermen for provisions relating to short taxable year. See subsec. (j)(2) of this section.

Subsecs. (j) to (l). Pub. L. 98-369, in amending section generally, added subsecs. (j) to (l).

1983—Subsec. (e)(l). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Subsec. (f)(1). Pub. L. 97-448, §107(c)(1), inserted “, reduced by the credit allowable under section 31,” before “is less than”.

Subsec. (g)(3)(B). Pub. L. 97-448, §201(j)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 or 6430 as an overpayment of the tax imposed by section 4986”.

Pub. L. 97-448, §106(a)(4)(C), inserted “or 6430” after “section 6429”.

1982—Subsec. (e)(1). Pub. L. 97-248, §§307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld at source on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (g). Pub. L. 97-248, §328(a)(2), substituted “(f, and (h)” for “and (f)”.

Subsec. (g)(1). Pub. L. 97-248, §201(d)(7), formerly §201(c)(7), substituted “section 55” for “section 55 or 56”.

Subsec. (g)(3). Pub. L. 97-248, §§307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (g)(3) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld at source on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsecs. (h), (i). Pub. L. 97-248, §328(a)(1), added subsec. (h) and redesignated former subsec. (h) as (i).

1981—Subsec. (f). Pub. L. 97-34, §725(b), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 97-34, §601(a)(6)(A), inserted “the sum of—” after “(3)” after “designated former par. (3) as subpar. (A), and added subpar. (B).

Subsecs. (g), (h). Pub. L. 97-34, §§601(a)(6)(A), 725(b), (c)(5), redesignated former subsec. (f) as (g), inserted reference to subsec. (f) in introductory text, and “the

sum of—” after “(3)”, designated former par. (3) as subpar. (A), and added subpar. (B). Former subsec. (g) redesignated (h).

1978—Subsec. (f)(1). Pub. L. 95-600 substituted “section 55 or 56” for “section 56”.

1977—Subsec. (d)(2)(A). Pub. L. 95-30 substituted provisions directing that the placement of taxable income on an annualized basis be accomplished under regulations prescribed by the Secretary for provisions which had spelled out in detail the formula under which taxable income would be placed on an annualized basis.

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

Subsec. (h). Pub. L. 94-455, §1906(a)(35), struck out subsec. (h) which provided that this section shall apply to taxable years beginning after Dec. 31, 1954 and that section 294(d) of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before Jan. 1, 1955.

1975—Subsec. (a). Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

1973—Subsec. (d)(2)(B)(ii). Pub. L. 93-233, §5(b)(7), effective with respect to taxable years beginning after 1973, substituted “\$13,200” for “\$12,600”.

Pub. L. 93-233, §5(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92-336 (set out as 1973 Amendment note below), substituting “\$13,200” for “\$12,600”. See, also, 1973 Amendment note below.

Pub. L. 93-66, §203(b)(7), effective with respect to taxable years beginning after 1973, substituted “\$12,600” for “\$12,000”.

Pub. L. 93-66, §203(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92-336 (set out as 1972 Amendment note below, substituting “\$12,600” for “\$12,000”). See, also, such 1972 Amendment note below.

1972—Subsec. (d)(2)(B)(ii). Pub. L. 92-336, §203(b)(7)(A) substituted “\$10,800” for “\$9,000”.

Pub. L. 92-336, §203(b)(7)(B), effective with respect to taxable years beginning after 1973, substituted “\$12,000” for “\$10,800”.

Pub. L. 92-336, §203(b)(7)(C), effective with respect to taxable years beginning after 1974, substituted “(I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II)” for “\$12,000 over”.

1971—Subsec. (d)(2)(B)(ii). Pub. L. 92-5 substituted “\$9,000” for “\$6,600”.

1969—Subsec. (f)(1). Pub. L. 91-172 inserted “(other than by section 56)” after “chapter 1”.

1966—Subsec. (a). Pub. L. 89-368, §102(b)(1), inserted “and the tax under chapter 2” after “chapter 1”.

Subsec. (b). Pub. L. 89-368, §103(a), substituted “80 percent” for “70 percent” whenever appearing.

Subsec. (d). Pub. L. 89-368, §§102(b)(2), 103(a), inserted requirement that, for purposes of applying the annualization exception, the tax on adjusted self-employment income be included in determining if the net earnings from self-employment for the taxable year equal or exceed \$400, inserted definition of “adjusted self-employment income”, inserted a requirement that, for purposes of determining the applicability of the 90 percent exception, the tax on actual self-employment income be included, and substituted “80 percent” for “70 percent” wherever appearing.

Subsec. (f). Pub. L. 89-368, §102(b)(3), inserted tax imposed by chapter 2 to definition of “tax”.

1962—Subsecs. (b), (d)(1)(C). Pub. L. 87-682 inserted “or fishing” after “from farming” wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1402(a)(2) of Pub. L. 111-152 applicable to taxable years beginning after Dec. 31, 2012, see section 1402(a)(4) of Pub. L. 111-152, set out as an Effective Date note under section 1411 of this title.

Amendment by section 1402(b)(2) of Pub. L. 111-152 applicable with respect to remuneration received, and taxable years beginning after, Dec. 31, 2012, see section 1402(b)(3) of Pub. L. 111-152, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, § 531(b), Dec. 17, 1999, 113 Stat. 1928, provided that: “The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title II, § 2003(b), Oct. 21, 1998, 112 Stat. 2681-902, provided that: “The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, § 1091(b), Aug. 5, 1997, 111 Stat. 962, provided that: “The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1997.”

Pub. L. 105-34, title XII, § 1202(b), Aug. 5, 1997, 111 Stat. 994, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, § 711(c), Dec. 8, 1994, 108 Stat. 4999, provided that: “The amendments made by this section [amending this section and section 6655 of this title] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, § 13214(c), Aug. 10, 1993, 107 Stat. 475, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-164, title IV, § 403(c), Nov. 15, 1991, 105 Stat. 1064, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1991.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1014(d)(1), (2) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 4005(g)(5) of Pub. L. 100-647 applicable to financing provided, and mortgage credit certificates issued, after Dec. 31, 1990, with certain exceptions, see section 4005(h)(3) of Pub. L. 100-647, set out as a note under section 143 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see

section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 100-203, title X, § 10303(a), Dec. 22, 1987, 101 Stat. 1330-430, provided that: “Notwithstanding section 1541(c) of the Tax Reform Act of 1986 [section 1541(c) of Pub. L. 99-514, set out below], the amendments made by section 1541 of such Act [amending this section] shall apply only to taxable years beginning after December 31, 1987.”

Amendment by section 1404(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(14) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Pub. L. 99-514, title XV, § 1541(c), Oct. 22, 1986, 100 Stat. 2751, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986.” [See section 10303(a) of Pub. L. 100-203, set out above.]

Amendment by section 1841 of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title IV, § 414(a), July 18, 1984, 98 Stat. 793, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by sections 411 and 412 [amending this section and sections 871, 1403, 6012, 6020, 6201, 6362, 6601, 6651, 7203, 7216, and 7701 of this title and repealing sections 6015, 6073, and 6153 of this title] shall apply with respect to taxable years beginning after December 31, 1984.

“(2) WAIVER AUTHORITY.—The provisions of paragraph (3) of section 6654(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by section 411) shall also apply with respect to underpayments for taxable years beginning in 1984.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 106(a)(4)(C) of Pub. L. 97-448 effective Jan. 1, 1982, see section 106(a)(4)(E)(ii) of Pub. L. 97-448, set out as an Effective Date note under section 6430 of this title.

Amendment by title I of Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

Amendment by title II of Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96-223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97-448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 201(d)(7) of Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

Pub. L. 97-248, title III, § 328(c), Sept. 3, 1982, 96 Stat. 618, provided that: “The amendments made by this section [amending this section and sections 6015, 6073, and 6153 of this title] shall apply to taxable years beginning after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VI, § 601(c)(1), (2), Aug. 13, 1981, 95 Stat. 337, provided that:

“(1) Except as provided in paragraph (2), subsection (a) [amending this section and sections 6429 and 6655 of this title] shall take effect on January 1, 1981.

“(2) The amendments made by paragraph (6) of subsection (a) [amending this section and section 6655 of this title] shall take effect on January 1, 1980.”

Amendment by section 725(b), (c)(5) of Pub. L. 97-34 applicable to estimated tax for taxable years beginning after Dec. 31, 1980, see section 725(d) of Pub. L. 97-34, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95-600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91-172, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-368, title I, §102(d), Mar. 15, 1966, 80 Stat. 64, provided that: “The amendments made by subsections (a) amending section 6015 of this title, (b) [amending this section and sections 1403, 6211, and 7701 of this title], and (c) [amending section 1402 of this title] shall apply with respect to taxable years beginning after December 31, 1966.”

Pub. L. 89-368, title I, §103(b), Mar. 15, 1966, 80 Stat. 64, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1966.”

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-682, §2, Sept. 25, 1962, 76 Stat. 575, provided that: “The amendments made by the first section of

this Act [amending this section and sections 6015, 6073, and 6153 of this title] shall apply only with respect to taxable years beginning after December 31, 1962.”

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

Pub. L. 105-206, §1(c), July 22, 1998, 112 Stat. 685, provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act [July 22, 1998] to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].”

Pub. L. 105-34, §1(d), Aug. 5, 1997, 111 Stat. 788, provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before January 1, 1998, for any payment the due date of which is before January 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].”

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

Pub. L. 104-188, title I, §1102, Aug. 20, 1996, 110 Stat. 1758, provided that: “No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act [Aug. 20, 1996] to the extent such underpayment was created or increased by any provision of this title [title I (§§1101-1954) of Pub. L. 104-188, see Tables for classification].”

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

Pub. L. 103-66, title XIII, §13001(d), Aug. 10, 1993, 107 Stat. 416, provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this chapter [chapter 1 (§§13001-13444) of title XIII of Pub. L. 103-66, see Tables for classification].”

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of former section 420(b)(4)(B) of this title, see section 12011(c)(2) of Pub. L. 101-508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Apr. 16, 1989, with respect to any underpayment to the extent that such underpayment was created or increased by any provision of title I (§§1001-1019) or II (§§2001-2006) of Pub. L. 100-647, see section 1019(b) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 1 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147

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

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

Pub. L. 99-514, title XV, §1543, Oct. 22, 1986, 100 Stat. 2751, provided that: "No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) for any period before April 16, 1987 (March 16, 1987, in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent such underpayment was created or increased by any provision of this Act [Pub. L. 99-514, see Tables for classification]."

WAIVER OF ESTIMATED TAX PENALTIES

No addition to tax to be made under this section for any period before Apr. 16, 1985, with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of Pub. L. 98-369, div. A, see section 1879(a) of Pub. L. 99-514, set out as a note under section 6655 of this title.

INCREASE IN SECTION 31 CREDIT FOR TAXABLE YEARS WHICH INCLUDE ANY PORTION OF PERIOD JULY 1, 1983, TO DECEMBER 31, 1983

For purposes of determining the amount of any addition to tax under this section with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of this title for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, to be increased by an amount equal to 10 percent of the aggregate amount of payments (1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and (2) which (but for the repeal of sections 3451 to 3456 of this title) would have been subject to withholding under sections 3451 to 3456 of this title (determined without regard to any exemption described in former section 3452 of this title, see section 102(d) of Pub. L. 98-67, set out as a note under section 3451 of this title.

ESTIMATED TAX UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Pub. L. 95-30, title III, §303, May 23, 1977, 91 Stat. 152, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to failure to pay estimated income tax) for any period before April 16, 1977 (March 16, 1977, in the case of a taxpayer subject to section 6655), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

WAIVER OF PENALTY FOR UNDERPAYMENT OF 1971 ESTIMATED INCOME TAX

Pub. L. 92-178, title II, §207, Dec. 10, 1971, 85 Stat. 512, provided that subsec. (a) of this section did not apply to any taxable year beginning after Dec. 31, 1970 and ending before Jan. 1, 1972, if the gross income for such taxable year did not exceed \$10,000 for a single individual other than head of household or a married individual filing separately, or if the gross income did not exceed \$20,000 for a head of household, a surviving spouse, of married individuals filing jointly, or if the taxpayer had income from sources other than wages in excess of \$200 or \$400 in case of a joint return.

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration,

or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91-172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimates tax before the first installment date, this section, and sections 6015, 6154, and 6655 of this title shall be applied without regard to amendments made by Pub. L. 91-172, see section 946(b) of Pub. L. 91-172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with first installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of "installment date", see Pub. L. 91-53, §5(c), Aug. 7, 1969, 83 Stat. 95.

§ 6655. Failure by corporation to pay estimated income tax

(a) Addition to tax

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

- (1) the underpayment rate established under section 6621,
- (2) to the amount of the underpayment,
- (3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

- (A) the required installment, over
- (B) the amount (if any) of the installment paid on or before the due date for the installment.

(2) Period of underpayment

The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

- (A) the 15th day of the 4th month following the close of the taxable year, or
- (B) with respect to any portion of the underpayment, the date on which such portion is paid.

(3) Order of crediting payments

For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) Number of required installments; due dates

For purposes of this section—

(1) Payable in 4 installments

There shall be 4 required installments for each taxable year.

(2) Time for payment of installments**In the case of the following required installments:**

	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

(d) Amount of required installments

For purposes of this section—

(1) Amount**(A) In general**

Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment

Except as otherwise provided in this subsection, the term “required annual payment” means the lesser of—

- (i) 100 percent of the tax shown on the return for the taxable year (or, if no return is filed, 100 percent of the tax for such year), or
- (ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

(2) Large corporations required to pay 100 percent of current year tax**(A) In general**

Except as provided in subparagraph (B), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

(B) May use last year's tax for 1st installment

Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

(e) Lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)**(1) In general**

In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under subsection (d)(1) (as modified by paragraphs (2) and (3) of subsection (d))—

(A) the amount of such required installment shall be the annualized income installment (or, if lesser, the adjusted seasonal installment), and

(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing

the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph).

(2) Determination of annualized income installment**(A) In general**

In the case of any required installment, the annualized income installment is the excess (if any) of—

- (i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income and modified taxable income—

(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

(II) for the first 3 months of the taxable year, in the case of the 2nd required installment,

(III) for the first 6 months of the taxable year in the case of the 3rd required installment, and

(IV) for the first 9 months of the taxable year, in the case of the 4th required installment, over

- (ii) the aggregate amount of any prior required installments for the taxable year.

(B) Special rules

For purposes of this paragraph—

(i) Annualization

The taxable income and modified taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

(ii) Applicable percentage

In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100.

(iii) Modified taxable income

The term “modified taxable income” has the meaning given such term by section 59A(c)(1).

(C) Election for different annualization periods

(i) If the taxpayer makes an election under this clause—

(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting “2 months” for “3 months”,

(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting “4 months” for “3 months”,

(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting “7 months” for “6 months”, and

(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting “10 months” for “9 months”.

(ii) If the taxpayer makes an election under this clause—

(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting “5 months” for “3 months”,

(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting “8 months” for “6 months”, and

(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting “11 months” for “9 months”.

(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year.

(3) Determination of adjusted seasonal installment

(A) In general

In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

(i) 100 percent of the amount determined under subparagraph (C), over

(ii) the aggregate amount of all prior required installments for the taxable year.

(B) Limitation on application of paragraph

This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

(C) Determination of amount

The amount determined under this subparagraph for any installment shall be determined in the following manner—

(i) take the taxable income for all months during the taxable year preceding the filing month,

(ii) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

(iii) determine the tax on the amount determined under clause (ii), and

(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(D) Definitions and special rules

For purposes of this paragraph—

(i) Base period percentage

The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

(ii) Filing month

The term “filing month” means the month in which the installment is required to be paid.

(iii) Reorganization, etc.

The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganiza-

tions, new corporations, and other similar circumstances.

(4) Treatment of subpart F and section 936 income

(A) In general

Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(B) Prior year safe harbor

(i) In general

If a taxpayer elects to have this subparagraph apply for any taxable year—

(I) subparagraph (A) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(ii) Special rule for noncontrolling shareholder

(I) In general

If a taxpayer making the election under clause (i) is a noncontrolling shareholder of a corporation, clause (i)(II) shall be applied with respect to items of such corporation by substituting “100 percent” for “115 percent”.

(II) Noncontrolling shareholder

For purposes of subclause (I), the term “noncontrolling shareholder” means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation.

(5) Treatment of certain REIT dividends

(A) In general

Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsection (d)(5) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

(B) Closely held REIT

For purposes of subparagraph (A), the term “closely held real estate investment trust” means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsection (d)(5) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.

(f) Exception where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than \$500.

(g) Definitions and special rules**(1) Tax**

For purposes of this section, the term “tax” means the excess of—

(A) the sum of—

- (i) the tax imposed by section 11 or subchapter L of chapter 1, whichever applies,
- (ii) the tax imposed by section 59A, plus
- (iii) the tax imposed by section 887, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

(2) Large corporation**(A) In general**

For purposes of this section, the term “large corporation” means any corporation if such corporation (or any predecessor corporation) had taxable income of \$1,000,000 or more for any taxable year during the testing period.

(B) Rules for applying subparagraph (A)**(i) Testing period**

For purposes of subparagraph (A), the term “testing period” means the 3 taxable years immediately preceding the taxable year involved.

(ii) Members of controlled group

For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the \$1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

(iii) Certain carrybacks and carryovers not taken into account

For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

(3) Certain tax-exempt organizations

For purposes of this section—

(A) Any organization subject to the tax imposed by section 511, and any private

foundation, shall be treated as a corporation subject to tax under section 11.

(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting “5th month” for “4th month”, subsection (e)(2)(A) shall be applied by substituting “2 months” for “3 months” in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply. In the case of a private foundation, subsection (c)(2) shall be applied by substituting “May 15” for “April 15”.

(4) Application of section to certain taxes imposed on S corporations

In the case of an S corporation, for purposes of this section—

(A) The following taxes shall be treated as imposed by section 11:

- (i) The tax imposed by section 1374(a).
- (ii) The tax imposed by section 1375(a).
- (iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

(B) Paragraph (2) of subsection (d) shall not apply.

(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

“(ii) the sum of—

“(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

“(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.”

(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

(E) Subsection (b)(2)(A) shall be applied by substituting “3rd month” for “4th month”.

(F) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be).

(h) Excessive adjustment under section 6425**(1) Addition to tax**

If the amount of an adjustment under section 6425 made before the 15th day of the 4th month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

(2) Excessive amount

For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

(i) Fiscal years and short years**(1) Fiscal years**

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(j) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 825; Pub. L. 88-272, title I, §122(c), Feb. 26, 1964, 78 Stat. 28; Pub. L. 90-364, title I, §103(c), (d)(2), (e)(1), June 28, 1968, 82 Stat. 262, 264; Pub. L. 93-625, §7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(b)(3)(A)–(C)(i), (13)(A), Oct. 4, 1976, 90 Stat. 1833, 1834; Pub. L. 95-600, title III, §301(b)(20)(B), Nov. 6, 1978, 92 Stat. 2824; Pub. L. 96-499, title XI, §1111(a), (b), Dec. 5, 1980, 94 Stat. 2681, 2682; Pub. L. 97-34, title VI, §601(a)(6)(B), title VII, §731(a), (b), Aug. 13, 1981, 95 Stat. 336, 346, 347; Pub. L. 97-248, title II, §234(a), (c), (d), Sept. 3, 1982, 96 Stat. 503, 504; Pub. L. 97-448, title II, §201(j)(4), Jan. 12, 1983, 96 Stat. 2396; Pub. L. 99-499, title V, §516(b)(4)(D), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99-514, title VII, §701(d)(3), title XV, §1511(c)(15), Oct. 22, 1986, 100 Stat. 2342, 2745; Pub. L. 100-203, title X, §10301(a), Dec. 22, 1987, 101 Stat. 1330-424; Pub. L. 100-418, title I, §1941(b)(6)(B), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100-647, title II, §2004(r), title V, §5001(a), Nov. 10, 1988, 102 Stat. 3609, 3660; Pub. L. 101-239, title VII, §§7209(a), 7822(a), Dec. 19, 1989, 103 Stat. 2338, 2424; Pub. L. 101-508, title XI, §11704(a)(28), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 102-227, title II, §201(a), (b), Dec. 11, 1991, 105 Stat. 1689; Pub. L. 102-244, §3(a), Feb. 7, 1992, 106 Stat. 4; Pub. L. 102-318, title V, §512(a), (b), July 3, 1992, 106 Stat. 300; Pub. L. 103-66, title XIII, §13225(a), (b), Aug. 10, 1993, 107 Stat. 486; Pub. L. 103-465, title VII, §711(a), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 104-188, title I, §1703(h), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-34, title XIV, §1461(a), Aug. 5, 1997, 111 Stat. 1057; Pub. L. 106-170, title V, §571(a), Dec. 17, 1999, 113 Stat. 1950; Pub. L. 106-554, §1(a)(7) [title III, §319(21)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 113-295, div. A, title II, §221(a)(12)(K), (114), Dec. 19, 2014, 128 Stat. 4039, 4054; Pub. L. 114-41, title II, §2006(a)(2)(F), (G), July 31, 2015, 129 Stat. 457; Pub. L. 115-97, title I, §§12001(b)(18), (19), 13001(b)(2)(P), 14401(d)(4), Dec. 22, 2017, 131 Stat. 2094, 2097, 2233.)

AMENDMENTS

2017—Subsec. (e)(2)(A)(i). Pub. L. 115-97, §14401(d)(4)(B), inserted “and modified taxable income” after “taxable income” in introductory provisions.

Pub. L. 115-97, §12001(b)(18), struck out “and alternative minimum taxable income” after “taxable income” in introductory provisions.

Subsec. (e)(2)(B)(i). Pub. L. 115-97, §14401(d)(4)(B), inserted “and modified taxable income” after “taxable income”.

Pub. L. 115-97, §12001(b)(18), struck out “and alternative minimum taxable income” after “taxable income”.

Subsec. (e)(2)(B)(iii). Pub. L. 115-97, §14401(d)(4)(C), added cl. (iii).

Subsec. (g)(1)(A)(i). Pub. L. 115-97, §14401(d)(4)(A), struck out “plus” at end.

Pub. L. 115-97, §13001(b)(2)(P), struck out “or 1201(a),” after “section 11”.

Pub. L. 115-97, §12001(b)(19), inserted “plus” at end.

Subsec. (g)(1)(A)(ii). Pub. L. 115-97, §14401(d)(4)(A), added cl. (ii). Former cl. (ii) redesignated (iii).

Pub. L. 115-97, §12001(b)(19), redesignated cl. (iii) as (ii) and struck out former cl. (ii) which read as follows: “the tax imposed by section 55, plus”.

Subsec. (g)(1)(A)(iii). Pub. L. 115-97, §14401(d)(4)(A), redesignated cl. (ii) as (iii).

Pub. L. 115-97, §12001(b)(19), redesignated cl. (iii) as (ii).

2015—Subsecs. (b)(2)(A), (g)(3). Pub. L. 114-41, §2006(a)(2)(F), substituted “4th month” for “3rd month”.

Subsec. (g)(4)(E), (F). Pub. L. 114-41, §2006(a)(2)(G), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (h)(1). Pub. L. 114-41, §2006(a)(2)(F), substituted “4th month” for “3rd month”.

2014—Subsec. (e)(2)(A)(i), (B)(i). Pub. L. 113-295, §221(a)(12)(K)(i), substituted “taxable income and alternative minimum taxable income” for “taxable income, alternative minimum taxable income, and modified alternative minimum taxable income”.

Subsec. (e)(2)(B)(iii). Pub. L. 113-295, §221(a)(12)(K)(ii), struck out cl. (iii). Text read as follows: “The term ‘modified alternative minimum taxable income’ has the meaning given to such term by section 59A(b).”

Subsec. (g)(1)(A)(ii) to (iv). Pub. L. 113-295, §221(a)(12)(K)(iii), inserted “plus” at end of cl. (ii), redesignated cl. (iv) as (iii), and struck out former cl. (iii) which read as follows: “the tax imposed by section 59A, plus”.

Subsec. (g)(4)(A)(i). Pub. L. 113-295, §221(a)(114), struck out “(or the corresponding provisions of prior law)” before period at end.

2000—Subsec. (e)(5)(A), (B). Pub. L. 106-554 substituted “subsection (d)(5)” for “subsections (d)(5) and (l)(3)(B)”.

1999—Subsec. (e)(5). Pub. L. 106-170 added par. (5).

1997—Subsec. (g)(3). Pub. L. 105-34 inserted at end “In the case of a private foundation, subsection (c)(2) shall be applied by substituting ‘May 15’ for ‘April 15’.”

1996—Subsec. (g)(3). Pub. L. 104-188, §1703(h), in closing provisions, substituted “, subsection (e)(2)(A) shall be applied by substituting ‘2 months’ for ‘3 months’ in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.” for “, and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A) shall be applied by substituting ‘2 months’ for ‘3 months’ and in clause (i)(I), by substituting ‘4 months’ for ‘5 months’ in clause (i)(II), by substituting ‘7 months’ for ‘8 months’ in clause (i)(III), and by substituting ‘10 months’ for ‘11 months’ in clause (i)(IV).”

1994—Subsec. (e)(4). Pub. L. 103-465 added par. (4).

1993—Subsec. (d)(1)(B)(i). Pub. L. 103-66, §13225(a)(1), substituted “100 percent” for “91 percent” in two places.

Subsec. (d)(2). Pub. L. 103-66, §13225(a)(2)(A)(ii), substituted “100 percent” for “91 percent” in heading.

Subsec. (d)(3). Pub. L. 103-66, § 13225(a)(2)(A)(i), struck out heading and text of par. (3). Text read as follows: "In the case of any taxable year beginning after June 30, 1992, and before 1997—

"(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '97 percent' for '91 percent' each place it appears, and

"(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24.25', '48.50', '72.75', and '97' for '22.75', '45.50', '68.25', and '91.00', respectively."

Subsec. (e)(2)(A)(i)(II). Pub. L. 103-66, § 13225(b)(1)(A), struck out "or for the first 5 months" after "3 months".

Subsec. (e)(2)(A)(i)(III). Pub. L. 103-66, § 13225(b)(1)(B), struck out "or for the first 8 months" after "6 months".

Subsec. (e)(2)(A)(i)(IV). Pub. L. 103-66, § 13225(b)(1)(C), struck out "or for the first 11 months" after "9 months".

Subsec. (e)(2)(B)(ii). Pub. L. 103-66, § 13225(a)(2)(B), in table, substituted applicable percentages of 25, 50, 75, and 100 for 22.75, 45.50, 68.25, and 91.00, respectively, in 1st, 2nd, 3rd, and 4th installments.

Subsec. (e)(2)(C). Pub. L. 103-66, § 13225(b)(2), added subpar. (C).

Subsec. (e)(3)(A)(i). Pub. L. 103-66, § 13225(a)(2)(C), substituted "100 percent" for "91 percent".

Subsec. (g)(3). Pub. L. 103-66, § 13225(b)(3), substituted "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)" for "and subsection (e)(2)(A)" in last sentence.

1992—Subsec. (d)(1)(B)(i). Pub. L. 102-318, § 512(a)(1), substituted "91 percent" for "90 percent" in two places.

Subsec. (d)(2). Pub. L. 102-318, § 512(a)(2), substituted "91 percent" for "90 percent" in heading.

Subsec. (d)(3). Pub. L. 102-318, § 512(a)(3), added par. (3) and struck out former par. (3) which related to temporary increase in amount of installment method based on current tax year for taxable years beginning after 1991 and before 1997.

Subsec. (d)(3)(A). Pub. L. 102-244, amended table generally, substituting a single entry "1993 through 1996.....95" for former arrangement under which years after 1992 were covered by two table entries: "1993 or 1994.....94" and "1995 or 1996.....95".

Subsec. (e)(2)(B)(ii). Pub. L. 102-318, § 512(b)(1), in table, substituted applicable percentages of 22.75, 45.50, 68.25, and 91.00 for 22.5, 45, 67.5, and 90, respectively, in 1st, 2nd, 3rd and 4th installments.

Subsec. (e)(3)(A)(i). Pub. L. 102-318, § 512(b)(2), substituted "91 percent" for "90 percent".

1991—Subsec. (d)(3). Pub. L. 102-227, § 201(a), added par. (3).

Subsec. (e)(1). Pub. L. 102-227, § 201(b), substituted "paragraphs (2) and (3) of subsection (d)" for "subsection (d)(2)".

1990—Subsec. (g)(3). Pub. L. 101-508 inserted a period at end of last sentence.

1989—Subsec. (e)(1). Pub. L. 101-239, § 7822(a), substituted "under subsection (d)(1)" for "under section (d)(1)".

Subsec. (g)(4). Pub. L. 101-239, § 7209(a), added par. (4).

1988—Subsec. (e)(1). Pub. L. 100-647, § 5001(a), struck out at end "A reduction shall be treated as recaptured for purposes of subparagraph (B) if 90 percent of the reduction is recaptured."

Subsec. (g)(1)(B). Pub. L. 100-418 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the sum of—

"(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

"(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B))."

Subsec. (g)(3). Pub. L. 100-647, § 2004(r), inserted last sentence, and struck out former last sentence which read as follows: "In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'."

1987—Pub. L. 100-203 amended section generally, revising and restating as subsecs. (a) to (j) provisions of former subsecs. (a) to (i).

1986—Subsec. (a)(1). Pub. L. 99-514, § 1511(c)(15), substituted "the underpayment rate established under section 6621" for "the rate established under section 6621".

Subsec. (f)(1). Pub. L. 99-514, § 701(d)(3), amended par. (1) generally, restating existing provisions in subpar. (A) and adding subpar. (B).

Pub. L. 99-499 amended subsec. (f)(1), as amended by the Tax Reform Act of 1986 (Pub. L. 99-514), by striking out "plus" at end of subpar. (A), substituting "plus" for "over" at end of subpar. (B), and adding subpar. (C).

1983—Subsec. (f)(2)(B). Pub. L. 97-448 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 as an overpayment of the tax imposed by section 4986". Notwithstanding directory language that amendment be made to subsec. (e)(2)(B), the amendment was executed to subsec. (f)(2)(B) to reflect the probable intent of Congress, the intervening redesignation of subsec. (e) as (f) by Pub. L. 97-248, and the retrospective effect of the amendment as provided by section 203(a), (b) of Pub. L. 97-448, set out as an Effective Date of 1983 Amendment note under section 4988 of this title.

1982—Subsec. (a). Pub. L. 97-248, § 234(c), in heading substituted "Addition to tax" for "Addition to the tax", in provisions preceding par. (1) inserted reference to subsec. (e) as an exception and struck out "estimated" before "tax", designated existing provisions as par. (1), and in par. (1) as so designated struck out parenthetical reference to subsecs. (b) and (c) for determination of the amount of the underpayment and the period of the underpayment, respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 97-248, § 234(a)(1), substituted "90" for "80" wherever appearing.

Subsec. (d)(3)(A). Pub. L. 97-248, § 234(a)(2), substituted "90" for "80".

Subsec. (e). Pub. L. 97-248, § 234(d)(1), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97-248, § 234(d), redesignated former subsec. (e) as (f) and substituted references to subsecs. (e) and (i) for references to subsec. (h). Former subsec. (f) redesignated (g).

Subsecs. (g) to (i). Pub. L. 97-248, § 234(d)(1), redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

1981—Subsec. (e)(2). Pub. L. 97-34, § 601(a)(6)(B), inserted "the sum of—", designated existing provisions as subpar. (A), inserted at end of subpar. (A) " , plus", and added subpar. (B).

Subsec. (h). Pub. L. 97-34, § 731(a), (b), substituted in heading "minimum percentage" for "at least 60 percent" and provisions of par. (1) respecting minimum percentage, for provisions respecting in the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of the tax shown on the return for the taxable year, or if no return was filed, the tax for such year.

1980—Subsec. (e). Pub. L. 96-499, § 1111(b), substituted "subsections (b), (d), and (h)" for "subsections (b) and (d)".

Subsec. (h). Pub. L. 96-499, § 1111(a), added subsec. (h). 1978—Subsec. (e). Pub. L. 95-600 struck out provisions relating to the corporation's temporary estimated tax exemption.

1976—Subsec. (e)(1)(B). Pub. L. 94-455, § 1906(b)(3)(A), struck out in cl. (ii) "after December 31, 1967, and" after "taxable year beginning" and struck out cl. (iii) which related to the case of a taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1972, the amount of the corporation's transitional exemption for such year.

Subsec. (e)(2)(B). Pub. L. 94-455, § 1906(b)(3)(B), substituted "clause (ii)" for "clauses (ii) and (iii)".

Subsec. (e)(3), (4). Pub. L. 94-455, § 1906(b)(3)(C)(i), redesignated par. (4) as (3). Former par. (3), which related

to the computation of a corporation's transitional exemption, was struck out.

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

1975—Subsecs. (a), (g)(1). Pub. L. 93-625 substituted "an annual rate established under section 6621" for "the rate of 6 percent per annum".

1968—Subsec. (b)(1). Pub. L. 90-364, §103(c)(1), substituted "80 percent" for "70 percent".

Subsec. (d)(1). Pub. L. 90-364, §103(e)(1), struck out "reduced by \$100,000" after "The tax shown on the return of the corporation for the preceding taxable year".

Subsec. (d)(3)(A). Pub. L. 90-364, §103(c)(1), substituted "80 percent" for "70 percent".

Subsec. (e). Pub. L. 90-364, §103(c)(2), designated existing provisions as par. (1) under a heading "In general", in such redesignated par. (1) substituted "For purposes of subsections (b) and (d)" for "For purposes of subsections (b), (d)(2), and (d)(3)" in introductory text, redesignated as subpar. (A) former par. (1) and as subpar. (B) former par. (2), struck out reference to \$100,000 as one factor in the sum required for redesignated subpar. (B) and added cls. (ii) and (iii), and added pars. (2), (3), and (4) under headings "Temporary estimated tax exemption", "Transitional exemption", and "Special rule for subsection (d)(1) and (2)" respectively.

Subsec. (g). Pub. L. 90-364, §103(d)(2), added subsec. (g).

1964—Subsec. (c)(2). Pub. L. 88-272, §122(c)(1), substituted "any installment date" and "such installment date" for "the 15th day of the 12th month".

Subsec. (d)(3). Pub. L. 88-272, §122(c)(2), redesignated cls. (A)(i) and (ii) as (A)(iii) and (iv), respectively, added cls. (A)(i) and (ii), and substituted "(3, 5, 6, 8, 9)" for "(6 or 8, or 9)" in subpar. (B)(ii).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 12001(b)(18), (19) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 12001(c) of Pub. L. 115-97, set out as a note under section 11 of this title.

Amendment by section 13001(b)(2)(P) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as a note under section 11 of this title.

Amendment by section 14401(d)(4)(A) of Pub. L. 115-97 applicable to base erosion payments (as defined in section 59A(d) of this title) paid or accrued in taxable years beginning after Dec. 31, 2017, see section 14401(e) of Pub. L. 115-97, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-41 applicable to returns for taxable years beginning after Dec. 31, 2015, with special rule for certain C corporations, see section 2006(a)(3) of Pub. L. 114-41, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §571(b), Dec. 17, 1999, 113 Stat. 1951, provided that: "The amendment made by subsection (a) [amending this section] shall apply to estimated tax payments due on or after December 15, 1999."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1461(b), Aug. 5, 1997, 111 Stat. 1057, provided that: "The amendment made by subsection (a) [amending this section] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of

1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 applicable for purposes of determining underpayments of estimated tax for taxable years beginning after Dec. 31, 1994, see section 711(c) of Pub. L. 103-465, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13225(c), Aug. 10, 1993, 107 Stat. 487, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993."

EFFECTIVE DATE OF 1992 AMENDMENTS

Pub. L. 102-318, title V, §512(c), July 3, 1992, 106 Stat. 300, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after June 30, 1992."

Pub. L. 102-244, §3(b), Feb. 7, 1992, 106 Stat. 4, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1992."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-227, title II, §201(c), Dec. 11, 1991, 105 Stat. 1690, provided that: "The amendments made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1991."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7209(b), Dec. 19, 1989, 103 Stat. 2339, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1989."

Amendment by section 7822(a) of Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 2004(r) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title V, §5001(b), Nov. 10, 1988, 102 Stat. 3660, provided that: "The amendment made by subsection (a) [amending this section] shall apply to installments required to be made after December 31, 1988."

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 701(d)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by section 1511(c)(15) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of

Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96-223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97-448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title II, §234(e), Sept. 3, 1982, 96 Stat. 505, provided that: “The amendments made by this section [amending this section and sections 832, 6081, 6152, and 6164 of this title] shall apply to taxable years beginning after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 601(a)(6)(B) of Pub. L. 97-34 effective Jan. 1, 1980, see section 601(c)(2) of Pub. L. 97-34, set out as a note under section 6654 of this title.

Pub. L. 97-34, title VII, §731(c), Aug. 13, 1981, 95 Stat. 347, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-499, title XI, §1111(c), Dec. 5, 1980, 94 Stat. 2682, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1980.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(b)(3)(A)-(C)(i) of Pub. L. 94-455 effective with respect to taxable years after Dec. 31, 1976, see section 1906(d)(2) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.

REPEAL OF CERTAIN SHIFTS IN THE TIMING OF CORPORATE ESTIMATED TAX PAYMENTS

Pub. L. 112-96, title VII, §7001, Feb. 22, 2012, 126 Stat. 256, as amended by Pub. L. 113-295, div. A, title II, §203(a), Dec. 19, 2014, 128 Stat. 4024, provided that: “The following provisions of law (and any modification of any such provision which is contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax:

“(1) Section 202(b) of the Corporate Estimated Tax Shift Act of 2009 [Pub. L. 111-42, set out below].

“(2) Section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out below].

“(3) Section 505 of the United States-Korea Free Trade Agreement Implementation Act [Pub. L. 112-41, 19 U.S.C. 3805 note].

“(4) Section 603 of the United States-Colombia Trade Promotion Agreement Implementation Act [Pub. L. 112-42, 19 U.S.C. 3805 note].

“(5) Section 502 of the United States-Panama Trade Promotion Agreement Implementation Act [Pub. L. 112-43, 19 U.S.C. 3805 note].”

[Pub. L. 113-295, div. A, title II, §203(b), Dec. 19, 2014, 128 Stat. 4025, provided that: “The amendment made by subsection (a) [amending section 7001 of Pub. L. 112-96, set out above] shall take effect as if included in section 7001 of the Middle Class Tax Relief and Job Creation Act of 2012 [Pub. L. 112-96].”]

PAYMENT OF CORPORATE ESTIMATED TAXES

Pub. L. 114-27, title VIII, §803, June 29, 2015, 129 Stat. 415, provided that: “Notwithstanding section 6655 of the Internal Revenue Code of 1986, in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year)—

“(1) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2020 shall be increased by 8 percent of such amount (determined without regard to any increase in such amount not contained in such Code); and

“(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.”

Pub. L. 112-163, §4, Aug. 10, 2012, 126 Stat. 1277, provided that: “Notwithstanding section 6655 of the Internal Revenue Code of 1986—

“(1) in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year), the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2017 shall be 100.25 percent of such amount; and

“(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.”

Notwithstanding this section, in the case of a corporation with assets of not less than \$1,000,000,000, any required installment of corporate estimated tax due in July, August, or September of 2012 and July, August, or September of 2016 to be increased by 0.25 percent, and the amount of the next required installment thereafter to be appropriately reduced to reflect the amount of the increase, see section 502 of Pub. L. 112-43, set out in a note under section 3805 of Title 19, Customs Duties.

Notwithstanding this section, in the case of a corporation with assets of not less than \$1,000,000,000, any required installment of corporate estimated tax otherwise due in July, August, or September of 2016 to be increased by 0.50 percent, and the amount of the next required installment thereafter to be appropriately reduced to reflect the amount of the increase, see section 603 of Pub. L. 112-42, set out in a note under section 3805 of Title 19, Customs Duties.

Notwithstanding this section, in the case of a corporation with assets of not less than \$1,000,000,000, any required installment of corporate estimated tax due in July, August, or September of 2012 to be increased by 0.25 percent and any required installment due in July, August, or September of 2016 to be increased by 2.75 percent, and the amount of the next required installment thereafter to be appropriately reduced to reflect the amount of the increase, see section 505 of Pub. L. 112-41, set out in a note under section 3805 of Title 19, Customs Duties.

Pub. L. 109-222, title IV, §401, May 17, 2006, 120 Stat. 353, as amended by Pub. L. 110-28, title VIII, §8248, May 25, 2007, 121 Stat. 204; Pub. L. 110-42, §4, June 30, 2007, 121 Stat. 236; Pub. L. 110-52, §3, Aug. 1, 2007, 121 Stat.

264; Pub. L. 110-89, §2(a), Sept. 28, 2007, 121 Stat. 982; Pub. L. 110-138, title VI, §602, Dec. 14, 2007, 121 Stat. 1490; Pub. L. 110-289, div. C, title III, §3094(a), July 30, 2008, 122 Stat. 2912, provided that: “Notwithstanding section 6655 of the Internal Revenue Code of 1986—

“(1) in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year)—

“(A) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2006 shall be 105 percent of such amount,

“(B) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be 100 percent of such amount,

“(C) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2013 shall be 100.75 percent of such amount, and

“(D) the amount of the next required installment after an installment referred to in subparagraph (A), (B), or (C) shall be appropriately reduced to reflect the amount of the increase by reason of such subparagraph,

“(2) 20.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2010 shall not be due until October 1, 2010, and

“(3) 27.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2011 shall not be due until October 1, 2011.”

[Pub. L. 111-42, title II, §202, July 28, 2009, 123 Stat. 1964, provided that:

“(a) REPEAL OF ADJUSTMENTS FOR 2010, 2011, AND 2013.—Section 401 of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] (and any modification of such section contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax which (without regard to such section) would otherwise be due after December 31, 2009.

“(b) ADJUSTMENT FOR 2014.—Notwithstanding section 6655 of the Internal Revenue Code of 1986—

“(1) in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year), the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2014 shall be 100.25 percent of such amount; and

“(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.”

[Section 202(b) of Pub. L. 111-42, set out above, and any modification of such provision, not applicable with respect to any installment of corporate income tax, see section 7001 of Pub. L. 112-96, set out as a note above.]

[Pub. L. 111-171, §12(a), May 24, 2010, 124 Stat. 1207, provided that: “The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 [Pub. L. 111-42, set out above] in effect on the date of the enactment of this Act [May 24, 2010] is increased by 0.75 percentage points.”]

[Pub. L. 111-152, title I, §1410, Mar. 30, 2010, 124 Stat. 1070, provided that: “The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 [Pub. L. 111-42, set out above] in effect on the date of the enactment of this Act [Mar. 30, 2010] is increased by 15.75 percentage points.”]

[Pub. L. 111-147, title V, §561, Mar. 18, 2010, 124 Stat. 117, provided that: “Notwithstanding section 6655 of the Internal Revenue Code of 1986, in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year)—

“(1) the percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift

Act of 2009 [Pub. L. 111-42, set out above] in effect on the date of the enactment of this Act [Mar. 18, 2010] is increased by 23 percentage points,

“(2) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2015 shall be 121.5 percent of such amount,

“(3) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2019 shall be 106.5 percent of such amount, and

“(4) the amount of the next required installment after an installment referred to in paragraph (2) or (3) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.”]

[Section 561(b) of Pub. L. 111-147, set out above, and any modification of such provision, not applicable with respect to any installment of corporate income tax, see section 7001 of Pub. L. 112-96, set out as a note above.]

[Pub. L. 111-344, title III, §302, Dec. 29, 2010, 124 Stat. 3617, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [Dec. 29, 2010] is increased by 4.5 percentage points.”]

[Pub. L. 111-240, title II, §2131, Sept. 27, 2010, 124 Stat. 2568, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [Sept. 27, 2010] is increased by 36 percentage points.”]

[Pub. L. 111-237, §4(a), Aug. 16, 2010, 124 Stat. 2498, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [Aug. 16, 2010] is increased by 0.25 percentage points.”]

[Pub. L. 111-227, title IV, §4002, Aug. 11, 2010, 124 Stat. 2480, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [Aug. 11, 2010] is increased by 0.5 percentage points.”]

[Pub. L. 111-210, §3, July 27, 2010, 124 Stat. 2256, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [July 27, 2010] is increased by 0.25 percentage points.”]

[Pub. L. 111-171, §12(b), May 24, 2010, 124 Stat. 1207, provided that: “The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147, set out above] in effect on the date of the enactment of this Act [May 24, 2010] is increased by 0.75 percentage points.”]

[Pub. L. 111-124, §4, Dec. 28, 2009, 123 Stat. 3485, provided that: “The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 [Pub. L. 111-42, set out above] in effect on the date of the enactment of this Act [Dec. 28, 2009] is increased by 1.5 percentage points.”]

[Pub. L. 111-92, §18, Nov. 6, 2009, 123 Stat. 2997, provided that: “The percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 [Pub. L. 111-42, set out above] in effect on the date of the enactment of this Act [Nov. 6, 2009] is increased by 33.0 percentage points.”]

[Pub. L. 111-3, title VII, §704, Feb. 4, 2009, 123 Stat. 111, provided that: “The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [Feb. 4, 2009] is increased by 0.5 percentage point.”]

[Pub. L. 110-436, §6, Oct. 16, 2008, 122 Stat. 4981, provided that: "The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [Oct. 16, 2008] is increased by 2 percentage points."]

[Pub. L. 110-289, div. C, title III, §3094(a), July 30, 2008, 122 Stat. 2912, provided that: "Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] is amended by striking the percentage contained therein and inserting '100 percent'. No other provision of law which would change such percentage shall have any force and effect."]

[Pub. L. 110-289, div. C, title III, §3094(b), July 30, 2008, 122 Stat. 2913, provided that: "The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [July 30, 2008] is increased by 16.75 percentage points."]

[Pub. L. 110-287, §3, July 29, 2008, 122 Stat. 2649, provided that: "The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [July 29, 2008] is increased by 0.25 percentage points."]

[Pub. L. 110-234, title XV, §15202, May 22, 2008, 122 Stat. 1500, and Pub. L. 110-246, §4(a), title XV, §15202, June 18, 2008, 122 Stat. 1664, 2262, provided that: "The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [June 18, 2008] is increased by 7.75 percentage points." Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

[Pub. L. 110-191, §4, Feb. 29, 2008, 122 Stat. 647, provided that: "The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [Feb. 29, 2008] is increased by 0.25 percentage points."]

[Pub. L. 110-142, §10, Dec. 20, 2007, 121 Stat. 1808, provided that: "The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222, set out above] in effect on the date of the enactment of this Act [Dec. 20, 2007] is increased by 1.50 percentage points."]

[Pub. L. 110-138, title I, §107(a), (c), title VI, §602, Dec. 14, 2007, 121 Stat. 1459, 1490, which directed amendment of section 401(1)(B) of Pub. L. 109-222, set out above, by striking "115 percent" and inserting "115.75 percent" effective on the date on which the United States-Peru Trade Promotion Agreement entered into force (Feb. 1, 2009) and ceasing to have effect on the date on which the Agreement terminates, could not be executed in view of the subsequent amendment by Pub. L. 110-289, §3094(a), which was effective July 30, 2008.]

TIME FOR PAYMENT OF SEPTEMBER 2001 AND SEPTEMBER 2004 CORPORATE ESTIMATED TAXES

Pub. L. 107-16, title VIII, §801, June 7, 2001, 115 Stat. 148, provided that: "Notwithstanding section 6655 of the Internal Revenue Code of 1986—

"(1) 100 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2001 shall not be due until October 1, 2001; and

"(2) 20 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2004 shall not be due until October 1, 2004."

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

No addition to tax to be made under this section with respect to any underpayment of an installment re-

quired to be paid on or before the 30th day after July 22, 1998, to the extent such underpayment was created or increased by any provision of Pub. L. 105-206, see section 1(c) of Pub. L. 105-206, set out as a note under section 6654 of this title.

No addition to tax to be made under this section for any period before Jan. 1, 1998, for any payment the due date of which is before Jan. 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of Pub. L. 105-34, see section 1(d) of Pub. L. 105-34, set out as a note under section 6654 of this title.

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

No addition to tax to be made under this section with respect to any underpayment of an installment required to be paid before Aug. 20, 1996, to the extent such underpayment was created or increased by any provision of title I (§§1101-1954) of Pub. L. 104-188, see section 1102 of Pub. L. 104-188, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

No addition to tax to be made under this section for any period before Apr. 16, 1994 (Mar. 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of chapter 1 (§§13001-13444) of title XIII of Pub. L. 103-66, see section 13001(d) of Pub. L. 103-66, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of former section 420(b)(4)(B) of this title, see section 12011(c)(2) of Pub. L. 101-508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1990 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1990

Pub. L. 101-508, title XI, §11307, Nov. 5, 1990, 104 Stat. 1388-452, provided that: "No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part [part I (§§11301-11307) of subtitle C of title XI of Pub. L. 101-508, see Tables for classification]."

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(d)(3) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Mar. 16, 1989, with respect to any underpayment to the extent such underpayment was created or increased by any provision of title I (§§1001 to 1019) or II (§§2001 to 2006) of Pub. L. 100-647, see section 1019(b) of Pub. L. 100-647, set out as an Effective

Date of 1988 Amendment note under section 1 of this title.

CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987

Pub. L. 100-203, title X, § 10303(b)(2), Dec. 22, 1987, 101 Stat. 1330-430, provided that:

“(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

“(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

“(C) LARGE CORPORATION.—For purposes of this subsection, the term ‘large corporation’ has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act [Dec. 22, 1987]).”

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

No addition to tax to be made under this section for any period before Mar. 16, 1987, with respect to any underpayment, to the extent such underpayment was created or increased by any provision of Pub. L. 99-514, see section 1543 of Pub. L. 99-514, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES

Pub. L. 99-514, title XVIII, § 1879(a), Oct. 22, 1986, 100 Stat. 2905, provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 [now 1986] (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A].”

UNDERPAYMENTS OF ESTIMATED TAX FOR 1984

Pub. L. 98-369, div. A, title II, subtitle A, § 218, July 18, 1984, 98 Stat. 766, which provided that no addition to the tax shall be made under section 6655 of this title with respect to any underpayment of an installment required to be paid before July 18, 1984, to the extent such underpayment was created or increased by any provision of this subtitle, and such underpayment was paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after July 18, 1984, was repealed by Pub. L. 99-514, title XVIII, § 1824, Oct. 22, 1986, 100 Stat. 2846.

WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

Pub. L. 94-455, title VIII, § 803(g), Oct. 4, 1976, 90 Stat. 1589, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If—

“(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as it existed before the date of enactment of this Act [Oct. 4, 1976]) apply for such taxable year, and

“(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable

year because this Act does not contain the amendments made by section 804(a)(2) (relating to flow-through of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate, then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.”

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration, or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91-172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimated tax before the first installment date, this section, and sections 6015, 6154, and 6654 of this title shall be applied without regard to amendments made by Pub. L. 91-172, see section 946(b) of Pub. L. 91-172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of “installment date”, see Pub. L. 93-53, § 5(c), Aug. 7, 1969, 83 Stat. 95.

ESTIMATED TAX OF LIFE INSURANCE COMPANIES FOR 1958

Pub. L. 86-69, June 25, 1959, § 3(h), 73 Stat. 140, provided that in the case of a taxpayer subject to tax under section 811 of this title, as in effect before June 25, 1959, no additional tax was to be payable under this section with respect to estimated tax for a taxable year beginning in 1958.

§ 6656. Failure to make deposit of taxes

(a) Underpayment of deposits

In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

(b) Definitions

For purposes of subsection (a)—

(1) Applicable percentage

(A) In general

Except as provided in subparagraph (B), the term “applicable percentage” means—

(i) 2 percent if the failure is for not more than 5 days,

- (ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and
- (iii) 10 percent if the failure is for more than 15 days.

(B) Special rule

In any case where the tax is not deposited on or before the earlier of—

- (i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or
- (ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

(2) Underpayment

The term “underpayment” means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

(c) Exception for first-time depositors of employment taxes

The Secretary may waive the penalty imposed by subsection (a) on a person’s inadvertent failure to deposit any employment tax if—

- (1) such person meets the requirements referred to in section 7430(c)(4)(A)(ii),
- (2) such failure—
 - (A) occurs during the first quarter that such person was required to deposit any employment tax; or
 - (B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and
- (3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term “employment taxes” means the taxes imposed by subtitle C.

(d) Authority to abate penalty where deposit sent to Secretary

The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(e) Designation of periods to which deposits apply

(1) In general

A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.

(2) Time for making designation

A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 91-172, title IX, §943(b), Dec. 30, 1969, 83 Stat. 728; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title VII, §724(a), (b)(1), (3), Aug. 13, 1981, 95 Stat. 344, 345; Pub. L. 99-509, title VIII, §8001(a), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 101-239, title VII, §7742(a), Dec. 19, 1989, 103 Stat. 2405; Pub. L. 104-168, title III, §304(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1458, 1464; Pub. L. 105-206, title III, §3304(a)–(c), July 22, 1998, 112 Stat. 742.)

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-206, §3304(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and”.

Subsec. (e). Pub. L. 105-206, §3304(a), added subsec. (e). Subsec. (e)(1). Pub. L. 105-206, §3304(c), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “A person may, with respect to any deposit of tax to be reported on such person’s return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.”

1996—Subsec. (c). Pub. L. 104-168, §304(a), added subsec. (c).

Subsec. (c)(1). Pub. L. 104-168, §701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

Subsec. (d). Pub. L. 104-168, §304(a), added subsec. (d).

1989—Pub. L. 101-239 substituted “taxes” for “taxes or overstatement of deposits” as section catchline and amended text generally, revising substance and structure.

1986—Subsec. (a). Pub. L. 99-509 substituted “10 percent” for “5 percent”.

1981—Pub. L. 97-34, §724(b)(1), inserted “or overstatement of deposits” after “taxes” in section catchline.

Subsec. (a). Pub. L. 97-34, §724(b)(3), substituted “Underpayment of deposits” for “Penalty” in heading.

Subsec. (b). Pub. L. 97-34, §724(a), substituted provisions relating to conditions for imposition of penalties for overstated deposit claims and definition of “overstated deposit claim”, for provisions relating to imposition of penalties after due date for return.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Subsec. (a). Pub. L. 91-172 substituted provisions imposing a penalty of five percent for the failure to deposit on the date prescribed any amount of tax imposed by this title, for provisions imposing a penalty of one percent of the amount of underpayment each month but not to exceed six percent in the aggregate.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3304(d), July 22, 1998, 112 Stat. 742, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act [July 22, 1998].

“(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) [amending this section] shall apply to deposits required to be made after December 31, 2001.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §304(b), July 30, 1996, 110 Stat. 1459, provided that: “The amendment made by subsection (a) [amending this section] shall apply to deposits required to be made after the date of the enactment of this Act [July 30, 1996].”

Amendment by section 701(c)(3) of Pub. L. 104-168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104-168, set out as a note under section 6404 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7742(c), Dec. 19, 1989, 103 Stat. 2405, provided that: “The amendments made by this section [amending this section] shall apply to deposits required to be made after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title VIII, § 8001(b), Oct. 21, 1986, 100 Stat. 1951, provided that: “The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 21, 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, § 724(c), Aug. 13, 1981, 95 Stat. 345, provided that: “The amendments made by this section [amending this section and sections 5684 and 5761 of this title] shall apply to returns filed after the date of the enactment of this Act [Aug. 13, 1981].”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to deposits the time for making of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

§ 6657. Bad checks

If any instrument in payment, by any commercially acceptable means, of any amount receivable under this title is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such instrument, upon notice and demand by the Secretary, in the same manner as tax, an amount equal to 2 percent of the amount of such instrument, except that if the amount of such instrument is less than \$1,250, the penalty under this section shall be \$25 or the amount of such instrument, whichever is the lesser. This section shall not apply if the person tendered such instrument in good faith and with reasonable cause to believe that it would be duly paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title V, § 5071(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 110-28, title VIII, § 8245(a), May 25, 2007, 121 Stat. 200; Pub. L. 111-198, § 3(a), July 2, 2010, 124 Stat. 1356.)

AMENDMENTS

2010—Pub. L. 111-198, § 3(a)(2), substituted “such instrument” for “such check” wherever appearing.

Pub. L. 111-198, § 3(a)(1), substituted “If any instrument in payment, by any commercially acceptable means, of any amount” for “If any check or money order in payment of any amount”.

2007—Pub. L. 110-28 substituted “\$1,250” for “\$750” and “\$25” for “\$15”.

1988—Pub. L. 100-647 substituted “2” for “1”, “\$750” for “\$500”, and “\$15” for “\$5”.

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

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-198, § 3(b), July 2, 2010, 124 Stat. 1356, provided that: “The amendments made by this section [amending this section] shall apply to instruments tendered after the date of the enactment of this Act [July 2, 2010].”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-28, title VIII, § 8245(b), May 25, 2007, 121 Stat. 200, provided that: “The amendments made by

this section [amending this section] apply to checks or money orders received after the date of the enactment of this Act [May 25, 2007].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, § 5071(b), Nov. 10, 1988, 102 Stat. 3681, provided that: “The amendment made by subsection (a) [amending this section] shall apply to checks or money orders received after the date of the enactment of this Act [Nov. 10, 1988].”

§ 6658. Coordination with title 11**(a) Certain failures to pay tax**

No addition to the tax shall be made under section 6651, 6654, or 6655 for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

(2) if—

(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

(B)(i) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

(ii) the date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) Exception for collected taxes

Subsection (a) shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States.

(Added Pub. L. 96-589, § 6(e)(1), Dec. 24, 1980, 94 Stat. 3408.)

PRIOR PROVISIONS

A prior section 6658, act Aug. 16, 1954, ch. 736, 68A Stat. 826, authorized inclusion as part of the tax a 25 percent penalty in cases of violations or attempted violations of section 6851 of this title, prior to repeal by Pub. L. 96-167, § 6(a), Dec. 29, 1979, 93 Stat. 1276.

EFFECTIVE DATE

Section effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

[§§ 6659 to 6661. Repealed. Pub. L. 101-239, title VII, § 7721(c)(2), Dec. 19, 1989, 103 Stat. 2399]

Section 6659, added Pub. L. 97-34, title VII, § 722(a)(1), Aug. 13, 1981, 95 Stat. 341; amended Pub. L. 97-448, title I, § 107(a)(1), (2), Jan. 12, 1983, 96 Stat. 2391; Pub. L. 98-369, div. A, title I, § 155(c)(1), title VII, § 721(x)(4), July 18, 1984, 98 Stat. 693, 971, related to additions to tax in case of valuation overstatements for purposes of the income tax.

A prior section 6659 was renumbered section 6662 of this title.

Section 6659A, added Pub. L. 99-514, title XI, § 1138(a), Oct. 22, 1986, 100 Stat. 2486, related to additions to tax in case of overstatements of pension liabilities.

Section 6660, added Pub. L. 98-369, div. A, title I, § 155(c)(2)(A), July 18, 1984, 98 Stat. 694; amended Pub. L.

99-514, title XVIII, §§1811(d), 1899A(57), Oct. 22, 1986, 100 Stat. 2833, 2961, related to additions to tax in case of valuation understatements for purposes of estate or gift taxes.

A prior section 6660 was renumbered section 6662 of this title.

Section 6661, added Pub. L. 97-248, title III, §323(a), Sept. 3, 1982, 96 Stat. 613; amended Pub. L. 97-354, §5(a)(42), Oct. 19, 1982, 96 Stat. 1697; Pub. L. 98-369, div. A, title VII, §714(h)(3), July 18, 1984, 98 Stat. 962; Pub. L. 99-509, title VIII, §8002(a), (c), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99-514, title XV, §1504(a), Oct. 22, 1986, 100 Stat. 2743, related to substantial understatements of liability.

EFFECTIVE DATE OF REPEAL

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

PART II—ACCURACY-RELATED AND FRAUD PENALTIES

Sec.	
6662.	Imposition of accuracy-related penalty on underpayments.
6662A.	Imposition of accuracy-related penalty on understatements with respect to reportable transactions.
6663.	Imposition of fraud penalty.
6664.	Definitions and special rules.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §812(e)(2), Oct. 22, 2004, 118 Stat. 1580, added items 6662 and 6662A and struck out former item 6662 “Imposition of accuracy-related penalty”.

1989—Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395, added part heading and analysis of sections.

§ 6662. Imposition of accuracy-related penalty on underpayments

(a) Imposition of penalty

If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

(b) Portion of underpayment to which section applies

This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

- (1) Negligence or disregard of rules or regulations.
- (2) Any substantial understatement of income tax.
- (3) Any substantial valuation misstatement under chapter 1.
- (4) Any substantial overstatement of pension liabilities.
- (5) Any substantial estate or gift tax valuation understatement.
- (6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.
- (7) Any undisclosed foreign financial asset understatement.
- (8) Any inconsistent estate basis.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663. Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.

(c) Negligence

For purposes of this section, the term “negligence” includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term “disregard” includes any careless, reckless, or intentional disregard.

(d) Substantial understatement of income tax

(1) Substantial understatement

(A) In general

For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

- (i) 10 percent of the tax required to be shown on the return for the taxable year, or
- (ii) \$5,000.

(B) Special rule for corporations

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

- (i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, \$10,000), or
- (ii) \$10,000,000.

(C) Special rule for taxpayers claiming section 199A deduction

In the case of any taxpayer who claims the deduction allowed under section 199A for the taxable year, subparagraph (A) shall be applied by substituting “5 percent” for “10 percent”.

(2) Understatement

(A) In general

For purposes of paragraph (1), the term “understatement” means the excess of—

- (i) the amount of the tax required to be shown on the return for the taxable year, over
- (ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.

(B) Reduction for understatement due to position of taxpayer or disclosed item

The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

- (i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) any item if—

(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.

For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.

(C) Reduction not to apply to tax shelters

(i) In general

Subparagraph (B) shall not apply to any item attributable to a tax shelter.

(ii) Tax shelter

For purposes of clause (i), the term “tax shelter” means—

(I) a partnership or other entity,

(II) any investment plan or arrangement, or

(III) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

(3) Secretarial list

The Secretary may prescribe a list of positions which the Secretary believes do not meet 1 or more of the standards specified in paragraph (2)(B)(i), section 6664(d)(2),¹ and section 6694(a)(1). Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.

(e) Substantial valuation misstatement under chapter 1

(1) In general

For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

(B)(i) the price for any property or services (or for the use of property) claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of \$5,000,000 or 10 percent of the taxpayer's gross receipts.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the

underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

(3) Net section 482 transfer price adjustment

For purposes of this subsection—

(A) In general

The term “net section 482 transfer price adjustment” means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the price for any property or services (or for the use of property).

(B) Certain adjustments excluded in determining threshold

For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

¹ See References in Text note below.

(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(C) Special rule

If the regular tax (as defined in section 55(c)) imposed by chapter 1 on the taxpayer is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of this paragraph.

(D) Coordination with reasonable cause exception

For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.

(f) Substantial overstatement of pension liabilities

(1) In general

For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds \$1,000.

(g) Substantial estate or gift tax valuation understatement

(1) In general

For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 65 percent or less of the amount determined to be the correct amount of such valuation.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds \$5,000.

(h) Increase in penalty in case of gross valuation misstatements

(1) In general

To the extent that a portion of the underpayment to which this section applies is at-

tributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting “40 percent” for “20 percent”.

(2) Gross valuation misstatements

The term “gross valuation misstatements” means—

(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

(i) in paragraph (1)(A), “200 percent” for “150 percent”,

(ii) in paragraph (1)(B)(i)—

(I) “400 percent” for “200 percent”, and

(II) “25 percent” for “50 percent”, and

(iii) in paragraph (1)(B)(ii)—

(I) “\$20,000,000” for “\$5,000,000”, and

(II) “20 percent” for “10 percent”.

(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting “400 percent” for “200 percent”, and

(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting “40 percent” for “65 percent”.

(j)² Undisclosed foreign financial asset understatement

(1) In general

For purposes of this section, the term “undisclosed foreign financial asset understatement” means, for any taxable year, the portion of the understatement for such taxable year which is attributable to any transaction involving an undisclosed foreign financial asset.

(2) Undisclosed foreign financial asset

For purposes of this subsection, the term “undisclosed foreign financial asset” means, with respect to any taxable year, any asset with respect to which information was required to be provided under section 6038, 6038B, 6038D, 6046A, or 6048 for such taxable year but was not provided by the taxpayer as required under the provisions of those sections.

(3) Increase in penalty for undisclosed foreign financial asset understatements

In the case of any portion of an underpayment which is attributable to any undisclosed foreign financial asset understatement, subsection (a) shall be applied with respect to such portion by substituting “40 percent” for “20 percent”.

(i)³ Increase in penalty in case of nondisclosed noneconomic substance transactions

(1) In general

In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting “40 percent” for “20 percent”.

²So in original. Subsec. (i) is set out after subsec. (j).

³So in original. Subsec. (j) is set out before subsec. (i).

(2) Nondisclosed noneconomic substance transactions

For purposes of this subsection, the term “nondisclosed noneconomic substance transaction” means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

(3) Special rule for amended returns

In no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

(k) Inconsistent estate basis reporting

For purposes of this section, there is an “inconsistent estate basis” if the basis of property claimed on a return exceeds the basis as determined under section 1014(f).

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2395; amended Pub. L. 101-508, title XI, § 11312(a), (b), Nov. 5, 1990, 104 Stat. 1388-454, 1388-455; Pub. L. 103-66, title XIII, §§ 13236(a)-(d), 13251(a), Aug. 10, 1993, 107 Stat. 505, 506, 531; Pub. L. 103-465, title VII, § 744(a), (b), Dec. 8, 1994, 108 Stat. 5011; Pub. L. 105-34, title X, § 1028(c), Aug. 5, 1997, 111 Stat. 928; Pub. L. 108-357, title VIII, §§ 812(b), (d), (e)(1), 819(a), (b), Oct. 22, 2004, 118 Stat. 1578, 1580, 1584; Pub. L. 109-135, title IV, §§ 403(x)(1), 412(aaa), Dec. 21, 2005, 119 Stat. 2629, 2641; Pub. L. 109-280, title XII, § 1219(a)(1), (2), Aug. 17, 2006, 120 Stat. 1083; Pub. L. 111-147, title V, § 512(a), Mar. 18, 2010, 124 Stat. 110; Pub. L. 111-152, title I, § 1409(b)(1), (2), Mar. 30, 2010, 124 Stat. 1068, 1069; Pub. L. 113-295, div. A, title II, § 208(a), Dec. 19, 2014, 128 Stat. 4028; Pub. L. 114-41, title II, § 2004(c), July 31, 2015, 129 Stat. 456; Pub. L. 115-97, title I, § 11011(c), Dec. 22, 2017, 131 Stat. 2070.)

REFERENCES IN TEXT

Section 6664(d)(2), referred to in subsec. (d)(3), was redesignated as section 6664(d)(3) by Pub. L. 111-152, title I, § 1409(c)(2)(A), Mar. 30, 2010, 124 Stat. 1069.

CODIFICATION

Section 1409(b)(1), (2) of Pub. L. 111-152, which directed the amendment of section 6662 without specifying the act to be amended, was executed to this section, which is section 6662 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment notes below.

Section 1219(a)(1), (2) of Pub. L. 109-280, which directed the amendment of section 6662 without specifying the act to be amended, was executed to this section, which is section 6662 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

PRIOR PROVISIONS

A prior section 6662, acts Aug. 16, 1954, ch. 736, 68A Stat. 827, § 6659; May 14, 1960, Pub. L. 86-470, § 1, 74 Stat. 132; Dec. 30, 1969, Pub. L. 91-172, title I, § 101(j)(51), 83 Stat. 531; Sept. 2, 1974, Pub. L. 93-406, title II, § 1016(a)(19), 88 Stat. 931; renumbered § 6660, Aug. 13, 1981, Pub. L. 97-34, title VII, § 722(a)(1), 95 Stat. 341; re-

numbered § 6662, Sept. 3, 1982, Pub. L. 97-248, title III, § 323(a), 96 Stat. 613, directed that additions be treated as tax and set procedure for assessing certain additions to tax, prior to repeal by Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2395, applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989. See section 6665 of this title.

AMENDMENTS

2017—Subsec. (d)(1)(C). Pub. L. 115-97 added subpar. (C).

2015—Subsec. (b)(8). Pub. L. 114-41, § 2004(c)(1), added par. (8).

Subsec. (k). Pub. L. 114-41, § 2004(c)(2), added subsec. (k).

2014—Subsec. (b)(7). Pub. L. 113-295, § 208(a), amended directory language of Pub. L. 111-147, § 512(a)(1). See 2010 Amendment note below.

2010—Subsec. (b)(6). Pub. L. 111-152, § 1409(b)(1), added par. (6). See Codification note above.

Subsec. (b)(7). Pub. L. 111-147, § 512(a)(1), as amended by Pub. L. 113-295, § 208(a), added par. (7).

Subsec. (i). Pub. L. 111-152, § 1409(b)(2), added subsec. (i). See Codification note above.

Subsec. (j). Pub. L. 111-147, § 512(a)(2), added subsec. (j).

2006—Subsec. (e)(1)(A). Pub. L. 109-280, § 1219(a)(1)(A), substituted “150 percent” for “200 percent”. See Codification note above.

Subsec. (g)(1). Pub. L. 109-280, § 1219(a)(1)(B), substituted “65 percent” for “50 percent”. See Codification note above.

Subsec. (h)(2)(A)(i), (ii). Pub. L. 109-280, § 1219(a)(2)(A), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

“(i) ‘400 percent’ for ‘200 percent’ each place it appears,

“(ii) ‘25 percent’ for ‘50 percent’, and”.

See Codification note above.

Subsec. (h)(2)(C). Pub. L. 109-280, § 1219(a)(2)(B), substituted “‘40 percent’ for ‘65 percent’” for “‘25 percent’ for ‘50 percent’”. See Codification note above.

2005—Subsec. (b). Pub. L. 109-135, § 403(x)(1), inserted at end “Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.”

Subsec. (d)(3). Pub. L. 109-135, § 412(aaa), struck out “the” before “1 or more”.

2004—Pub. L. 108-357, § 812(e)(1), inserted “on underpayments” after “penalty” in section catchline.

Subsec. (d)(1)(B). Pub. L. 108-357, § 819(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting ‘\$10,000’ for ‘\$5,000’.”

Subsec. (d)(2)(A). Pub. L. 108-357, § 812(b), inserted concluding provisions.

Subsec. (d)(2)(C). Pub. L. 108-357, § 812(d), amended subpar. (C) generally, substituting provisions relating to inapplicability of subpar. (B) to any item attributable to a tax shelter and defining the term “tax shelter” for provisions relating to, in the case of any item of a taxpayer other than a corporation which is attributable to a tax shelter, inapplicability of subpar. (B)(ii) and inapplicability of subpar. (B)(i), unless the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment, inapplicability of subpar. (B) to any item of a corporation which is attributable to a tax shelter, and provisions defining the term “tax shelter”.

Subsec. (d)(2)(D). Pub. L. 108-357, § 819(b)(2), struck out heading and text of subpar. (D). Text read as follows: “The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

“(i) for which the Secretary believes there is not substantial authority, and

“(ii) which affect a significant number of taxpayers. Such list (and any revision thereof) shall be published in the Federal Register.”

Subsec. (d)(3). Pub. L. 108-357, §819(b)(1), added par. (3).

1997—Subsec. (d)(2)(B). Pub. L. 105-34, §1028(c)(1), inserted concluding provisions.

Subsec. (d)(2)(C)(iii). Pub. L. 105-34, §1028(c)(2), substituted “a significant purpose” for “the principal purpose” in concluding provisions.

1994—Subsec. (d)(2)(C)(i). Pub. L. 103-465, §744(b)(1), substituted “In the case of any item of a taxpayer other than a corporation which is” for “In the case of any item” in introductory provisions.

Subsec. (d)(2)(C)(ii). Pub. L. 103-465, §744(a), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (d)(2)(C)(iii). Pub. L. 103-465, §744(a), (b)(2), redesignated cl. (ii) as (iii) and substituted “this subparagraph” for “clause (i)” in introductory provisions.

1993—Subsec. (d)(2)(B)(ii). Pub. L. 103-66, §13251(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “any item with respect to which the relevant facts affecting the item’s tax treatment are adequately disclosed in the return or in a statement attached to the return.”

Subsec. (e)(1)(B)(ii). Pub. L. 103-66, §13236(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the net section 482 transfer price adjustment for the taxable year exceeds \$10,000,000.”

Subsec. (e)(3)(B). Pub. L. 103-66, §13236(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “For purposes of determining whether the \$10,000,000 threshold requirement of paragraph (1)(B)(ii) is met, there shall be excluded—

“(i) any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if it is shown that there was a reasonable cause for the taxpayer’s determination of such price and that the taxpayer acted in good faith with respect to such price, and

“(ii) any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any of such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.”

Subsec. (e)(3)(D). Pub. L. 103-66, §13236(c), added subpar. (D).

Subsec. (h)(2)(A)(iii). Pub. L. 103-66, §13236(d), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “‘\$20,000,000’ for ‘\$10,000,000’.”

1990—Subsec. (b)(3). Pub. L. 101-508, §11312(b)(1), amended par. (3) generally, substituting “misstatement” for “overstatement”.

Subsec. (e). Pub. L. 101-508, §11312(a), substituted “misstatement” for “overstatement” in heading and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

“(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).”

Subsec. (h)(2)(A). Pub. L. 101-508, §11312(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “any substantial valuation overstatement under chapter 1 as determined under sub-

section (e) by substituting ‘400 percent’ for ‘200 percent’.”

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11011(e) of Pub. L. 115-97, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-41 applicable to property with respect to which an estate tax return is filed after July 31, 2015, see section 2004(d) of Pub. L. 114-41, set out as a note under section 1014 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title II, §208(b), Dec. 19, 2014, 128 Stat. 4028, provided that: “The amendment made by this section [amending this section] shall take effect as if included in the provision of the Hiring Incentives to Restore Employment Act [Pub. L. 111-147] to which it relates.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title I, §1409(e), Mar. 30, 2010, 124 Stat. 1070, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 6662A, 6664, 6676, and 7701 of this title] shall apply to transactions entered into after the date of the enactment of this Act [Mar. 30, 2010].

“(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) [amending this section and sections 6662A and 6664 of this title] shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

“(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) [amending section 6664 of this title] shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

“(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) [amending section 6676 of this title] shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.”

Pub. L. 111-147, title V, §512(b), Mar. 18, 2010, 124 Stat. 111, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Mar. 18, 2010].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to returns filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(1), (3) of Pub. L. 109-280, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 403(x)(1) of Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §812(f), Oct. 22, 2004, 118 Stat. 1580, as amended by Pub. L. 109-135, title IV, §403(x)(3), Dec. 21, 2005, 119 Stat. 2629, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 6662A of this title and amending this section and section 6664 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].

“(2) DISQUALIFIED OPINIONS.—Section 6664(d)(3)(B) of the Internal Revenue Code of 1986 [now section

6664(d)(4)(B)] (as added by subsection (c)) shall not apply to the opinion of a tax advisor if—

“(A) the opinion was provided to the taxpayer before the date of the enactment of this Act,

“(B) the opinion relates to one or more transactions all of which were entered into before such date, and

“(C) the tax treatment of items relating to each such transaction was included on a return or statement filed by the taxpayer before such date.”

Pub. L. 108-357, title VIII, §819(c), Oct. 22, 2004, 118 Stat. 1585, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to items with respect to transactions entered into after Aug. 5, 1997, see section 1028(e)(2) of Pub. L. 105-34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, §744(c), Dec. 8, 1994, 108 Stat. 5011, provided that: “The amendments made by this section [amending this section] shall apply to items related to transactions occurring after the date of the enactment of this Act [Dec. 8, 1994].”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13236(e), Aug. 10, 1993, 107 Stat. 506, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.”

Pub. L. 103-66, title XIII, §13251(b), Aug. 10, 1993, 107 Stat. 531, provided that: “The amendment made by this section [amending this section] shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11312(c), Nov. 5, 1990, 104 Stat. 1388-455, provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE

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

§ 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions

(a) Imposition of penalty

If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

(b) Reportable transaction understatement

For purposes of this section—

(1) In general

The term “reportable transaction understatement” means the sum of—

(A) the product of—

(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer’s treatment of such item (as shown on the taxpayer’s return of tax), and

(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer’s treatment of an item to which this section applies (as shown on the taxpayer’s return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

(2) Items to which section applies

This section shall apply to any item which is attributable to—

(A) any listed transaction, and

(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

(c) Higher penalty for nondisclosed listed and other avoidance transactions

Subsection (a) shall be applied by substituting “30 percent” for “20 percent” with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(3)(A) is not met.

(d) Definitions of reportable and listed transactions

For purposes of this section, the terms “reportable transaction” and “listed transaction” have the respective meanings given to such terms by section 6707A(c).

(e) Special rules

(1) Coordination with penalties, etc., on other understatements

In the case of an understatement (as defined in section 6662(d)(2))—

(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

(2) Coordination with other penalties

(A) Coordination with fraud penalty

This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

(B) Coordination with certain increased underpayment penalties

This section shall not apply to any portion of an understatement on which a penalty is

imposed under section 6662 if the rate of the penalty is determined under subsections (h) or (i) of section 6662.

(3) Special rule for amended returns

Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

(Added Pub. L. 108-357, title VIII, § 812(a), Oct. 22, 2004, 118 Stat. 1577; amended Pub. L. 109-135, title IV, § 403(x)(2), Dec. 21, 2005, 119 Stat. 2629; Pub. L. 111-152, title I, § 1409(b)(3), Mar. 30, 2010, 124 Stat. 1069; Pub. L. 113-295, div. A, title II, § 220(w), Dec. 19, 2014, 128 Stat. 4036.)

CODIFICATION

Section 1409(b)(3) of Pub. L. 111-152, which directed the amendment of section 6662A without specifying the act to be amended, was executed to this section, which is section 6662A of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment note below.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 substituted “section 6664(d)(3)(A)” for “section 6664(d)(2)(A)”.

2010—Subsec. (e)(2)(B). Pub. L. 111-152 substituted “certain increased underpayment penalties” for “gross valuation misstatement penalty” in heading and “subsections (h) or (i) of section 6662” for “section 6662(h)” in text. See Codification note above.

2005—Subsec. (e)(2). Pub. L. 109-135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

“(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

“(C) COORDINATION WITH VALUATION PENALTIES.—

“(i) SECTION 6662(e).—Section 6662(e) shall not apply to any portion of an understatement on which a penalty is imposed under this section.

“(ii) SECTION 6662(h).—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662(h).”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable to underpayments attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(2) of Pub. L. 111-152, set out as a note under section 6662 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable to taxable years ending after Oct. 22, 2004, see section 812(f) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendment note under section 6662 of this title.

REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS

Pub. L. 111-240, title II, § 2103, Sept. 27, 2010, 124 Stat. 2564, provided that:

“(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

“(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

“(2) Section 6700(a) (relating to promoting abusive tax shelters).

“(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

“(4) Section 6707A (relating to failure to include reportable transaction information with return).

“(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

“(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

“(1) Any action taken under section 330(b) [now 330(c)] of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

“(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

“(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.”

§ 6663. Imposition of fraud penalty

(a) Imposition of penalty

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

(b) Determination of portion attributable to fraud

If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

(c) Special rule for joint returns

In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2397.)

EFFECTIVE DATE

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

§ 6664. Definitions and special rules

(a) Underpayment

For purposes of this part, the term “underpayment” means the amount by which any tax imposed by this title exceeds the excess of—

(1) the sum of—

(A) the amount shown as the tax by the taxpayer on his return, plus

(B) amounts not so shown previously assessed (or collected without assessment), over

(2) the amount of rebates made.

For purposes of paragraph (2), the term “rebate” means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made. A rule similar to the rule of section 6211(b)(4) shall apply for purposes of this subsection.

(b) Penalties applicable only where return filed

The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

(c) Reasonable cause exception for underpayments

(1) In general

No penalty shall be imposed under section 6662 or 6663 with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(2) Exception

Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).

(3) Special rule for certain valuation overstatements

In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if—

(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

(4) Definitions

For purposes of this subsection—

(A) Charitable deduction property

The term “charitable deduction property” means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (3), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(B) Qualified appraisal

The term “qualified appraisal” has the meaning given such term by section 170(f)(11)(E)(i).

(C) Qualified appraiser

The term “qualified appraiser” has the meaning given such term by section 170(f)(11)(E)(ii).

(d) Reasonable cause exception for reportable transaction understatements

(1) In general

No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(2) Exception

Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).

(3) Special rules

Paragraph (1) shall not apply to any reportable transaction understatement unless—

(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

(B) there is or was substantial authority for such treatment, and

(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

(4) Rules relating to reasonable belief

For purposes of paragraph (3)(C)—

(A) In general

A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

(B) Certain opinions may not be relied upon

(i) In general

An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

(I) the tax advisor is described in clause (ii), or

(II) the opinion is described in clause (iii).

(ii) Disqualified tax advisors

A tax advisor is described in this clause if the tax advisor—

(I) is a material advisor (within the meaning of section 6111(b)(1)) and par-

ticipates in the organization, management, promotion, or sale of the transaction or is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

(iii) Disqualified opinions

For purposes of clause (i), an opinion is disqualified if the opinion—

(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

(III) does not identify and consider all relevant facts, or

(IV) fails to meet any other requirement as the Secretary may prescribe.

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398; amended Pub. L. 108-357, title VIII, § 812(c), Oct. 22, 2004, 118 Stat. 1579; Pub. L. 109-280, title XII, § 1219(a)(3), (c)(2), Aug. 17, 2006, 120 Stat. 1084, 1085; Pub. L. 111-152, title I, § 1409(c), Mar. 30, 2010, 124 Stat. 1069; Pub. L. 114-113, div. Q, title II, § 209(a), Dec. 18, 2015, 129 Stat. 3084.)

CODIFICATION

Section 1409(c) of Pub. L. 111-152, which directed the amendment of section 6664 without specifying the act to be amended, was executed to this section, which is section 6664 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment notes below.

Section 1219(a)(3), (c)(2) of Pub. L. 109-280, which directed the amendment of section 6664 without specifying the act to be amended, was executed to this section, which is section 6664 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-113 inserted at end “A rule similar to the rule of section 6211(b)(4) shall apply for purposes of this subsection.”

2010—Subsec. (c)(2) to (4). Pub. L. 111-152, § 1409(c)(1)(A), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. See Codification note above.

Subsec. (c)(4)(A). Pub. L. 111-152, § 1409(c)(1)(B), substituted “paragraph (3)” for “paragraph (2)”. See Codification note above.

Subsec. (d)(2), (3). Pub. L. 111-152, § 1409(c)(2)(A), (C), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4). See Codification note above.

Subsec. (d)(4). Pub. L. 111-152, § 1409(c)(2)(B), substituted “paragraph (3)(C)” for “paragraph (2)(C)” in introductory provisions. See Codification note above.

Pub. L. 111-152, § 1409(c)(2)(A), redesignated par. (3) as (4). See Codification note above.

2006—Subsec. (c)(2). Pub. L. 109-280, § 1219(a)(3), substituted “paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if—” for “paragraph (1) shall not apply unless—” in introductory provisions. See Codification note above.

Subsec. (c)(3)(B), (C). Pub. L. 109-280, § 1219(c)(2), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) QUALIFIED APPRAISER.—The term ‘qualified appraiser’ means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

“(C) QUALIFIED APPRAISAL.—The term ‘qualified appraisal’ means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).” See Codification note above.

2004—Subsec. (c). Pub. L. 108-357, § 812(c)(2)(B), inserted “for underpayments” after “exception” in heading.

Subsec. (c)(1). Pub. L. 108-357, § 812(c)(2)(A), substituted “section 6662 or 6663” for “this part”.

Subsec. (d). Pub. L. 108-357, § 812(c)(1), added subsec. (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, § 209(d)(1), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendment made by subsection (a) [amending this section] shall apply to—

“(A) returns filed after the date of the enactment of this Act [Dec. 18, 2015], and

“(B) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 for assessment of the taxes with respect to which such return relates has not expired as of such date.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1409(c)(1) of Pub. L. 111-152 applicable to underpayments attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(2) of Pub. L. 111-152, set out as a note under section 6662 of this title.

Amendment by section 1409(c)(2) of Pub. L. 111-152 applicable to understatements attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(3) of Pub. L. 111-152, set out as a note under section 6662 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1219(a)(3) of Pub. L. 109-280 applicable to returns filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(1), (3), of Pub. L. 109-280, set out as a note under section 170 of this title.

Amendment by section 1219(c)(2) of Pub. L. 109-280 applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, see section 1219(e)(2) of Pub. L. 109-280, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, with special rule for application of subsec. (d)(3)(B) [now (d)(4)(B)] of this section, see section 812(f) of Pub. L. 108-357, as amended, set out as a note under section 6662 of this title.

EFFECTIVE DATE

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

PART III—APPLICABLE RULES

Sec.
6665. Applicable rules.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398, added part heading and analysis.

§ 6665. Applicable rules**(a) Additions treated as tax**

Except as otherwise provided in this title—

(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

(2) any reference in this title to “tax” imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

(b) Procedure for assessing certain additions to tax

For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year.

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2399.)

EFFECTIVE DATE

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

Subchapter B—Assessable Penalties**Part**

- I. General provisions.
- II. Failure to comply with certain information reporting requirements.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7711(b)(5), Dec. 19, 1989, 103 Stat. 2393, substituted “Failure to comply with certain information reporting requirements” for “Failure to file certain information returns or statements” in item for part II.

PART I—GENERAL PROVISIONS

- Sec. 6671. Rules for application of assessable penalties.
- 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
- 6673. Sanctions and costs awarded by courts.
- 6674. Fraudulent statement or failure to furnish statement to employee.
- 6675. Excessive claims with respect to the use of certain fuels.
- 6676. Erroneous claim for refund or credit.
- 6677. Failure to file information with respect to certain foreign trusts.
- [6678. Repealed.]
- 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.
- [6680, 6681. Repealed.]
- 6682. False information with respect to withholding.
- [6683. Repealed.]
- 6684. Repeated liability for tax under chapter 42.¹

- 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations.
- 6686. Failure to file returns or supply information by DISC or FSC.²
- [6687. Repealed.]
- 6688. Assessable penalties with respect to information required to be furnished under section 7654.
- 6689. Failure to file notice of redetermination of foreign tax.
- 6690. Fraudulent statement or failure to furnish statement to plan participant.
- [6691. Reserved.]
- 6692. Failure to file actuarial report.
- 6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions.
- 6694. Understatement of taxpayer's liability by tax return preparer.
- 6695. Other assessable penalties with respect to the preparation of tax returns for other persons.
- 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
- 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.
- [6697. Repealed.]
- 6698. Failure to file partnership return.
- [6698A. Repealed.]
- 6699. Failure to file S corporation return.
- 6700. Promoting abusive tax shelters, etc.
- 6701. Penalties for aiding and abetting understatement of tax liability.
- 6702. Frivolous tax submissions.
- 6703. Rules applicable to penalties under sections 6700, 6701, and 6702.
- 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d).
- 6705. Failure by broker to provide notice to payors.
- 6706. Original issue discount information requirements.
- 6707. Failure to furnish information regarding reportable transactions.
- 6707A. Penalty for failure to include reportable transaction information with return.
- 6708. Failure to maintain lists of advisees with respect to reportable transactions.
- 6709. Penalties with respect to mortgage credit certificates.
- 6710. Failure to disclose that contributions are nondeductible.
- 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government.
- 6712. Failure to disclose treaty-based return positions.
- 6713. Disclosure or use of information by preparers of returns.
- 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions.
- 6715. Dyed fuel sold for use or used in taxable use, etc.
- 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.
- [6716. Repealed.]
- 6717. Refusal of entry.
- 6718. Failure to display tax registration on vessels.
- 6719. Failure to register or reregister.
- 6720. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.
- 6720A. Penalty with respect to certain adulterated fuels.
- 6720B. Fraudulent identification of exempt use property.

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

² Section catchline amended by Pub. L. 110-172 without corresponding amendment of analysis.

6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.

AMENDMENTS

2010—Pub. L. 111-325, title V, § 501(a), Dec. 22, 2010, 124 Stat. 3554, struck out item 6697 “Assessable penalties with respect to liability for tax of regulated investment companies”.

Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300, amended analysis to read as if amendment by Pub. L. 107-16, § 542(b)(5)(A), had never been enacted. See 2001 Amendment note below.

2009—Pub. L. 111-5, div. B, title III, § 3001(a)(13)(B), Feb. 17, 2009, 123 Stat. 465, added item 6720C.

2007—Pub. L. 110-142, § 9(b), Dec. 20, 2007, 121 Stat. 1807, which directed amendment of the analysis for this part by adding item 6699 at the end, was executed by inserting item 6699 after item 6698, to reflect the probable intent of Congress.

Pub. L. 110-28, title VIII, §§ 8246(a)(2)(F)(ii), (G)(iii), 8247(b), May 25, 2007, 121 Stat. 202, 204, added item 6676, substituted “tax return preparer” for “income tax return preparer” in item 6694, and struck out “income” before “tax returns” in item 6695.

2006—Pub. L. 109-432, div. A, title IV, § 407(e), Dec. 20, 2006, 120 Stat. 2962, substituted “tax submissions” for “income tax return” in item 6702.

Pub. L. 109-280, title XII, §§ 1215(c)(2), 1219(b)(3), Aug. 17, 2006, 120 Stat. 1079, 1084, which directed amendment of the analysis for part I of subchapter B of chapter 68 by adding items 6695A and 6720B and substituting “6694, 6695, and 6695A” for “6694 and 6695” in item 6696, without specifying the act to be amended, was executed by making the amendments to this analysis, which is part of chapter 68 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Pub. L. 109-135, title IV, § 403(n)(3)(B), Dec. 21, 2005, 119 Stat. 2626, struck out item 6683 “Failure of foreign corporation to file return of personal holding company tax”.

Pub. L. 109-59, title XI, §§ 11164(b)(4), 11167(c), Aug. 10, 2005, 119 Stat. 1976, 1977, inserted “or reregister” after “register” in item 6719 and added item 6720A.

2004—Pub. L. 108-357, title VIII, §§ 811(b), 815(b)(5)(B), 816(b), 854(c)(2), 859(b)(2), 861(b)(2), 863(c)(2), 884(b)(2), Oct. 22, 2004, 118 Stat. 1577, 1583, 1584, 1616, 1618-1620, 1634, added items 6707A, 6715A, and 6717 to 6720 and substituted “reportable transactions” for “tax shelters” in item 6707 and “advisees with respect to reportable transactions” for “investors in potentially abusive tax shelters” in item 6708.

2001—Pub. L. 107-16, title V, § 542(b)(5)(A), June 7, 2001, 115 Stat. 83, added item 6716 “Failure to file information with respect to certain transfers at death and gifts”.

1997—Pub. L. 105-34, title II, § 211(e)(2)(D), Aug. 5, 1997, 111 Stat. 812, substituted “certain tax-favored” for “individual retirement” in item 6693.

1996—Pub. L. 104-188, title I, §§ 1703(n)(9)(B), 1901(c)(3), Aug. 20, 1996, 110 Stat. 1877, 1908, substituted “information” for “information returns” in item 6677 and redesignated item 6714, relating to dyed fuel sold for use or used in taxable use, etc., as item 6715.

1993—Pub. L. 103-66, title XIII, § 13242(b)(2), Aug. 10, 1993, 107 Stat. 521, added item 6714 “Dyed fuel sold for use or used in taxable use, etc.”.

Pub. L. 103-66, title XIII, § 13173(c)(2), Aug. 10, 1993, 107 Stat. 457, added item 6714 “Failure to meet disclosure requirements applicable to quid pro quo contributions”.

1989—Pub. L. 101-239, title VII, §§ 7711(b)(4), 7731(c), 7816(v)(2), Dec. 19, 1989, 103 Stat. 2393, 2401, 2423, substituted “Sanctions and costs awarded by courts” for “Damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.” in item 6673, struck out items 6676 “Failure to supply identifying numbers” and 6687 “Failure to supply information with respect to place of residence”, and redesignated item 6712 “Disclosure or use of information by preparers of returns” as 6713.

1988—Pub. L. 100-647, title I, § 1011(b)(4)(B)(ii), Nov. 10, 1988, 102 Stat. 3457, substituted “penalties relating to” for “overstatement of” in item 6693.

Pub. L. 100-647, title VI, § 6242(c), Nov. 10, 1988, 102 Stat. 3749, added item 6712 “Disclosure or use of information by preparers of returns”.

Pub. L. 100-647, title I, § 1012(aa)(5)(C)(ii), Nov. 10, 1988, 102 Stat. 3533, added item 6712 “Failure to disclose treaty-based return positions”.

1987—Pub. L. 100-203, title X, §§ 10701(c)(2), 10704(b)(2), 10705(b), Dec. 22, 1987, 101 Stat. 1330-459, 1330-463, 1330-464, substituted “Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations” for “Assessable penalties with respect to private foundation annual returns” in item 6685 and added items 6710 and 6711.

1986—Pub. L. 99-514, title VI, § 667(b)(2), title XI, §§ 1102(d)(2)(C), 1171(b)(7)(B), title XV, § 1501(d)(3), (4), title XVIII, §§ 1848(e)(3), 1862(d)(3), Oct. 22, 1986, 100 Stat. 2306, 2416, 2513, 2740, 2858, 2884, inserted analysis of parts comprising subchapter B, inserted heading for Part I, struck out item 6678 “Failure to furnish certain statements”, inserted “; overstatement of designated nondeductible contributions” in item 6693, substituted “regulated investment companies” for “qualified investment entities” in item 6697, struck out item 6699 “Assessable penalties relating to tax credit employee stock ownership plan”, substituted “section 6047(d)” for “section 6047(e)” in item 6704, and redesignated item 6708, relating to penalties with respect to mortgage credit certificates, as 6709.

1984—Pub. L. 98-369, div. A, title I, §§ 41(c)(2), 141(c)(2), title VIII, § 801(d)(15)(B), July 18, 1984, 98 Stat. 556, 680, 997, added items 6686, 6706, and 6707.

Pub. L. 98-369, div. A, title VI, § 612(d)(2), July 18, 1984, 98 Stat. 912, added item 6708 “Penalties with respect to mortgage credit certificates”.

Pub. L. 98-369, div. A, title I, § 142(c)(2), July 18, 1984, 98 Stat. 682, added item 6708 “Failure to maintain lists of investors in potentially abusive tax shelters”.

1983—Pub. L. 98-67, title I, § 104(c)(2), Aug. 5, 1983, 97 Stat. 379, added item 6705.

Pub. L. 97-424, title V, § 515(b)(11)(D), Jan. 6, 1983, 96 Stat. 2182, struck out “or lubricating oil” after “certain fuels” in item 6675.

1982—Pub. L. 97-248, title II, § 292(d)(2)(B), title III, §§ 320(b), 322(b), 324(b), 326(b), 334(c)(2), 340(b)(3), title IV, § 405(c)(3), Sept. 3, 1982, 96 Stat. 574, 612, 613, 616, 617, 627, 634, 670, as amended by Pub. L. 97-448, title III, § 306(c)(2)(B), Jan. 12, 1983, 96 Stat. 2406, substituted “primarily for delay, etc.” for “merely for delay.” in item 6673, substituted “returns, etc., with respect to foreign corporations or foreign partnerships” for “returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock” in item 6679, and added items 6700 to 6704.

1981—Pub. L. 97-34, title VII, § 721(c), Aug. 13, 1981, 95 Stat. 341, struck out “allowances based on itemized deductions” after “withholding” in item 6682.

1980—Pub. L. 96-603, §§ 1(e)(3), 2(d)(2), Dec. 28, 1980, 94 Stat. 3505, 3510, substituted “returns” for “reports” in item 6685 and added item 6689.

Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299, repealed Pub. L. 94-455, § 2005(e)(4), and Pub. L. 95-600, § 702(r)(1)(C), and the amendments made thereby, which resulted in striking out item 6698A “Failure to file information with respect to carryover basis property”, which had been added as item 6694 in 1976 and redesignated as item 6698 in 1978. Pub. L. 96-222, §§ 107(a)(2)(E), 201, redesignated item 6698 as 6698A, effective as if included in Pub. L. 95-600.

Pub. L. 96-222, title I, §§ 101(a)(7)(L)(v)(X), 107(a)(2)(E), Apr. 1, 1980, 94 Stat. 201, 223, redesignated item 6698, relating to failure to file information with respect to carry-over basis property, as 6698A and substituted “tax credit employee stock ownership plan” for “ESOP” in item 6699.

1978—Pub. L. 95-600, title VII, § 701(r)(1)(C), Nov. 6, 1978, 92 Stat. 2938, which redesignated item 6694 “Failure to file information with respect to carryover basis

property” as item 6698, was repealed by Pub. L. 96-223, § 401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 95-600, title I, § 141(c)(2), title II, § 211(b), title III, § 362(d)(9), Nov. 6, 1978, 92 Stat. 2794, 2818, 2852, substituted “qualified investment entities” for “real estate investment trusts” in item 6697, and added item 6698 “Failure to file partnership return” and item 6699 “Assessable penalties relating to ESOP”.

1976—Pub. L. 94-455, title XX, § 2005(e)(4), Oct. 4, 1976, 90 Stat. 1878, which added item 6694 “Failure to file information with respect to carryover basis property”, was repealed by Pub. L. 96-223, § 401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 94-455, title XII, § 1203(i)(3), title XVI, § 1601(b)(2), title XIX, § 1904(b)(10)(A)(vi)(II), (D)(ii), (E)(ii), Oct. 4, 1976, 90 Stat. 1694, 1746, 1817, struck out item 6680 “Failure to file interest equalization tax returns”, item 6681 “False equalization tax certificates” and item 6689 “Failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements” and added item 6694 “Understatement of taxpayer’s liability by income tax return preparer” and items 6695 to 6697.

1974—Pub. L. 93-406, title II, §§ 1016(b)(3), 1031(b)(2)(B), 1033(d), 2002(h)(4), Sept. 2, 1974, 88 Stat. 932, 946, 948, 971, substituted “6688” for “6687” as section number in item relating to assessable penalties with respect to information required to be furnished under section 7654, and added items 6690, 6692, and 6693.

1973—Pub. L. 93-17, § 3(d)(3)(B), Apr. 10, 1973, 87 Stat. 17, added item 6689.

1972—Pub. L. 92-606, § 1(f)(7), Oct. 31, 1972, 86 Stat. 1497, added item 6687 relating to assessable penalties with respect to information required to be furnished under section 7654.

Pub. L. 92-512, title I, § 144(b)(2), Oct. 20, 1972, 86 Stat. 936, added item 6687 relating to failure to supply information with respect to place of residence.

1970—Pub. L. 91-258, title II, § 207(d)(13), May 21, 1970, 84 Stat. 249, substituted “fuels” for “gasoline” in item 6675.

1969—Pub. L. 91-172, title I, § 101(j)(60), Dec. 30, 1969, 83 Stat. 532, added items 6684 and 6685.

1966—Pub. L. 89-809, title I, § 104(h)(4)(B), Nov. 13, 1966, 80 Stat. 1560, added item 6683.

Pub. L. 89-368, title I, § 101(e)(4)(B), Mar. 15, 1966, 80 Stat. 62, added item 6682.

1965—Pub. L. 89-44, title II, § 202(c)(3)(B), June 21, 1965, 79 Stat. 139, inserted “or lubricating oil” after “certain gasoline” in item 6675.

1964—Pub. L. 88-563, § 6(c)(1), Sept. 2, 1964, 78 Stat. 847, added items 6680 and 6681.

1962—Pub. L. 87-834, §§ 7(i)(3), 19(g)(2), 20(d)(3), Oct. 16, 1962, 76 Stat. 989, 1058, 1063, added items 6677 to 6679.

1961—Pub. L. 87-397, § 1(c)(2), Oct. 5, 1961, 75 Stat. 829, added item 6676.

1956—Act June 29, 1956, ch. 462, title II, § 208(e)(8), 70 Stat. 397, substituted “Excessive claims with respect to the use of certain gasoline” for “Excessive claims for gasoline used on farms” in item 6675.

Act Apr. 2, 1956, ch. 160, § 4(g), 70 Stat. 91, added item 6675.

§ 6671. Rules for application of assessable penalties

(a) Penalty assessed as tax

The penalties and liabilities provided by this subchapter shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this title to “tax” imposed by this title shall be deemed also to refer to the penalties and liabilities provided by this subchapter.

(b) Person defined

The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax

(a) General rule

Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. No penalty shall be imposed under section 6653 or part II of subchapter A of chapter 68 for any offense to which this section is applicable.

(b) Preliminary notice requirement

(1) In general

No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) or in person that the taxpayer shall be subject to an assessment of such penalty.

(2) Timing of notice

The mailing of the notice described in paragraph (1) (or, in the case of such a notice delivered in person, such delivery) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

(3) Statute of limitations

If a notice described in paragraph (1) with respect to any penalty is mailed or delivered in person before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

(A) the date 90 days after the date on which such notice was mailed or delivered in person, or

(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

(4) Exception for jeopardy

This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.

(c) Extension of period of collection where bond is filed

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

(B) files a claim for refund of the amount so paid, and

(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Suit must be brought to determine liability for penalty

If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims)¹ for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

(3) Bond

The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

(4) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(5) Jeopardy collection

If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty.

(d) Right of contribution where more than 1 person liable for penalty

If more than 1 person is liable for the penalty under subsection (a) with respect to any tax,

each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

(1) an action for collection of such penalty brought by the United States, or

(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty.

(e) Exception for voluntary board members of tax-exempt organizations

No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

(1) is solely serving in an honorary capacity,

(2) does not participate in the day-to-day or financial operations of the organization, and

(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 95-628, §9(a), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 101-239, title VII, §§7721(c)(9), 7737(a), Dec. 19, 1989, 103 Stat. 2400, 2404; Pub. L. 104-168, title IX, §§901(a), 903(a), 904(a), July 30, 1996, 110 Stat. 1465-1467; Pub. L. 105-206, title III, §3307(a), (b), July 22, 1998, 112 Stat. 744.)

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c)(2), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-206, §3307(a), inserted “or in person” after “section 6212(b)”.

Subsec. (b)(2). Pub. L. 105-206, §3307(b)(1), inserted “(or, in the case of such a notice delivered in person, such delivery)” after “paragraph (1)”.

Subsec. (b)(3). Pub. L. 105-206, §3307(b)(2), inserted “or delivered in person” after “mailed” in introductory provisions and in subpar. (A).

1996—Subsecs. (b), (c). Pub. L. 104-168, §901(a), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 104-168, §903(a), added subsec. (d).

Subsec. (e). Pub. L. 104-168, §904(a), added subsec. (e).

1989—Subsec. (a). Pub. L. 101-239, §7721(c)(9), inserted “or part II of subchapter A of chapter 68” after “under section 6653”.

Subsec. (b)(1). Pub. L. 101-239, §7737(a), inserted at end “Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

1978—Pub. L. 95-628 designated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3307(c), July 22, 1998, 112 Stat. 744, provided that: “The amendments made by

¹ See References in Text note below.

this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title IX, §901(b), July 30, 1996, 110 Stat. 1466, provided that: “The amendment made by subsection (a) [amending this section] shall apply to proposed assessments made after June 30, 1996.”

Pub. L. 104-168, title IX, §903(b), July 30, 1996, 110 Stat. 1466, provided that: “The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(9) of Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

Pub. L. 101-239, title VII, §7737(b), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendment made by subsection (a) [amending this section and sections 6694 and 6703 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-628, §9(c), Nov. 10, 1978, 92 Stat. 3633, provided that: “The amendments made by this section [amending this section and sections 7103 and 7421 of this title] shall apply with respect to penalties assessed more than 60 days after the date of the enactment of this Act [Nov. 10, 1978].”

PUBLIC INFORMATION TO ENSURE EMPLOYEE AWARENESS OF RESPONSIBILITIES AND LIABILITIES UNDER TAX DEPOSITORY SYSTEM

Pub. L. 104-168, title IX, §904(b), July 30, 1996, 110 Stat. 1467, provided that:

“(1) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate (hereafter in this subsection referred to as the ‘Secretary’) shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

“(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

“(B) the development of a special information packet.

“(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

“(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.”

§ 6673. Sanctions and costs awarded by courts

(a) Tax court proceedings

(1) Procedures instituted primarily for delay, etc.

Whenever it appears to the Tax Court that—

(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

(B) the taxpayer’s position in such proceeding is frivolous or groundless, or

(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of \$25,000.

(2) Counsel’s liability for excessive costs

Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct, or

(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys’ fees in the same manner as such an award by a district court.

(b) Proceedings in other courts

(1) Claims under section 7433

Whenever it appears to the court that the taxpayer’s position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of \$10,000.

(2) Collection of sanctions and costs

In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(3) Sanctions and costs awarded by a court of appeals

In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments. Any such sanctions, penalties, or costs may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title II, §292(b), (d)(2)(A), Sept. 3, 1982, 96 Stat. 574; Pub. L. 99-514, title XV, §1552(a), Oct. 22, 1986, 100 Stat. 2753; Pub. L. 100-647, title VI, §6241(b), Nov. 10, 1988, 102 Stat. 3748; Pub. L. 101-239, title VII, §7731(a), Dec. 19, 1989, 103 Stat. 2400.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “Sanctions and costs awarded by courts” for “Damages assessable for insti-

tuting proceedings before the Court primarily for delay, etc.” in section catchline and amended text generally, making changes in substance and structure of subssecs. (a) and (b).

1988—Pub. L. 100-647 struck out “Tax” after “before the” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1986—Pub. L. 99-514 substituted “, that the taxpayer’s position in such proceeding is frivolous or groundless, or that the taxpayer unreasonably failed to pursue available administrative remedies” for “or that the taxpayer’s position in such proceedings is frivolous or groundless”.

1982—Pub. L. 97-248, § 292(d)(2)(A), substituted “primarily for delay, etc.” for “merely for delay” after “Tax Court” in section catchline.

Subsec. (a). Pub. L. 97-248, § 292(b), substituted “or maintained by the taxpayer primarily for delay or that the taxpayer’s position in such proceedings is frivolous or groundless, damages in an amount not in excess of \$5,000” for “by the taxpayer merely for delay, damages in an amount not in excess of \$500” in first sentence.

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

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7731(d), Dec. 19, 1989, 103 Stat. 2402, provided that: “The amendments made by this section [amending this section and section 7482 of this title] shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, § 6241(d), Nov. 10, 1988, 102 Stat. 3749, provided that: “The amendments made by this section [enacting section 7433 of this title and amending this section] shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, § 1552(b), Oct. 22, 1986, 100 Stat. 2753, provided that: “The amendment made by subsection (a) [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to any action or proceeding in the Tax Court commenced after Dec. 31, 1982, or pending in the Tax Court on the day 120 days after July 18, 1984, see section 292(e)(2) of Pub. L. 97-248, as amended, set out as an Effective Date note under section 7430 of this title.

§ 6674. Fraudulent statement or failure to furnish statement to employee

In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 89-97, title III, § 313(e)(2)(C), July 30, 1965, 79 Stat. 385.)

AMENDMENTS

1965—Pub. L. 89-97 substituted “6051 or 6053(b)” for “6051” wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313 of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as a note under section 6053 of this title.

§ 6675. Excessive claims with respect to the use of certain fuels

(a) Civil penalty

In addition to any criminal penalty provided by law, if a claim is made under section 6416(a)(4) (relating to certain sales of gasoline), section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain non-highway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

- (1) Two times the excessive amount; or
- (2) \$10.

(b) Excessive amount defined

For purposes of this section, the term “excessive amount” means in the case of any person the amount by which—

- (1) the amount claimed under section 6416(a)(4), 6420, 6421, or 6427, as the case may be, for any period, exceeds
- (2) the amount allowable under such section for such period.

(c) Assessment and collection of penalty

For assessment and collection of penalty provided by subsection (a), see section 6206.

(Added Apr. 2, 1956, ch. 160, § 3, 70 Stat. 90; amended June 29, 1956, ch. 462, title II, § 208(d)(2), 70 Stat. 396; Pub. L. 89-44, title II, § 202(c)(3)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, § 207(d)(8), May 21, 1970, 84 Stat. 249; Pub. L. 95-618, title II, § 233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97-424, title V, § 515(b)(11)(A)–(C), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 109-59, title XI, § 11163(d)(2), (3), Aug. 10, 2005, 119 Stat. 1975.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, § 11163(d)(2), inserted “section 6416(a)(4) (relating to certain sales of gasoline),” after “made under” in introductory provisions.

Subsec. (b)(1). Pub. L. 109-59, § 11163(d)(3), inserted “6416(a)(4),” after “under section”.

1983—Pub. L. 97-424, § 515(b)(11)(C), struck out “or lubricating oil” after “fuels” in section catchline.

Subsec. (a). Pub. L. 97-424, § 515(b)(11)(A), struck out “6424 (relating to lubricating oil used for certain nontaxable purposes),” after “systems,”.

Subsec. (b)(1). Pub. L. 97-424, § 515(b)(11)(B), struck out “6424,” after “6421,”.

1978—Subsec. (a). Pub. L. 95-618 substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles”.

1970—Pub. L. 91-258, § 207(d)(8)(A), substituted “fuels” for “gasoline” in section catchline.

Subsec. (a). Pub. L. 91-258, § 207(d)(8)(B), inserted reference to section 6427 relating to fuels not used for taxable purposes.

Subsec. (b)(1). Pub. L. 91-258, § 207(d)(8)(C), inserted reference to section 6427.

1965—Pub. L. 89-44, § 202(c)(3)(A)(i), inserted “or lubricating oil” after “gasoline” in section catchline.

Subsec. (a). Pub. L. 89-44, §202(c)(3)(A)(ii), inserted reference to claims made under section 6424.

Subsec. (b)(1). Pub. L. 89-44, §202(c)(3)(A)(iii), inserted reference to amounts claimed under section 6424.

1956—Act June 29, 1956, §208(d)(2)(A), substituted “with respect to the use of certain gasoline” for “for gasoline used on farms” in section catchline.

Subsec. (a). Act June 29, 1956, §208(d)(2)(B), inserted reference to claims made under section 6421.

Subsec. (b). Act June 29, 1956, §208(d)(2)(C), inserted reference to amounts claimed under section 6421.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

§ 6676. Erroneous claim for refund or credit

(a) Civil penalty

If a claim for refund or credit with respect to income tax is made for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable for a penalty in an amount equal to 20 percent of the excessive amount.

(b) Excessive amount

For purposes of this section, the term “excessive amount” means in the case of any person the amount by which the amount of the claim for refund or credit for any taxable year exceeds the amount of such claim allowable under this title for such taxable year.

(c) Noneconomic substance transactions treated as lacking reasonable basis

For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as due to reasonable cause.

(d) Coordination with other penalties

This section shall not apply to any portion of the excessive amount of a claim for refund or credit which is subject to a penalty imposed under part II of subchapter A of chapter 68.

(Added Pub. L. 110-28, title VIII, §8247(a), May 25, 2007, 121 Stat. 204; amended Pub. L. 111-152,

title I, §1409(d), Mar. 30, 2010, 124 Stat. 1070; Pub. L. 114-113, div. Q, title II, §209(b), (c), Dec. 18, 2015, 129 Stat. 3084, 3085.)

CODIFICATION

Section 1409(d) of Pub. L. 111-152, which directed the amendment of section 6676 without specifying the act to be amended, was executed to this section, which is section 6676 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment note below.

PRIOR PROVISIONS

A prior section 6676, added Pub. L. 87-397, §1(b), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 91-172, title I, §101(j)(52), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(20), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, §316(a), Sept. 3, 1982, 96 Stat. 607; Pub. L. 98-67, title I, §105(a), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98-369, div. A, title IV, §422(c), July 18, 1984, 98 Stat. 798; Pub. L. 99-514, title XV, §§1501(b), 1523(b)(3), 1524(b), Oct. 22, 1986, 100 Stat. 2736, 2748, 2749; Pub. L. 100-647, title I, §1015(g), Nov. 10, 1988, 102 Stat. 3570, related to failure to supply identifying numbers, prior to repeal by Pub. L. 101-239, title VII, §7711(b)(1), (c), Dec. 19, 1989, 103 Stat. 2393, applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-113, §209(c)(1), substituted “is due to reasonable cause” for “has a reasonable basis”.

Pub. L. 114-113, §209(b), struck out “(other than a claim for a refund or credit relating to the earned income credit under section 32)” after “income tax”.

Subsec. (c). Pub. L. 114-113, §209(c)(2), substituted “due to reasonable cause” for “having a reasonable basis”.

2010—Subsecs. (c), (d). Pub. L. 111-152 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, §209(d)(2), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendment made by subsection (b) [amending this section] shall apply to claims filed after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable to refunds and credits attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(4) of Pub. L. 111-152, set out as a note under section 6662 of this title.

EFFECTIVE DATE

Pub. L. 110-28, title VIII, §8247(c), May 25, 2007, 121 Stat. 204, provided that: “The amendments made by this section [enacting this section] shall apply to any claim filed or submitted after the date of the enactment of this Act [May 25, 2007].”

§ 6677. Failure to file information with respect to certain foreign trusts

(a) Civil penalty

In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

(1) is not filed on or before the time provided in such section, or

(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to the greater of

\$10,000 or 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).

(b) Special rules for returns under section 6048(b)

In the case of a return required under section 6048(b)—

(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

(2) subsection (a) shall be applied by substituting “5 percent” for “35 percent”.

(c) Gross reportable amount

For purposes of subsection (a), the term “gross reportable amount” means—

(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

(2) the gross value of the portion of the trust’s assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

(d) Reasonable cause exception

No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87-834, §7(g), Oct. 16, 1962, 76 Stat. 988; amended Pub. L. 91-172, title I, §101(j)(53), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(21), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title X, §1013(d)(2), Oct. 4, 1976, 90 Stat. 1616; Pub. L. 104-188, title I, §1901(b), Aug. 20, 1996, 110 Stat. 1907; Pub. L. 111-147, title V, §535(a), Mar. 18, 2010, 124 Stat. 115.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-147, in concluding provisions, inserted “the greater of \$10,000 or” before “35

percent” and substituted “At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).” for “In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.”

1996—Pub. L. 104-188, §1901(b), substituted “information” for “information returns” in section catchline and amended text generally, substituting present provisions for former provisions which related to civil penalty in subsec. (a) and nonapplicability of deficiency procedures in subsec. (b).

1976—Subsec. (a). Pub. L. 94-455 inserted “(or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)” after “transferred to a trust”.

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §535(b), Mar. 18, 2010, 124 Stat. 115, provided that: “The amendments made by this section [amending this section] shall apply to notices and returns required to be filed after December 31, 2009.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104-188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but only in the case of foreign trusts created after May 21, 1974 and transfer of property to foreign trusts after May 21, 1974, see section 1013(f)(1) of Pub. L. 94-455, set out as a note under section 679 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[§ 6678. Repealed. Pub. L. 99-514, title XV, § 1501(d)(2), Oct. 22, 1986, 100 Stat. 2740]

Section, added Pub. L. 87-834, §19(e), Oct. 16, 1962, 76 Stat. 1058; amended Pub. L. 88-272, title II, §§204(c)(2), 221(b)(3), Feb. 26, 1964, 78 Stat. 37, 75; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §7(b)(2), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 97-34, title VII, §723(a)(2), (b)(2), Aug. 13, 1981, 95 Stat. 343, 344; Pub. L. 97-248, title III, §§309(b)(3), 311(a)(2),

312(b), 314(b), 315(c), Sept. 3, 1982, 96 Stat. 595, 600, 602, 605, 607; Pub. L. 97-448, title II, §201(i)(3), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98-67, title I, §105(b)(2), Aug. 5, 1983, 97 Stat. 381; Pub. L. 98-369, div. A, title I, §§145(b)(3), 146(b)(3), 148(b)(3), 149(b)(2), (3), 155(b)(2)(B), title VII, §714(f), (q)(3), July 18, 1984, 98 Stat. 685, 686, 689, 690, 693, 961, 966; Pub. L. 99-514, title XVIII, §1811(c)(1), Oct. 22, 1986, 100 Stat. 2833, related to penalties for failure to furnish certain statements.

EFFECTIVE DATE OF REPEAL

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

§ 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships

(a) Civil penalty

(1) In general

In addition to any criminal penalty provided by law, any person required to file a return under section¹ 6046 and 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$10,000, unless it is shown that such failure is due to reasonable cause.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$50,000.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87-834, §20(c), Oct. 16, 1962, 76 Stat. 1062; amended Pub. L. 91-172, title I, §101(j)(54), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93-406, title II, §1016(a)(22), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, §340(b)(1), (2), title IV, §405(b), (c)(2), Sept. 3, 1982, 96 Stat. 634, 670; Pub. L. 97-448, title III, §306(c)(2), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 105-34, title XI, §1143(b), Aug. 5, 1997, 111 Stat. 983; Pub. L. 108-357, title IV, §413(c)(29), Oct. 22, 2004, 118 Stat. 1509.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-357, §413(c)(29)(A), which directed substitution of “6046 and 6046A” for “6035, 6046, and 6046A” was executed by making the substitution for “6035, 6046, or 6046A” to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 108-357, §413(c)(29)(B), struck out heading and text of par. (3). Text read as follows:

¹ So in original. Probably should be “sections”.

“In the case of a return required under section 6035, paragraph (1) shall be applied by substituting ‘\$1,000’ for ‘\$10,000’, and paragraph (2) shall not apply.”

1997—Subsec. (a). Pub. L. 105-34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$1,000, unless it is shown that such failure is due to reasonable cause.”

1983—Pub. L. 97-448 amended language of Pub. L. 97-248, §405(b), (c)(2), to clarify an ambiguity created by the conflicting language of §§340(b)(1), (2) and 405(b), (c)(2) of Pub. L. 97-248. See 1982 Amendment note below.

1982—Pub. L. 97-248, §§340(b)(2), 405(c)(2), as amended by Pub. L. 97-448, §306(c)(2)(B), substituted “Failure to file returns, etc., with respect to foreign corporations or foreign partnerships” for “Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock” in section catchline.

Subsec. (a). Pub. L. 97-248, §§340(b)(1), 405(b), as amended by Pub. L. 97-448, §306(a)(2)(A), substituted “section 6035, 6046, or 6046A” for “section 6046”.

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to transfers and changes after Aug. 5, 1997, see section 1143(c) of Pub. L. 105-34, set out as a note under section 6046A of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §340(c), Sept. 3, 1982, 96 Stat. 634, provided that: “The amendment made by this section [amending this section and section 6035 of this title] shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act [Sept. 3, 1982].”

Amendment by section 405(b), (c)(2) of Pub. L. 97-248 applicable with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after Sept. 3, 1982, see section 407(b) of Pub. L. 97-248, set out as an Effective Date note under section 6046A of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[§ 6680. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(10)(A)(vi)(I), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88-563, §6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 91-128, §4(h)(1), Nov. 26, 1969, 83 Stat. 268; Pub. L. 92-9, §3(j)(2), Apr. 1, 1971, 85 Stat. 22, related to failure to file interest equalization tax returns.

[§ 6681. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(10)(D)(i), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88-563, §6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 90-59, §4(d), July 1, 1967, 81 Stat. 155; Pub. L. 90-73, §2(d), Aug. 29, 1967, 81 Stat. 176; Pub. L. 92-9, §3(k)(1)-(3), Apr. 1, 1971, 85 Stat. 22, related to false equalization tax certificates.

EFFECTIVE DATE OF REPEAL

Pub. L. 94-455, title XIX, §1904(b)(10)(D)(iii), Oct. 4, 1976, 90 Stat. 1817, provided that: “The amendments made by this subparagraph [repealing this section] shall apply with respect to actions occurring after June 30, 1974.”

§ 6682. False information with respect to withholding

(a) Civil penalty

In addition to any criminal penalty provided by law, if—

(1) any individual makes a statement under section 3402 or section 3406 which results in a decrease in the amounts deducted and withheld under chapter 24, and

(2) as of the time such statement was made, there was no reasonable basis for such statement,

such individual shall pay a penalty of \$500 for such statement.

(b) Exception

The Secretary may waive (in whole or in part) the penalty imposed under subsection (a) if the taxes imposed with respect to the individual under subtitle A for the taxable year are equal to or less than the sum of—

(1) the credits against such taxes allowed by part IV of subchapter A of chapter 1, and

(2) the payments of estimated tax which are considered payments on account of such taxes.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 89-368, title I, §101(e)(4)(A), Mar. 15, 1966, 80 Stat. 61; amended Pub. L. 91-172, title I, §101(j)(55), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93-406, title II, §1016(a)(23), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-34, title VII, §721(a), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97-248, title III, §§306(a), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98-67, title I, §§102(a), 107(a), Aug. 5, 1983, 97 Stat. 369, 382.)

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 98-67 inserted reference to section 3406 and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (a)(1). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting “or section 3452(f)(1)(A)” after “section 3402”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97-34 struck out “allowances based on itemized deductions” after “withholding” in section catchline.

Subsec. (a). Pub. L. 97-34 substituted provisions relating to imposition of penalty of \$500 for statement under section 3402 resulting in decreased amounts withheld under chapter 24 and no reasonable basis existed for making such statement at the time it was made, for provisions relating to imposition of penalty of \$50 for statement under section 3402(f)(1)(F) concerning amount of wages under chapter 24, or itemized deductions under section 3402(m), and provisions setting forth conditions for mitigation of such penalty.

Subsecs. (b), (c). Pub. L. 97-34 added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42.”

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 107(a) of Pub. L. 98-67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §721(d), Aug. 13, 1981, 95 Stat. 341, provided that: “The amendments made by this section [amending sections 6682 and 7205 of this title] shall apply to acts and failures to act after December 31, 1981.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[§ 6683. Repealed. Pub. L. 109-135, title IV, § 403(n)(3)(A), Dec. 21, 2005, 119 Stat. 2626]

Section, added Pub. L. 89-809, title I, §104(h)(4)(A), Nov. 13, 1966, 80 Stat. 1560; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XII, §1281(c), Aug. 5, 1997, 111 Stat. 1037, related to failure of foreign corporation to file return of personal holding company tax.

EFFECTIVE DATE OF REPEAL

Repeal effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which it relates, see section 403(nn) of Pub. L. 109-135, set out as an Effective Date of 2005 Amendment note under section 26 of this title.

§ 6684. Assessable penalties with respect to liability for tax under chapter 42

If any person becomes liable for tax under any section of chapter 42 (relating to private foundations and certain other tax-exempt organizations) by reason of any act or failure to act which is not due to reasonable cause and either—

- (1) such person has theretofore been liable for tax under such chapter, or
- (2) such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(Added Pub. L. 91-172, title I, §101(c), Dec. 30, 1969, 83 Stat. 519; amended Pub. L. 100-203, title X, §10712(c)(4), Dec. 22, 1987, 101 Stat. 1330-467.)

AMENDMENTS

1987—Pub. L. 100-203 inserted “and certain other tax-exempt organizations” after “private foundations” in parenthetical.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

§ 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations

In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of \$5,000 with respect to each such return or application.

(Added Pub. L. 91-172, title I, §101(e)(4), Dec. 30, 1969, 83 Stat. 524; amended Pub. L. 96-603, §1(d)(4), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 100-203, title X, §10704(b)(1), Dec. 22, 1987, 101 Stat. 1330-462; Pub. L. 104-168, title XIII, §1313(b), July 30, 1996, 110 Stat. 1480; Pub. L. 105-277, div. J, title I, §1004(b)(2)(D), Oct. 21, 1998, 112 Stat. 2681-890.)

AMENDMENTS

1998—Pub. L. 105-277 struck out “or (e)” after “subsection (d)”.

1996—Pub. L. 104-168 substituted “\$5,000” for “\$1,000”.

1987—Pub. L. 100-203 substituted current section catchline for “Assessable penalties with respect to private foundation annual returns” and amended text generally. Prior to amendment, text read as follows: “In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations’ annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of \$1,000 with respect to each such return.”

1980—Pub. L. 96-603 substituted in section catchline “returns” for “reports”, and in text “required to com-

ply” for “required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply”, “(relating to private foundations’ annual returns) and who fails to so comply with respect to any return” for “(relating to public inspection of private foundations’ annual reports) and who fails to file or comply”, and “each such return” for “each such report or notice”.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to requests made on or after 60th day after Secretary of the Treasury first issues regulations referred to in section 6104(e)(3) of this title, see section 1313(c) of Pub. L. 104-168, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to returns for years beginning after Dec. 31, 1986, and on and after Dec. 22, 1987, in case of applications submitted after July 15, 1987, or on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987, see section 10704(d) of Pub. L. 100-203, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

§ 6686. Failure to file returns or supply information by DISC or former FSC

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax) any person required to supply information or to file a return under section 6011(c) who fails to supply such information or file such return at the time prescribed by the Secretary, or who files a return which does not show the information required, shall pay a penalty of \$100 for each failure to supply information (but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000) or a penalty of \$1,000 for each failure to file a return, unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 92-178, title V, §504(d), Dec. 10, 1971, 85 Stat. 551; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VIII, §801(d)(15)(A), July 18, 1984, 98 Stat. 997; Pub. L. 110-172, §11(g)(21), Dec. 29, 2007, 121 Stat. 2491.)

AMENDMENTS

2007—Pub. L. 110-172 inserted “former” before “FSC” in section catchline.

1984—Pub. L. 98-369 substituted “Failure to file returns or supply information by DISC or FSC” for “Failure of DISC to file returns” in section catchline, and in text substituted “section 6011(c)” for “section 6011(e)”.

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE

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

[§ 6687. Repealed. Pub. L. 101-239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 92-512, title I, §144(b)(1), Oct. 20, 1972, 86 Stat. 936, related to failure to supply information with respect to place of residence.

EFFECTIVE DATE OF REPEAL

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

§ 6688. Assessable penalties with respect to information required to be furnished under section 7654

In addition to any criminal penalty provided by law, any person described in section 7654(a) who is required under section 937(c) or by regulations prescribed under section 7654 to furnish information and who fails to comply with such requirement at the time prescribed by such regulations unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay (upon notice and demand by the Secretary and in the same manner as tax) a penalty of \$1,000 for each such failure.

(Added Pub. L. 92-606, §1(c), Oct. 31, 1972, 86 Stat. 1496, §6687; renumbered §6688, Pub. L. 93-406, title II, §1016(b)(4), Sept. 2, 1974, 88 Stat. 932; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 108-357, title VIII, §908(b), Oct. 22, 2004, 118 Stat. 1656.)

AMENDMENTS

2004—Pub. L. 108-357 inserted “under section 937(c) or” before “by regulations” and substituted “\$1,000” for “\$100”.

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

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, see section 908(d)(1) of Pub. L. 108-357, set out as an Effective Date note under section 937 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92-606, set out in part as a note under section 931 of this title.

§ 6689. Failure to file notice of redetermination of foreign tax

(a) Civil penalty

If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations

for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

(1) 5 percent of the deficiency if the failure is for not more than 1 month, with

(2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

(b) Foreign tax redetermination defined

For purposes of this section, the term “foreign tax redetermination” means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g).

(Added Pub. L. 96-603, §2(c)(2), Dec. 28, 1980, 94 Stat. 3509.)

PRIOR PROVISIONS

A prior section 6689, added Pub. L. 93-17, §3(d)(2), Apr. 10, 1973, 87 Stat. 16, related to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements, prior to repeal by Pub. L. 94-455, title XIX, §1904(b)(10)(E)(i), Oct. 4, 1976, 90 Stat. 1817.

EFFECTIVE DATE

For applicability of section with respect to employer contributions or accruals for taxable years beginning after Dec. 31, 1979, election to apply amendments retroactively with respect to foreign subsidiaries, allowance of prior deductions in case of certain funded branch plans, and time and manner for making elections, see section 2(e) of Pub. L. 96-603, set out as a note under section 404A of this title.

§ 6690. Fraudulent statement or failure to furnish statement to plan participant

Any person required under section 6057(e) to furnish a statement to a participant who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6057(e), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Added Pub. L. 93-406, title II, §1031(b)(2)(A), Sept. 2, 1974, 88 Stat. 946.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

[§ 6691. Reserved]

§ 6692. Failure to file actuarial report

The plan administrator (as defined in section 414(g)) of each defined benefit plan to which section 412 applies who fails to file the report required by section 6059 at the time and in the manner required by section 6059, shall pay a penalty of \$1,000 for each such failure unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 93-406, title II, §1033(b), Sept. 2, 1974, 88 Stat. 948.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

§ 6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions

(a) Reports

(1) In general

If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause.

(2) Provisions

The provisions referred to in this paragraph are—

(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

(B) section 220(h) (relating to Archer MSAs),

(C) section 223(h) (relating to health savings accounts),

(D) section 529(d) (relating to qualified tuition programs),

(E) section 529A(d) (relating to qualified ABLE programs), and

(F) section 530(h) (relating to Coverdell education savings accounts).

This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).

(b) Penalties relating to nondeductible contributions

(1) Overstatement of designated nondeductible contributions

Any individual who—

(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of \$100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

(2) Failure to file form

Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of \$50 for each such failure unless it is shown that such failure is due to reasonable cause.

(c) Penalties relating to simple retirement accounts

(1) Employer penalties

An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of \$50 for each day on which such failures continue.

(2) Trustee and issuer penalties

A trustee or issuer who fails—

(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of \$50 for each day on which such failures continue, or

(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of \$50 for each day on which such failures continue.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) does not apply to the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 93-406, title II, §2002(f), Sept. 2, 1974, 88 Stat. 967; amended Pub. L. 96-222, title I, §101(a)(10)(H), Apr. 1, 1980, 94 Stat. 203; Pub. L. 98-369, div. A, title I, §147(b), July 18, 1984, 98 Stat. 687; Pub. L. 99-514, title XI, §1102(d)(1), (2)(A), (B), Oct. 22, 1986, 100 Stat. 2416; Pub. L. 100-647, title I, §1011(b)(4)(A), (B)(i), Nov. 10, 1988, 102 Stat. 3456, 3457; Pub. L. 104-188, title I, §§1421(b)(4)(B), 1455(d)(3), Aug. 20, 1996, 110 Stat. 1796, 1818; Pub. L. 104-191, title III, §301(g), Aug. 21, 1996, 110 Stat. 2052; Pub. L. 105-34, title II, §§211(e)(2)(B), (C), 213(c), title XVI, §§1601(d)(1)(C)(ii), 1602(a)(4), Aug. 5, 1997, 111 Stat. 812, 816, 1087, 1094; Pub. L. 105-277, div. J, title IV, §4006(c)(4), Oct. 21, 1998, 112 Stat. 2681-913; Pub. L. 106-554, §1(a)(7) [title II, §202(b)(2)(E)], Dec. 21, 2000, 114 Stat. 2763, 2763A-629; Pub. L. 107-16, title IV, §402(a)(4)(A), June 7, 2001, 115 Stat. 60; Pub. L. 107-22, §1(b)(2)(C), July 26, 2001, 115 Stat. 197; Pub. L. 108-173, title XII, §1201(g), Dec. 8, 2003, 117 Stat. 2479; Pub. L. 113-295, div. B, title I, §102(c), Dec. 19, 2014, 128 Stat. 4062.)

AMENDMENTS

2014—Subsec. (a)(2)(E), (F). Pub. L. 113-295 added subpar. (E) and redesignated former subpar. (E) as (F).

2003—Subsec. (a)(2)(C) to (E). Pub. L. 108-173 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

2001—Subsec. (a)(2)(C). Pub. L. 107-16 substituted “qualified tuition” for “qualified State tuition”.

Subsec. (a)(2)(D). Pub. L. 107-22 substituted “Coverdell education savings” for “education individual retirement”.

2000—Subsec. (a)(2)(B). Pub. L. 106-554 substituted “Archer MSAs” for “medical savings accounts”.

1998—Subsec. (a)(2)(C), (D). Pub. L. 105-277 substituted “section” for “Section”.

1997—Pub. L. 105-34, §211(e)(2)(C), substituted “certain tax-favored” for “individual retirement” in section catchline.

Subsec. (a). Pub. L. 105-34, §1602(a)(4), inserted concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105-34, §211(e)(2)(B), added subpar. (C).

Subsec. (a)(2)(D). Pub. L. 105-34, §213(c), added subpar. (D).

Subsec. (c)(2). Pub. L. 105-34, §1601(d)(1)(C)(ii), inserted “and issuer” before “penalties” in heading and “or issuer” before “who fails” in introductory provisions.

1996—Subsec. (a). Pub. L. 104-191 inserted heading and amended text generally. Prior to amendment, text read as follows: “The person required by subsection (i) or (l) of section 408 to file a report regarding an individual retirement account or individual retirement annuity at the time and in the manner required by such subsection shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause. This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).”

Pub. L. 104-188, §1455(d)(3), inserted at end “This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).”

Subsecs. (c), (d). Pub. L. 104-188, §1421(b)(4)(B), added subsec. (c) and redesignated former subsec. (c) as (d).

1988—Pub. L. 100-647, §1011(b)(4)(B)(i), substituted “penalties relating to” for “overstatement of” in section catchline.

Subsec. (b). Pub. L. 100-647, §1011(b)(4)(A), substituted “Penalties relating to” for “Overstatement of designated” in heading and amended text generally. Prior to amendment, text read as follows: “Any individual who—

“(1) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

“(2) overstates the amount of such contributions made for such taxable year, shall pay a penalty of \$100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.”

1986—Pub. L. 99-514, §1102(d)(2)(B), inserted “; overstatement of designated nondeductible contributions” in section catchline.

Subsec. (b). Pub. L. 99-514, §1102(d)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 99-514, §1102(d)(1), (2)(A), redesignated former subsec. (b) as (c) and substituted “this section” for “subsection (a)”.

1984—Subsec. (a). Pub. L. 98-369 substituted “\$50” for “\$10”.

1980—Subsec. (a). Pub. L. 96-222 substituted “subsection (i) or (l) of section 408 to file” for “section 408(i) to file”, and “such subsection shall pay” for “section 408(i) shall pay”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to taxable years beginning after Dec. 31, 2014, see section 102(f)(1) of Pub. L. 113-295, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 2001 AMENDMENTS

Amendment by Pub. L. 107-22 effective July 26, 2001, see section 1(c) of Pub. L. 107-22, set out as an Effective and Termination Dates of 2001 Amendment note under section 26 of this title.

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107-16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 211(e)(2)(B), (C) of Pub. L. 105-34 effective Jan. 1, 1998, see section 211(f) of Pub. L. 105-34, set out as a note under section 529 of this title.

Amendment by section 213(c) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 213(f) of Pub. L. 105-34, set out as a note under section 26 of this title.

Amendment by section 1601(d)(1)(C)(ii) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

Amendment by section 1602(a)(4) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

Amendment by section 1421(b)(4)(B) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of this title.

Amendment by section 1455(d)(3) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to contributions and distributions for taxable years beginning after Dec. 31, 1986, see section 1102(g) of Pub. L. 99-514, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to failures occurring after July 18, 1984, see section 147(d)(2) of Pub. L. 98-369, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-222, title I, §101(b)(1)(F), Apr. 1, 1980, 94 Stat. 205, provided that: “The amendment made by subparagraph (I) of subsection (a)(10) [probably means subpar. (H) of subsec. (a)(10), which amended this section] shall apply with respect to failures occurring [sic] after the date of the enactment of this Act [Apr. 1, 1980].”

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93-406, set out as a note under section 4973 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6694. Understatement of taxpayer's liability by tax return preparer

(a) Understatement due to unreasonable positions

(1) In general

If a tax return preparer—

(A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and

(B) knew (or reasonably should have known) of the position,

such tax return preparer shall pay a penalty with respect to each such return or claim in an amount equal to the greater of \$1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

(2) Unreasonable position

(A) In general

Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.

(B) Disclosed positions

If the position was disclosed as provided in section 6662(d)(2)(B)(ii)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.

(C) Tax shelters and reportable transactions

If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.

(b) Understatement due to willful or reckless conduct

(1) In general

Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

(A) \$5,000, or

(B) 75 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

(2) Willful or reckless conduct

Conduct described in this paragraph is conduct by the tax return preparer which is—

(A) a willful attempt in any manner to understate the liability for tax on the return or claim, or

(B) a reckless or intentional disregard of rules or regulations.

(3) Reduction in penalty

The amount of any penalty payable by any person by reason of this subsection for any return or claim for refund shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

(c) Extension of period of collection where preparer pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is a tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Preparer must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(d) Abatement of penalty where taxpayer's liability not understated

If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this sub-

section, would apply to the making of such refund.

(e) Understatement of liability defined

For purposes of this section, the term “understatement of liability” means any understatement of the net amount payable with respect to any tax imposed by this title or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

(f) Cross reference

For definition of tax return preparer, see section 7701(a)(36).

(Added Pub. L. 94-455, title XII, §1203(b)(1), Oct. 4, 1976, 90 Stat. 1689; amended Pub. L. 101-239, title VII, §§ 7732(a), 7737(a), Dec. 19, 1989, 103 Stat. 2402, 2404; Pub. L. 110-28, title VIII, §8246(a)(2)(F)(i), (b), May 25, 2007, 121 Stat. 201, 203; Pub. L. 110-343, div. C, title V, §506(a), Oct. 3, 2008, 122 Stat. 3880; Pub. L. 114-113, div. Q, title II, §210(a), Dec. 18, 2015, 129 Stat. 3085.)

CODIFICATION

Another section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94-455, §2005(d)(2), was renumbered section 6698 by Pub. L. 95-600, renumbered section 6698A by Pub. L. 96-222, and repealed by Pub. L. 96-223.

AMENDMENTS

2015—Subsec. (b)(1)(B). Pub. L. 114-113 substituted “75 percent” for “50 percent”.

2008—Subsec. (a). Pub. L. 110-343 amended subsec. (a) generally. Prior to amendment, subsec. (a) provided penalty for understatement due to unreasonable positions.

2007—Pub. L. 110-28, §8246(a)(2)(F)(i)(I), substituted “tax return preparer” for “income tax return preparer” in section catchline.

Subsec. (a). Pub. L. 110-28, §8246(b), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “If—

“(1) any part of any understatement of liability with respect to any return or claim for refund is due to a position for which there was not a realistic possibility of being sustained on its merits,

“(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

“(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous, such person shall pay a penalty of \$250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.”

Subsec. (b). Pub. L. 110-28, §8246(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “If any part of any understatement of liability with respect to any return or claim for refund is due—

“(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

“(2) to any reckless or intentional disregard of rules or regulations by any such person, such person shall pay a penalty of \$1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the

amount of the penalty paid by such person by reason of subsection (a).”

Subsec. (c)(1). Pub. L. 110-28, §8246(a)(2)(F)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

Subsec. (c)(2). Pub. L. 110-28, §8246(a)(2)(F)(i)(III), substituted “the tax return preparer” for “the income tax return preparer”.

Subsec. (e). Pub. L. 110-28, §8246(a)(2)(F)(i)(IV), substituted “this title” for “subtitle A”.

Subsec. (f). Pub. L. 110-28, §8246(a)(2)(F)(i)(V), substituted “tax return preparer” for “income tax return preparer”.

1989—Subsec. (a). Pub. L. 101-239, §7732(a), substituted “Understatements due to unrealistic positions” for “Negligent or intentional disregard of rules and regulations” in heading and amended text generally. Prior to amendment, text read as follows: “If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$100 with respect to such return or claim.”

Subsec. (b). Pub. L. 101-239, §7732(a), substituted “Willful or reckless conduct” for “Willful understatement of liability” in heading and amended text generally. Prior to amendment, text read as follows: “If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).”

Subsec. (c)(1). Pub. L. 101-239, §7737(a), inserted at end “Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, §210(b), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendment made by this section [amending this section] shall apply to returns prepared for taxable years ending after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title V, §506(b), Oct. 3, 2008, 122 Stat. 3880, provided that: “The amendment made by this section [amending this section] shall apply—

“(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

“(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7732(b), Dec. 19, 1989, 103 Stat. 2402, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to documents prepared after December 31, 1989.”

§ 6695. Other assessable penalties with respect to the preparation of tax returns for other persons

(a) Failure to furnish copy to taxpayer

Any person who is a tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(b) Failure to sign return

Any person who is a tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(c) Failure to furnish identifying number

Any person who is a tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(d) Failure to retain copy or list

Any person who is a tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of \$50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(e) Failure to file correct information returns

Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of \$50 for—

- (1) each failure to file a return as required under such section, and
- (2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(f) Negotiation of check

Any person who is a tax return preparer who endorses or otherwise negotiates (directly or

through an agent) any check made in respect of the taxes imposed by this title which is issued to a taxpayer (other than the tax return preparer) shall pay a penalty of \$500 with respect to each such check. The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer.

(g) Failure to be diligent in determining eligibility for certain tax benefits

Any person who is a tax return preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining—

- (1) eligibility to file as a head of household (as defined in section 2(b)) on the return, or
- (2) eligibility for, or the amount of, the credit allowable by section 24, 25A(a)(1), or 32,

shall pay a penalty of \$500 for each such failure.

(h) Adjustment for inflation

(1) In general

In the case of any failure relating to a return or claim for refund filed in a calendar year beginning after 2014, each of the dollar amounts under subsections (a), (b), (c), (d), (e), (f), and (g) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under subparagraph (A)—¹

(A) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(B) is not described in clause (i)² and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(Added Pub. L. 94-455, title XII, § 1203(f), Oct. 4, 1976, 90 Stat. 1692; amended Pub. L. 95-600, title VII, § 701(cc)(1), Nov. 6, 1978, 92 Stat. 2923; Pub. L. 98-369, div. A, title I, § 179(b)(2), July 18, 1984, 98 Stat. 718; Pub. L. 99-44, § 1(b), May 24, 1985, 99 Stat. 77; Pub. L. 101-239, title VII, § 7733(a)–(d), Dec. 19, 1989, 103 Stat. 2402, 2403; Pub. L. 105-34, title X, § 1085(a)(2), Aug. 5, 1997, 111 Stat. 956; Pub. L. 110-28, title VIII, § 8246(a)(2)(G)(i), (ii), May 25, 2007, 121 Stat. 202; Pub. L. 112-41, title V, § 501(a), Oct. 21, 2011, 125 Stat. 459; Pub. L. 113-295, div. B, title II, § 208(c), Dec. 19, 2014, 128 Stat. 4073; Pub. L. 114-113, div. Q, title II, § 207(a), Dec. 18, 2015, 129 Stat. 3082; Pub. L. 115-97, title I, §§ 11001(b), 11002(d)(1)(MM), Dec. 22, 2017, 131 Stat. 2058, 2060.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2017—Subsec. (g). Pub. L. 115-97, § 11001(b), amended subsec. (g) generally. Prior to amendment, text read as

¹ So in original. Probably should be “paragraph (1)—”.

² So in original. Probably should be “subparagraph (A)”.

follows: “Any person who is a tax return preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 24, 25A(a)(1), or 32 shall pay a penalty of \$500 for each such failure.”

Subsec. (h)(1). Pub. L. 115-97, § 11002(d)(1)(MM), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (g). Pub. L. 114-113 inserted “child tax credit; American Opportunity Tax Credit; and” before “earned income credit” in heading and substituted “section 24, 25A(a)(1), or 32” for “section 32” in text.

2014—Subsec. (h). Pub. L. 113-295 added subsec. (h).

2011—Subsec. (g). Pub. L. 112-41 substituted “\$500” for “\$100”.

2007—Pub. L. 110-28, § 8246(a)(2)(G)(i)(I), struck out “income” before “tax” in section catchline.

Subsecs. (a) to (d). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

Subsec. (f). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), (ii), substituted “a tax return preparer” for “an income tax return preparer”, “this title” for “subtitle A”, and “the tax return preparer” for “the income tax return preparer”.

Subsec. (g). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

1997—Subsec. (g). Pub. L. 105-34 added subsec. (g).

1989—Subsecs. (a) to (c). Pub. L. 101-239, § 7733(a)-(c), substituted “\$50” for “\$25” and inserted at end “The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.”

Subsec. (e). Pub. L. 101-239, § 7733(d), substituted “returns” for “return” in heading and amended text generally. Prior to amendment, text read as follows: “Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

“(1) \$100 for each failure to file a return as required under such section, and

“(2) \$5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$20,000.”

1985—Subsec. (b). Pub. L. 99-44 repealed Pub. L. 98-369, § 179(b)(2), which amended subsec. (b), and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered as if section 179(b)(2) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (b). Pub. L. 98-369 amended subsec. (b) generally, substituting provisions dealing with failure to inform taxpayer of certain recordkeeping requirements of section 274(d) of this title or to sign returns, for provisions dealing with failure to sign returns. See 1985 Amendment note above.

1978—Subsec. (f). Pub. L. 95-600 inserted provision relating to deposits by a bank.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11001(b) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11001(c) of Pub. L. 115-97, set out as a note under section 1 of this title.

Amendment by section 11002(d)(1)(MM) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, § 207(c), Dec. 18, 2015, 129 Stat. 3083, provided that: “The amendment made by

this section [amending this section] shall apply to taxable years beginning after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-41 applicable to returns required to be filed after Dec. 31, 2011, see section 501(b) of Pub. L. 112-41, set out in a note under section 3805 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1996, see section 1085(e)(1) of Pub. L. 105-34, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7733(e), Dec. 19, 1989, 103 Stat. 2403, provided that: “The amendments made by this section [amending this section] shall apply to documents prepared after December 31, 1989.”

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-44 effective as if included in the amendments made by section 179(b) of Pub. L. 98-369, see section 6(a) of Pub. L. 99-44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98-369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, § 701(cc)(3), Nov. 6, 1978, 92 Stat. 2924, provided that: “The amendments made by this subsection [amending this section and section 7701 of this title] shall apply to documents prepared after December 31, 1976.”

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out the amendment of subsec. (b) of this section by section 179(b)(2) of Pub. L. 98-369 to have no force and effect, see section 1(c) of Pub. L. 99-44, set out as a note under section 274 of this title.

§ 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals

(a) Imposition of penalty

If—

(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), a substantial

estate or gift tax valuation understatement (within the meaning of section 6662(g)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

(b) Amount of penalty

The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

(1) the greater of—

(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

(B) \$1,000, or

(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

(c) Exception

No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.

(Added Pub. L. 109-280, title XII, §1219(b)(1), Aug. 17, 2006, 120 Stat. 1084; amended Pub. L. 110-172, §§3(e)(1), 11(a)(40), Dec. 29, 2007, 121 Stat. 2474, 2488.)

CODIFICATION

Section 1219(b)(1) of Pub. L. 109-280, which directed the addition of section 6695A at the end of part I of subchapter B of chapter 68, without specifying the act to be amended, was executed by adding section 6695A at the end of part I of subchapter B of chapter 68 of this title, which consists of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-172, §11(a)(40), designated the words “then such person shall pay a penalty in the amount determined under subsection (b).”, appearing in par. (2), as concluding provisions of subsec. (a).

Subsec. (a)(2). Pub. L. 110-172, §3(e)(1), inserted “a substantial estate or gift tax valuation understatement (within the meaning of section 6662(g)),” before “or a gross valuation misstatement”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by section 3(e)(1) of Pub. L. 110-172 effective as if included in the provisions of the Pension Protection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

EFFECTIVE DATE

Section applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(2), (3) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendments note under section 170 of this title.

§ 6696. Rules applicable with respect to sections 6694, 6695, and 6695A

(a) Penalties to be additional to any other penalties

The penalties provided by section¹ 6694, 6695, and 6695A shall be in addition to any other penalties provided by law.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694, 6695, and 6695A.

(c) Procedure for claiming refund

Any claim for credit or refund of any penalty paid under section 6694, 6695, or 6695A shall be filed in accordance with regulations prescribed by the Secretary.

(d) Periods of limitation

(1) Assessment

The amount of any penalty under section 6694(a), section² 6695, or 6695A shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

(2) Claim for refund

Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694, 6695, or 6695A shall be filed within 3 years from the time the penalty was paid.

(e) Definitions

For purposes of sections 6694, 6695, and 6695A—

(1) Return

The term “return” means any return of any tax imposed by this title.

(2) Claim for refund

The term “claim for refund” means a claim for refund of, or credit against, any tax imposed by this title.

(Added Pub. L. 94-455, title XII, §1203(f), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 109-280, title XII, §1219(b)(2), Aug. 17, 2006, 120 Stat. 1084; Pub. L. 110-28, title VIII, §8246(a)(2)(H), May 25, 2007, 121 Stat. 202; Pub. L. 110-172, §3(e)(2), Dec. 29, 2007, 121 Stat. 2474.)

CODIFICATION

Section 1219(b)(2) of Pub. L. 109-280, which directed the amendment of section 6696 without specifying the act to be amended, was executed to this section, which is section 6696 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment note below.

AMENDMENTS

2007—Subsec. (d)(1). Pub. L. 110-172 substituted “, section 6695, or 6695A” for “or under section 6695”.

¹So in original. Probably should be “sections”.

²So in original. The word “section” probably should not appear.

Subsec. (e). Pub. L. 110-28 substituted “this title” for “subtitle A” in pars. (1) and (2).

2006—Pub. L. 109-280 substituted “6694, 6695, and 6695A” for “6694 and 6695” wherever appearing in section catchline and text and “6694, 6695, or 6695A” for “6694 or 6695” wherever appearing in text. See Codification note above.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Pension Protection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(2), (3) of Pub. L. 109-280, set out as a note under section 170 of this title.

[§ 6697. Repealed. Pub. L. 111-325, title V, § 501(a), Dec. 22, 2010, 124 Stat. 3554]

Section, added Pub. L. 94-455, title XVI, §1601(b)(1), Oct. 4, 1976, 90 Stat. 1745; amended Pub. L. 95-600, title III, §362(b), Nov. 6, 1978, 92 Stat. 2851; Pub. L. 99-514, title VI, §667(a), Oct. 22, 1986, 100 Stat. 2305, related to assessable penalties with respect to liability for tax of regulated investment companies.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 22, 2010, see section 501(c) of Pub. L. 111-325, set out as an Effective Date of 2010 Amendment note under section 860 of this title.

§ 6698. Failure to file partnership return

(a) General rule

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 12 months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month

For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

(1) \$195, multiplied by

(2) the number of persons who were partners in the partnership during any part of the taxable year¹

(c) Assessment of penalty

The penalty imposed by subsection (a) shall be assessed against the partnership.

¹ So in original. Probably should be followed by a period.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(e) Adjustment for inflation

(1) In general

In the case of any return required to be filed in a calendar year beginning after 2014, the \$195 dollar amount under subsection (b)(1) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1) is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(Added Pub. L. 95-600, title II, §211(a), Nov. 6, 1978, 92 Stat. 2817; amended Pub. L. 110-142, §8(a), (b), Dec. 20, 2007, 121 Stat. 1806; Pub. L. 110-458, title I, §127(a), Dec. 23, 2008, 122 Stat. 5116; Pub. L. 111-92, §16(a), Nov. 6, 2009, 123 Stat. 2996; Pub. L. 113-295, div. B, title II, §208(d), Dec. 19, 2014, 128 Stat. 4073; Pub. L. 115-97, title I, §11002(d)(1)(NN), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

CODIFICATION

Another section 6698, formerly section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94-455, §2005(d)(2), was renumbered section 6698 by Pub. L. 95-600, renumbered section 6698A by Pub. L. 96-222, and repealed by Pub. L. 96-223.

AMENDMENTS

2017—Subsec. (e)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2014—Subsec. (e). Pub. L. 113-295 added subsec. (e).

2009—Subsec. (b)(1). Pub. L. 111-92 substituted “\$195” for “\$89”.

2008—Subsec. (b)(1). Pub. L. 110-458 substituted “\$89” for “\$85”.

2007—Subsec. (a). Pub. L. 110-142, §8(a), substituted “12 months” for “5 months” in concluding provisions.

Subsec. (b)(1). Pub. L. 110-142, §8(b), substituted “\$85” for “\$50”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §16(b), Nov. 6, 2009, 123 Stat. 2996, provided that: “The amendments made by this section [amending this section and section 6699 of this title]

shall apply to returns for taxable years beginning after December 31, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, §127(b), Dec. 23, 2008, 122 Stat. 5116, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns required to be filed after December 31, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-142, §8(d), Dec. 20, 2007, 121 Stat. 1807, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply to returns required to be filed after the date of the enactment of this Act [Dec. 20, 2007].”

EFFECTIVE DATE

Pub. L. 95-600, title II, §211(c), Nov. 6, 1978, 92 Stat. 2818, provided that: “The amendments made by this section [enacting this section] shall apply with respect to returns for taxable years beginning after December 31, 1978.”

MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS

Pub. L. 110-141, §2, Dec. 19, 2007, 121 Stat. 1802, provided that: “For any return of a partnership required to be filed under section 6031 of the Internal Revenue Code of 1986 for a taxable year beginning in 2008, the dollar amount in effect under section 6698(b)(1) of such Code shall be increased by \$1.”

[§ 6698A. Repealed. Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94-455, title XX, §2005(d)(2), Oct. 4, 1976, 90 Stat. 1878, §6694; renumbered §6698 and amended Pub. L. 95-600, title VII, §702(r)(1)(A), (B), Nov. 6, 1978, 92 Stat. 2938; renumbered §6698A, Pub. L. 96-222, title I, §107(a)(2)(D), Apr. 1, 1980, 94 Stat. 223, related to failure of an executor to file information with respect to carryover basis property. Repeal was achieved by repealing section 2005(d)(2) of Pub. L. 94-455 and section 702(r)(1)(A), (B) of Pub. L. 95-600 and the amendments made by those sections.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

§ 6699. Failure to file S corporation return

(a) General rule

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any S corporation required to file a return under section 6037 for any taxable year—

(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

(2) files a return which fails to show the information required under section 6037,

such S corporation shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 12 months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month

For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

(1) \$195, multiplied by

(2) the number of persons who were shareholders in the S corporation during any part of the taxable year.

(c) Assessment of penalty

The penalty imposed by subsection (a) shall be assessed against the S corporation.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(e) Adjustment for inflation

(1) In general

In the case of any return required to be filed in a calendar year beginning after 2014, the \$195 dollar amount under subsection (b)(1) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1) is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(Added Pub. L. 110-142, §9(a), Dec. 20, 2007, 121 Stat. 1807; amended Pub. L. 110-458, title I, §128(a), Dec. 23, 2008, 122 Stat. 5116; Pub. L. 111-92, §16(a), Nov. 6, 2009, 123 Stat. 2996; Pub. L. 113-295, div. B, title II, §208(e), Dec. 19, 2014, 128 Stat. 4073; Pub. L. 115-97, title I, §11002(d)(1)(OO), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

CODIFICATION

Section 9(a) of Pub. L. 110-142, which directed amendment of this part by adding this section at the end, was executed by inserting this section after section 6698, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6699, added Pub. L. 95-600, title I, §141(c)(1), Nov. 6, 1978, 92 Stat. 2794; amended Pub. L. 96-222, title I, §101(a)(7)(L)(iii)(VI), (v)(IX), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97-34, title III, §331(c)(3), (4), Aug. 13, 1981, 95 Stat. 293, 294; Pub. L. 97-448, title I, §103(g)(2)(B)-(D), Jan. 12, 1983, 96 Stat. 2379; Pub. L. 98-369, div. A, title IV, §491(e)(9), July 18, 1984, 98 Stat. 853; Pub. L. 99-514, title XVIII, §1847(b)(9), Oct. 22, 1986, 100 Stat. 2857, related to assessable penalties applicable to tax credit employee stock ownership plans, prior to repeal by Pub. L. 99-514, title XI, §1171(b)(7)(A), Oct. 22, 1986, 100 Stat. 2513. For effective date of repeal, see section 1171(c) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 38 of this title.

AMENDMENTS

2017—Subsec. (e)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2014—Subsec. (e). Pub. L. 113-295 added subsec. (e).
 2009—Subsec. (b)(1). Pub. L. 111-92 substituted “\$195” for “\$89”.
 2008—Subsec. (b)(1). Pub. L. 110-458 substituted “\$89” for “\$85”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-92 applicable to returns for taxable years beginning after Dec. 31, 2009, see section 16(b) of Pub. L. 111-92, set out as a note under section 6698 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, §128(b), Dec. 23, 2008, 122 Stat. 5116, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns required to be filed after December 31, 2008.”

EFFECTIVE DATE

Pub. L. 110-142, §9(c), Dec. 20, 2007, 121 Stat. 1808, provided that: “The amendments made by this section [enacting this section] shall apply to returns required to be filed after the date of the enactment of this Act [Dec. 20, 2007].”

§ 6700. Promoting abusive tax shelters, etc.

(a) Imposition of penalty

Any person who—

(1)(A) organizes (or assists in the organization of)—

- (i) a partnership or other entity,
- (ii) any investment plan or arrangement,
- or
- (iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

shall pay, with respect to each activity described in paragraph (1), a penalty equal to the \$1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale

described in paragraph (1)(B) shall be so treated. Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.

(b) Rules relating to penalty for gross valuation overstatements

(1) Gross valuation overstatement defined

For purposes of this section, the term “gross valuation overstatement” means any statement as to the value of any property or services if—

(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

(2) Authority to waive

The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 97-248, title III, §320(a), Sept. 3, 1982, 96 Stat. 611; amended Pub. L. 98-369, div. A, title I, §143(a), July 18, 1984, 98 Stat. 682; Pub. L. 101-239, title VII, §7734(a), Dec. 19, 1989, 103 Stat. 2403; Pub. L. 108-357, title VIII, §818(a), Oct. 22, 2004, 118 Stat. 1584.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 inserted at end of concluding provisions “Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.”

1989—Subsec. (a). Pub. L. 101-239, §7734(a)(3), added concluding provision and struck out former concluding provision which read as follows: “shall pay a penalty equal to the greater of \$1,000 or 20 percent of the gross income derived or to be derived by such person from such activity.”

Subsec. (a)(1)(B). Pub. L. 101-239, §7734(a)(1), inserted “(directly or indirectly)” after “participates”.

Subsec. (a)(2). Pub. L. 101-239, §7734(a)(2), inserted “or causes another person to make or furnish” after “makes or furnishes” in introductory provisions.

1984—Subsec. (a). Pub. L. 98-369 substituted “20 percent” for “10 percent”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §818(b), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendment made by this section [amending this section] shall apply to activities after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7734(b), Dec. 19, 1989, 103 Stat. 2403, provided that: “The amendment made by

subsection (a) [amending this section] shall apply to activities after December 31, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §143(c), July 18, 1984, 98 Stat. 682, provided that: “The amendments made by this section [amending this section and section 7408 of this title] shall take effect on the day after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE

Pub. L. 97-248, title III, §320(c), Sept. 3, 1982, 96 Stat. 612, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6701. Penalties for aiding and abetting understatement of tax liability

(a) Imposition of penalty

Any person—

(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

(2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

(2) Corporations

If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

(3) Only 1 penalty per person per period

If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

(c) Activities of subordinates

(1) In general

For purposes of subsection (a), the term “procures” includes—

(A) ordering (or otherwise causing) a subordinate to do an act, and

(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

(2) Subordinate

For purposes of paragraph (1), the term “subordinate” means any other person (whether or not a director, officer, employee, or

agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) Taxpayer not required to have knowledge

Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) Certain actions not treated as aid or assistance

For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) Penalty in addition to other penalties

(1) In general

Except as provided by paragraphs (2) and (3), the penalty imposed by this section shall be in addition to any other penalty provided by law.

(2) Coordination with return preparer penalties

No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(3) Coordination with section 6700

No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(Added Pub. L. 97-248, title III, §324(a), Sept. 3, 1982, 96 Stat. 615; amended Pub. L. 101-239, title VII, §7735(a), (b), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101-239, §7735(a)(1), struck out “in connection with any matter arising under the internal revenue laws” after “other document”.

Subsec. (a)(2). Pub. L. 101-239, §7735(a)(2), inserted “(or has reason to believe)” after “who knows”.

Subsec. (a)(3). Pub. L. 101-239, §7735(a)(3), substituted “would result” for “will result”.

Subsec. (f)(1). Pub. L. 101-239, §7735(b)(2), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (f)(3). Pub. L. 101-239, §7735(b)(1), added par. (3).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7735(c), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendments made by this section [amending this section] shall take effect on December 31, 1989.”

EFFECTIVE DATE

Pub. L. 97-248, title III, §324(c), Sept. 3, 1982, 96 Stat. 616, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6702. Frivolous tax submissions

(a) Civil penalty for frivolous tax returns

A person shall pay a penalty of \$5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) Civil penalty for specified frivolous submissions

(1) Imposition of penalty

Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of \$5,000.

(2) Specified frivolous submission

For purposes of this section—

(A) Specified frivolous submission

The term “specified frivolous submission” means a specified submission if any portion of such submission—

(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(ii) reflects a desire to delay or impede the administration of Federal tax laws.

(B) Specified submission

The term “specified submission” means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 6159 (relating to agreements for payment of tax liability in installments),

(II) section 7122 (relating to compromises), or

(III) section 7811 (relating to taxpayer assistance orders).

(3) Opportunity to withdraw submission

If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

(c) Listing of frivolous positions

The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

(d) Reduction of penalty

The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

(e) Penalties in addition to other penalties

The penalties imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 97-248, title III, §326(a), Sept. 3, 1982, 96 Stat. 617; amended Pub. L. 109-432, div. A, title IV, §407(a), Dec. 20, 2006, 120 Stat. 2960.)

AMENDMENTS

2006—Pub. L. 109-432 amended section catchline and text generally, substituting provisions relating to civil penalties for frivolous tax returns and submissions, listing of frivolous positions, reduction of penalty to promote compliance with tax laws, and application of other penalties, consisting of subsecs. (a) to (e), for provisions relating to civil penalty for frivolous tax returns and application of other penalties, consisting of subsecs. (a) and (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to submissions made and issues raised after the date on which the Secretary first prescribes a list under subsec. (c) of this section, see section 407(f) of Pub. L. 109-432, set out as a note under section 6320 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §326(c), Sept. 3, 1982, 96 Stat. 617, provided that: “The amendments made by this section [enacting this section] shall apply with respect to documents filed after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6703. Rules applicable to penalties under sections 6700, 6701, and 6702

(a) Burden of proof

In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

(c) Extension of period of collection where person pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under section 6700 or 6701 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Person must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any

penalty under section 6700 or 6701 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(Added Pub. L. 97-248, title III, §322(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 101-239, title VII, §§7736(a), 7737(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101-239, §7737(a), inserted at end “Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

Pub. L. 101-239, §7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

Subsec. (c)(2). Pub. L. 101-239, §7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7736(b), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns filed after December 31, 1989.”

EFFECTIVE DATE

Pub. L. 97-248, title III, §322(c), Sept. 3, 1982, 96 Stat. 613, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d)

(a) Liability for penalty

Any person who—

(1) has a duty to report or may have a duty to report any information under section 6047(d), and

(2) fails to keep such records as may be required by regulations prescribed under section 6047(d) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

(b) Amount of penalty

(1) In general

The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

(2) Maximum amount

The penalty under this section of any person for any calendar year shall not exceed \$50,000.

(c) Exceptions

(1) Reasonable cause

No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

(2) Inability to correct previous failure

No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

(3) Pre-1983 failures

No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure.

(Added Pub. L. 97-248, title III, §334(c)(1), Sept. 3, 1982, 96 Stat. 627; amended Pub. L. 99-514, title XVIII, §1848(e)(1), Oct. 22, 1986, 100 Stat. 2857.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “section 6047(d)” for “section 6047(e)” in section catchline and in subsec. (a).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 334(e)(3) of Pub. L. 97-248, set out as a note under section 3405 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

§ 6705. Failure by broker to provide notice to payors

(a) In general

Any person required under section 3406(d)(2)(B) to provide notice to any payor who willfully fails to provide such notice to such payor shall pay a penalty of \$500 for each such failure.

(b) Penalty in addition to other penalties

Any penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98-67, title I, §104(c)(1), Aug. 5, 1983, 97 Stat. 379.)

EFFECTIVE DATE

Section effective with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set

out as an Effective Date of 1983 Amendment note under section 31 of this title.

§ 6706. Original issue discount information requirements

(a) Failure to show information on debt instrument

In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of \$50 for each instrument with respect to which such a failure exists.

(b) Failure to furnish information to Secretary

Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed \$50,000 for such issue.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 98-369, div. A, title I, §41(c)(1), July 18, 1984, 98 Stat. 555.)

EFFECTIVE DATE

Section effective on day 30 days after July 18, 1984, see section 44(h) of Pub. L. 98-369, set out as a note under section 1271 of this title.

§ 6707. Failure to furnish information regarding reportable transactions

(a) In general

If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

- (1) fails to file such return on or before the date prescribed therefor, or
- (2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be \$50,000.

(2) Listed transactions

The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

- (A) \$200,000, or

(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return is filed under section 6111.

Subparagraph (B) shall be applied by substituting “75 percent” for “50 percent” in the case of an intentional failure or act described in subsection (a).

(c) Rescission authority

The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

(d) Reportable and listed transactions

For purposes of this section, the terms “reportable transaction” and “listed transaction” have the respective meanings given to such terms by section 6707A(c).

(Added Pub. L. 98-369, div. A, title I, §141(b), July 18, 1984, 98 Stat. 680; amended Pub. L. 99-514, title XV, §1532(a), 1533(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 105-34, title X, §1028(b), (d), Aug. 5, 1997, 111 Stat. 927, 928; Pub. L. 108-357, title VIII, §816(a), Oct. 22, 2004, 118 Stat. 1583.)

AMENDMENTS

2004—Pub. L. 108-357 amended section catchline and text generally, substituting provisions relating to penalty for failure to furnish information regarding reportable transactions for provisions relating to penalty for failure to furnish information regarding tax shelters.

1997—Subsec. (a)(1). Pub. L. 105-34, §1028(d)(2), which directed the substitution of “paragraph (2) or (3), as the case may be” for “paragraph (2)” in subpar. (A) of par. (1), was executed by making the substitution in the concluding provisions of par. (1) to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 105-34, §1028(d)(1), substituted “Except as provided in paragraph (3), the penalty” for “The penalty”.

Subsec. (a)(3). Pub. L. 105-34, §1028(b), added par. (3). 1986—Subsec. (a)(2). Pub. L. 99-514, §1532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

“(A) \$500, or

“(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) \$10,000. The \$10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).”

Subsec. (b)(2). Pub. L. 99-514, §1533(a), substituted “\$250” for “\$50”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §816(c), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendments made by this section [amending this section] shall apply to returns the due date for which is after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to any tax shelter, as defined in section 6111(d) of this title, interests in which are offered to potential participants after Secretary of the Treasury prescribes guidance with respect to meeting requirements added by amendments made by Pub. L. 105-34, §1028, see section 1028(e) of Pub. L. 105-34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1532(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendment made by

this section [amending this section] shall apply to failures with respect to tax shelters interests in which are first offered for sale after the date of the enactment of this Act [Oct. 22, 1986].”

Pub. L. 99-514, title XV, §1533(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendment made by this section [amending this section] shall apply to returns filed after the date of the enactment of this Act [Oct 22, 1986].”

EFFECTIVE DATE

Section applicable to tax shelters (within the meaning of section 6111 of this title), any interest in which is first sold to any investor after Aug. 31, 1984, see section 141(d) of Pub. L. 98-369, set out as a note under section 6111 of this title.

§ 6707A. Penalty for failure to include reportable transaction information with return

(a) Imposition of penalty

Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

(2) Maximum penalty

The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

(A) in the case of a listed transaction, \$200,000 (\$100,000 in the case of a natural person), or

(B) in the case of any other reportable transaction, \$50,000 (\$10,000 in the case of a natural person).

(3) Minimum penalty

The amount of the penalty under subsection (a) with respect to any transaction shall not be less than \$10,000 (\$5,000 in the case of a natural person).

(c) Definitions

For purposes of this section:

(1) Reportable transaction

The term “reportable transaction” means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

(2) Listed transaction

The term “listed transaction” means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

(d) Authority to rescind penalty

(1) In general

The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

(A) the violation is with respect to a reportable transaction other than a listed transaction, and

(B) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

(2) No judicial appeal

Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any judicial proceeding.

(3) Records

If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner with respect to the determination, including—

(A) a statement of the facts and circumstances relating to the violation,

(B) the reasons for the rescission, and

(C) the amount of the penalty rescinded.

(e) Penalty reported to SEC

In the case of a person—

(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

(2) which—

(A) is required to pay a penalty under this section with respect to a listed transaction,

(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

(C) is required to pay a penalty under section 6662(h) with respect to any reportable transaction and would (but for section 6662A(e)(2)(B)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

(f) Coordination with other penalties

The penalty imposed by this section shall be in addition to any other penalty imposed by this title.

(Added Pub. L. 108-357, title VIII, §811(a), Oct. 22, 2004, 118 Stat. 1575; amended Pub. L. 110-172, §11(a)(41), Dec. 29, 2007, 121 Stat. 2488; Pub. L. 111-240, title II, §2041(a), Sept. 27, 2010, 124 Stat. 2560.)

REFERENCES IN TEXT

Sections 13 and 15(d) of the Securities Exchange Act of 1934, referred to in subsec. (e)(1), are classified to sections 78m and 78o(d), respectively, of Title 15, Commerce and Trade.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-240 amended subsec. (b) generally. Prior to amendment, subsec. (b) specified the amount of the penalty under subsec. (a), both in general and with respect to a listed transaction, in the case of a natural person or in any other case.

2007—Subsec. (e)(2)(C). Pub. L. 110-172 substituted “section 6662A(e)(2)(B)” for “section 6662A(e)(2)(C)”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-240, title II, §2041(b), Sept. 27, 2010, 124 Stat. 2560, provided that: “The amendment made by this section [amending this section] shall apply to penalties assessed after December 31, 2006.”

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §811(c), Oct. 22, 2004, 118 Stat. 1577, as amended by Pub. L. 109-135, title IV, §403(w), Dec. 21, 2005, 119 Stat. 2629, provided that: “The amendments made by this section [enacting this section] shall apply to returns and statements the due date for which is after the date of the enactment of this Act [Oct. 22, 2004] and which were not filed before such date.”

REPORT

Pub. L. 108-357, title VIII, §811(d), Oct. 22, 2004, 118 Stat. 1577, provided that: “The Commissioner of Internal Revenue shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(1) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under section 6707A of the Internal Revenue Code of 1986, and

“(2) a description of each penalty rescinded under section 6707(c) of such Code and the reasons therefor.”

§ 6708. Failure to maintain lists of advisees with respect to reportable transactions

(a) Imposition of penalty

(1) In general

If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b) within 20 business days after the date of such request, such person shall pay a penalty of \$10,000 for each day of such failure after such 20th day.

(2) Reasonable cause exception

No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.

(b) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98-369, div. A, title I, §142(b), July 18, 1984, 98 Stat. 682; amended Pub. L. 99-514, title XV, §1534(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 108-357, title VIII, §§815(b)(5)(A), 817(a), Oct. 22, 2004, 118 Stat. 1583, 1584.)

CODIFICATION

Another section 6708 was renumbered section 6709 of this title.

AMENDMENTS

2004—Pub. L. 108-357, §815(b)(5)(A), substituted “advisees with respect to reportable transactions” for

“investors in potentially abusive tax shelters” in section catchline.

Subsec. (a). Pub. L. 108-357, §817(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of \$50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed \$100,000.”

1986—Subsec. (a). Pub. L. 99-514 substituted “\$100,000” for “\$50,000”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 815(b)(5)(A) of Pub. L. 108-357 applicable to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of this title is provided after Oct. 22, 2004, see section 815(c) of Pub. L. 108-357, set out as a note under section 6111 of this title.

Pub. L. 108-357, title VIII, §817(b), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendment made by this section [amending this section] shall apply to requests made after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1534(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendments made by this section [amending this section] shall apply to failures occurring or continuing after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE

Section applicable to any interest which is first sold to any investor after Aug. 31, 1984, see section 142(d) of Pub. L. 98-369, set out as a note under section 6112 of this title.

§ 6709. Penalties with respect to mortgage credit certificates

(a) Negligence

If—

(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of \$1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

(b) Fraud

If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of \$10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

(c) Reports

Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of \$200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed \$2,000.

(d) Mortgage credit certificate

The term “mortgage credit certificate” has the meaning given to such term by section 25(c). (Added Pub. L. 98-369, div. A, title VI, §612(d)(1), July 18, 1984, 98 Stat. 912, §6708; renumbered §6709, Pub. L. 99-514, title XVIII, §1862(d)(2), Oct. 22, 1986, 100 Stat. 2884.)

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section applicable to interest paid or accrued after Dec. 31, 1984, on indebtedness incurred after Dec. 31, 1984, see section 612(g) of Pub. L. 98-369, set out as a note under section 25 of this title.

§ 6710. Failure to disclose that contributions are nondeductible**(a) Imposition of penalty**

If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of \$1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed \$10,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(c) \$10,000 limitation not to apply where intentional disregard

If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

(A) \$1,000, or

(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

(2) the \$10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

(d) Day on which failure occurs

For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

(2) by mail, shall be treated as occurring when the solicitation was mailed,

(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

(4) by telephone, shall be treated as occurring when the solicitation was made.

(Added Pub. L. 100-203, title X, §10701(b), Dec. 22, 1987, 101 Stat. 1330-458.)

EFFECTIVE DATE

Section applicable to solicitations after Jan. 31, 1988, see section 10701(d) of Pub. L. 100-203, set out as a note under section 6113 of this title.

§ 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government**(a) Imposition of penalty**

If—

(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

(b) Amount of penalty

The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

(1) \$1,000, or

(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

(c) Definitions

For purposes of this section—

(1) Tax-exempt organization

The term “tax-exempt organization” means any organization which—

(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

(B) is a political organization (as defined in section 527(e)).

(2) Day on which failure occurs

The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d).

(Added Pub. L. 100-203, title X, §10705(a), Dec. 22, 1987, 101 Stat. 1330-463.)

EFFECTIVE DATE

Pub. L. 100-203, title X, §10705(c), Dec. 22, 1987, 101 Stat. 1330-464, provided that: “The amendments made by this section [enacting this section] shall apply to offers and solicitations after January 31, 1988.”

§ 6712. Failure to disclose treaty-based return positions**(a) General rule**

If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty

equal to \$1,000 (\$10,000 in the case of a C corporation) on each such failure.

(b) Authority to waive

The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty imposed by law.

(Added Pub. L. 100-647, title I, §1012(aa)(5)(B), Nov. 10, 1988, 102 Stat. 3532.)

CODIFICATION

Another section 6712 was renumbered section 6713 of this title.

EFFECTIVE DATE

Section applicable to taxable periods the due date for filing returns for which (without extension) occurs after Dec. 31, 1988, see section 1012(aa)(5)(D) of Pub. L. 100-647, set out as a note under section 6114 of this title.

§ 6713. Disclosure or use of information by preparers of returns

(a) Imposition of penalty

If any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall pay a penalty of \$250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed \$10,000.

(b) Exceptions

The rules of section 7216(b) shall apply for purposes of this section.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 100-647, title VI, §6242(a), Nov. 10, 1988, 102 Stat. 3749, §6712; renumbered §6713, Pub. L. 101-239, title VII, §7816(v)(1), Dec. 19, 1989, 103 Stat. 2423.)

EFFECTIVE DATE

Pub. L. 100-647, title VI, §6242(d), Nov. 10, 1988, 102 Stat. 3749, provided that: “The amendments made by this section [enacting this section and amending section 7216 of this title] shall apply to disclosures or uses after December 31, 1988.”

§ 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions

(a) Imposition of penalty

If an organization fails to meet the disclosure requirement of section 6115 with respect to a

quid pro quo contribution, such organization shall pay a penalty of \$10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed \$5,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 103-66, title XIII, §13173(b), Aug. 10, 1993, 107 Stat. 456.)

CODIFICATION

Another section 6714 was renumbered section 6715 of this title.

EFFECTIVE DATE

Section applicable to quid pro quo contributions made on or after Jan. 1, 1994, see section 13173(d) of Pub. L. 103-66, set out as a note under section 6115 of this title.

§ 6715. Dyed fuel sold for use or used in taxable use, etc.

(a) Imposition of penalty

If—

(1) any dyed fuel is sold or held for sale by any person for any use which such person knows or has reason to know is not a nontaxable use of such fuel,

(2) any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed,

(3) any person willfully alters, chemically or otherwise, or attempts to so alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel, or

(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,

then such person shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be the greater of—

(A) \$1,000, or

(B) \$10 for each gallon of the dyed fuel involved.

(2) Multiple violations

In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1)(A) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

(c) Definitions

For purposes of this section—

(1) Dyed fuel

The term “dyed fuel” means any dyed diesel fuel or kerosene, whether or not the fuel was dyed pursuant to section 4082.

(2) Nontaxable use

The term “nontaxable use” has the meaning given such term by section 4082(b).

(d) Joint and several liability of certain officers and employees

If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

(e) No administrative appeal for third and subsequent violations

In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

- (1) fraud or mistake in the chemical analysis, or
- (2) mathematical calculation of the amount of the penalty.

(Added Pub. L. 103-66, title XIII, §13242(b)(1), Aug. 10, 1993, 107 Stat. 520, §6714; renumbered §6715, Pub. L. 104-188, title I, §1703(n)(9)(A), Aug. 20, 1996, 110 Stat. 1877; amended Pub. L. 105-34, title X, §1032(e)(11), Aug. 5, 1997, 111 Stat. 935; Pub. L. 108-357, title VIII, §§855(a), 856(a), (b), Oct. 22, 2004, 118 Stat. 1616, 1617.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (e), is the date of enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-357, §856(a), which directed amendment of par. (2) by striking “or”, was executed by striking “or” at the end.

Subsec. (a)(3). Pub. L. 108-357, §856(b), substituted “alters, chemically or otherwise, or attempts to so alter,” for “alters, or attempts to alter,”.

Pub. L. 108-357, §856(a), inserted “or” at end.

Subsec. (a)(4). Pub. L. 108-357, §856(a), added par. (4).

Subsec. (e). Pub. L. 108-357, §855(a), added subsec. (e). 1997—Subsec. (c)(1). Pub. L. 105-34 inserted “or kerosene” after “diesel fuel”.

1996—Pub. L. 104-188 renumbered section 6714 of this title as this section.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §855(b), Oct. 22, 2004, 118 Stat. 1616, provided that: “The amendment made by this section [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-357, title VIII, §856(c), Oct. 22, 2004, 118 Stat. 1617, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 4041 of this title.

§ 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems**(a) Imposition of penalty****(1) Tampering**

If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, such person shall pay a penalty in addition to the tax (if any).

(2) Failure to maintain security requirements

If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

The amount of the penalty under subsection

(a) shall be—

- (1) for each violation described in paragraph (1), the greater of—

- (A) \$25,000, or
- (B) \$10 for each gallon of fuel involved, and

(2) for each—

- (A) failure to maintain security standards described in paragraph (2), \$1,000, and

- (B) failure to correct a violation described in paragraph (2), \$1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

(c) Joint and several liability**(1) In general**

If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

(2) Affiliated groups

If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

(Added Pub. L. 108-357, title VIII, §854(c)(1), Oct. 22, 2004, 118 Stat. 1615.)

EFFECTIVE DATE

Section effective on the 180th day after the date on which the Secretary of the Treasury issues the regulations described in section 854(b) of Pub. L. 108-357, see section 854(d) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendment note under section 4082 of this title.

§ 6716. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]

Section, added Pub. L. 107-16, title V, §542(b)(4), June 7, 2001, 115 Stat. 83, related to failure to file informa-

tion with respect to certain transfers at death and gifts.

EFFECTIVE DATE OF REPEAL

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

§ 6717. Refusal of entry

(a) In general

In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of \$1,000 for such refusal.

(b) Joint and several liability

(1) In general

If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

(2) Affiliated groups

If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

(c) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 108-357, title VIII, § 859(a), Oct. 22, 2004, 118 Stat. 1617.)

EFFECTIVE DATE

Section effective Jan. 1, 2005, see section 859(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendment note under section 4083 of this title.

§ 6718. Failure to display tax registration on vessels

(a) Failure to display registration

Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(3) shall pay a penalty of \$500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

(b) Multiple violations

In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the aggregate number of penalties (if any) imposed with respect to prior months by this section on such person (or a related person or any predecessor of such person or related person).

(c) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added and amended Pub. L. 108-357, title VIII, §§ 861(b)(1), 862(b), Oct. 22, 2004, 118 Stat. 1618, 1619.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357, § 862(b), substituted “section 4101(a)(3)” for “section 4101(a)(2)”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 862(b) of Pub. L. 108-357 effective Jan. 1, 2005, see section 862(c) of Pub. L. 108-357, set out as a note under section 4101 of this title.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 861(c)(2), Oct. 22, 2004, 118 Stat. 1619, provided that: “The amendments made by subsection (b) [enacting this section] shall apply to penalties imposed after December 31, 2004.”

§ 6719. Failure to register or reregister

(a) Failure to register or reregister

Every person who is required to register or reregister under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

The amount of the penalty under subsection (a) shall be—

- (1) \$10,000 for each initial failure to register or reregister, and
- (2) \$1,000 for each day thereafter such person fails to register or reregister.

(c) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 108-357, title VIII, § 863(c)(1), Oct. 22, 2004, 118 Stat. 1620; amended Pub. L. 109-59, title XI, § 11164(b)(1), Aug. 10, 2005, 119 Stat. 1975.)

AMENDMENTS

2005—Pub. L. 109-59, § 11164(b)(1)(C), inserted “or reregister” after “register” in section catchline.

Subsecs. (a), (b). Pub. L. 109-59, § 11164(b)(1)(A), (B), inserted “or reregister” after “register” wherever appearing.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to actions, or failures to act, after Aug. 10, 2005, see section 11164(c) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 863(e), Oct. 22, 2004, 118 Stat. 1620, provided that: “The amendments made by this section [enacting this section and section 6725 of this title and amending sections 7232 and 7272 of this title] shall apply to penalties imposed after December 31, 2004.”

§ 6720. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes

Any donee organization required under section 170(f)(12)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required

under section 170(f)(12), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(12)(A)(ii) applies, the greater of—

(A) the product of the highest rate of tax specified in section 1 and the sales price stated on the acknowledgment, or

(B) the gross proceeds from the sale of such vehicle, and

(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(12) applies, the greater of—

(A) the product of the highest rate of tax specified in section 1 and the claimed value of the vehicle, or

(B) \$5,000.

(Added Pub. L. 108-357, title VIII, §884(b)(1), Oct. 22, 2004, 118 Stat. 1634.)

EFFECTIVE DATE

Section applicable to contributions made after Dec. 31, 2004, see section 884(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 170 of this title.

§ 6720A. Penalty with respect to certain adulterated fuels

(a) In general

Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of \$10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).

(b) Penalty in the case of retailers

Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of \$10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).

(Added Pub. L. 109-59, title XI, §11167(a), Aug. 10, 2005, 119 Stat. 1977.)

EFFECTIVE DATE

Pub. L. 109-59, title XI, §11167(d), Aug. 10, 2005, 119 Stat. 1978, provided that: “The amendments made by this section [enacting this section and amending section 9503 of this title] shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act [Aug. 10, 2005].”

§ 6720B. Fraudulent identification of exempt use property

In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of \$10,000.

(Added Pub. L. 109-280, title XII, §1215(c)(1), Aug. 17, 2006, 120 Stat. 1079.)

CODIFICATION

Section 1215(c)(1) of Pub. L. 109-280, which directed the addition of section 6720B at the end of part I of sub-

chapter B of chapter 68, without specifying the act to be amended, was executed by adding section 6720B at the end of part I of subchapter B of chapter 68 of this title, which consists of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

EFFECTIVE DATE

Pub. L. 109-280, title XII, §1215(d)(3), Aug. 17, 2006, 120 Stat. 1079, provided that: “The amendments made by subsection (c) [enacting this section] shall apply to identifications made after the date of the enactment of this Act [Aug. 17, 2006].”

§ 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance

(a) In general

Any person required to notify a group health plan under section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009 who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of 110 percent of the premium reduction provided under such section after termination of eligibility under such subsection.

(b) Reasonable cause exception

No penalty shall be imposed under subsection (a) with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(Added Pub. L. 111-5, div. B, title III, §3001(a)(13)(A), Feb. 17, 2009, 123 Stat. 464; amended Pub. L. 111-144, §3(b)(5)(D), Mar. 2, 2010, 124 Stat. 45.)

REFERENCES IN TEXT

Section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009, referred to in subsec. (a), is section 3001 of Pub. L. 111-5, which is set out as a note under section 6432 of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-144, which directed substitution of “section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009” for “section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009”, was executed by making the substitution for “section 3002(a)(2)(C)) of the Health Insurance Assistance for the Unemployed Act of 2009” to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-144 effective as if included in the provisions of section 3001 of Pub. L. 111-5 to which it relates, see section 3(c) of Pub. L. 111-144, set out as a note under section 6432 of this title.

EFFECTIVE DATE

Section applicable to failures occurring after Feb. 17, 2009, see section 3001(a)(13)(C) of Pub. L. 111-5, set out as a Premium Assistance for COBRA Benefits note under section 6432 of this title.

PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

Sec.

6721. Failure to file correct information returns.

6722. Failure to furnish correct payee statements.

6723. Failure to comply with other information reporting requirements.

Sec.	
6724.	Waiver; definitions and special rules.
6725.	Failure to report information under section 4101.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §863(d)(2), Oct. 22, 2004, 118 Stat. 1620, added item 6725.

1989—Pub. L. 101-239, title VII, §7711(a), Dec. 19, 1989, 103 Stat. 2388, substituted “COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS” for “FILE CERTAIN INFORMATION RETURNS OR STATEMENTS” in part heading and substituted “correct” for “certain” in items 6721 and 6722 and “comply with other information reporting requirements” for “include correct information” in item 6723.

§ 6721. Failure to file correct information returns**(a) Imposition of penalty****(1) In general**

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$250 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$3,000,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period**(1) Correction within 30 days**

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$500,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

(c) Exceptions for certain de minimis failures**(1) Exception for de minimis failure to include all required information**

If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the appli-

cation of section 6724(a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation

The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(3) Safe harbor for certain de minimis errors**(A) In general**

If, with respect to an information return filed with the Secretary—

(i) there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,

(ii) no single amount in error differs from the correct amount by more than \$100, and

(iii) no single amount reported for tax withheld on any information return differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(B) Exception

Subparagraph (A) shall not apply with respect to any incorrect dollar amount to the extent that such error relates to an amount with respect to which an election is made under section 6722(c)(3)(B).

(C) Regulatory authority

The Secretary may issue regulations to prevent the abuse of the safe harbor under this paragraph, including regulations providing that this paragraph shall not apply to the extent necessary to prevent any such abuse.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000**(1) In general**

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

(A) subsection (a)(1) shall be applied by substituting “\$1,000,000” for “\$3,000,000”,

(B) subsection (b)(1)(B) shall be applied by substituting “\$175,000” for “\$500,000”, and

(C) subsection (b)(2)(B) shall be applied by substituting “\$500,000” for “\$1,500,000”.

(2) Gross receipts test**(A) In general**

A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending

before such calendar year do not exceed \$5,000,000.

(B) Certain rules made applicable

For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(e) Penalty in case of intentional disregard

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a) shall be \$500, or, if greater—

(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,

(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly,

(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) \$25,000, or

(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed \$100,000, or

(D) in the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$3,000,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

(f) Adjustment for inflation

(1) In general

In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2011” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1)—

(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2732; amended Pub. L. 100-690, title VII, § 7601(a)(2)(A), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2388; Pub. L. 101-508, title XI, § 11318(b), Nov. 5, 1990, 104 Stat. 1388-459; Pub. L. 109-280, title XII, § 1211(b)(2), Aug. 17, 2006, 120 Stat. 1073; Pub. L. 111-240, title II, § 2102(a)–(f), Sept. 27, 2010, 124 Stat. 2561, 2562; Pub. L. 113-295, div. B, title II, § 208(f), Dec. 19, 2014, 128 Stat. 4074; Pub. L. 114-27, title VIII, § 806(a)–(d), June 29, 2015, 129 Stat. 416, 417; Pub. L. 114-113, div. Q, title II, § 202(a), (d), Dec. 18, 2015, 129 Stat. 3076, 3077; Pub. L. 115-97, title I, § 11002(d)(1)(PP), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2017—Subsec. (f)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (a)(1). Pub. L. 114-27, § 806(a), substituted “\$250” for “\$100” and “\$3,000,000” for “\$1,500,000”.

Subsec. (b)(1)(A). Pub. L. 114-27, § 806(b)(1)(A), (B), substituted “\$50” for “\$30” and “\$250” for “\$100”.

Subsec. (b)(1)(B). Pub. L. 114-27, § 806(b)(1)(C), substituted “\$500,000” for “\$250,000”.

Subsec. (b)(2)(A). Pub. L. 114-27, § 806(b)(2)(A), (B), substituted “\$100” for “\$60” and “\$250” for “\$100”.

Subsec. (b)(2)(B). Pub. L. 114-27, § 806(b)(2)(C), substituted “\$1,500,000” for “\$500,000”.

Subsec. (c). Pub. L. 114-113, § 202(d)(1), substituted “Exceptions for certain de minimis failures” for “Exception for de minimis failures to include all required information” in heading.

Subsec. (c)(1). Pub. L. 114-113, § 202(d)(2), substituted “Exception for de minimis failure to include all required information” for “In general” in heading.

Subsec. (c)(3). Pub. L. 114-113, § 202(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 114-27, § 806(c)(1), substituted “\$1,000,000” for “\$500,000” and “\$3,000,000” for “\$1,500,000”.

Subsec. (d)(1)(B). Pub. L. 114-27, § 806(c)(2), substituted “\$175,000” for “\$75,000” and “\$500,000” for “\$250,000”.

Subsec. (d)(1)(C). Pub. L. 114-27, § 806(c)(3), substituted “\$500,000” for “\$200,000” and “\$1,500,000” for “\$500,000”.

Subsec. (e)(2). Pub. L. 114-27, § 806(d)(1), substituted “\$500” for “\$250”.

Subsec. (e)(3)(A). Pub. L. 114-27, § 806(d)(2), substituted “\$3,000,000” for “\$1,500,000”.

2014—Subsec. (f)(1). Pub. L. 113-295 substituted “In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014” for “For each fifth calendar year beginning after 2012”.

2010—Subsec. (a)(1). Pub. L. 111-240, § 2102(a), substituted “\$100” for “\$50” and “\$1,500,000” for “\$250,000”.

Subsec. (b)(1)(A). Pub. L. 111-240, § 2102(a)(1), (b)(1), substituted “\$30” for “\$15” and “\$100” for “\$50”.

Subsec. (b)(1)(B). Pub. L. 111-240, § 2102(b)(2), substituted “\$250,000” for “\$75,000”.

Subsec. (b)(2)(A). Pub. L. 111-240, § 2102(a)(1), (c)(1), substituted “\$60” for “\$30” and “\$100” for “\$50”.

Subsec. (b)(2)(B). Pub. L. 111-240, § 2102(c)(2), substituted “\$500,000” for “\$150,000”.

Subsec. (d)(1). Pub. L. 111-240, § 2102(d)(2), substituted “such calendar year” for “such taxable year” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 111-240, § 2102(a)(2), (d)(1)(A), substituted “\$500,000” for “\$100,000” and “\$1,500,000” for “\$250,000”.

Subsec. (d)(1)(B). Pub. L. 111-240, § 2102(b)(2), (d)(1)(B), substituted “\$75,000” for “\$25,000” and “\$250,000” for “\$75,000”.

Subsec. (d)(1)(C). Pub. L. 111-240, § 2102(c)(2), (d)(1)(C), substituted “\$200,000” for “\$50,000” and “\$500,000” for “\$150,000”.

Subsec. (e)(2). Pub. L. 111-240, § 2102(e), substituted “\$250” for “\$100” in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 111-240, § 2102(a)(2), substituted “\$1,500,000” for “\$250,000”.

Subsec. (f). Pub. L. 111-240, § 2102(f), added subsec. (f).

2006—Subsec. (e)(2)(D). Pub. L. 109-280, which directed the addition of subpar. (D) to section 6721(e)(2), without specifying the act to be amended, was executed by making the addition to subsec. (e)(2) of this section, which is section 6721 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1990—Subsec. (e)(2). Pub. L. 101-508 inserted “6050I,” after “6050H,” and struck out “or” at end of subpar. (A), substituted “or” for “and” at end of subpar. (B), and added subpar. (C).

1989—Pub. L. 101-239 substituted “correct” for “certain” in section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsec. (a) stating general rule and subsec. (b) relating to penalty in case of intentional disregard.

1988—Subsec. (b)(1)(A). Pub. L. 100-690 inserted “(or, if greater, in the case of a return filed under section 6050I, 10 percent of the taxable income derived from the transaction)” after “reported”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to returns required to be filed, and payee statements required to be provided, after Dec. 31, 2016, see section 202(e) of Pub. L. 114-113, set out as a note under section 6045 of this title.

Pub. L. 114-27, title VIII, § 806(f), June 29, 2015, 129 Stat. 418, provided that: “The amendments made by this section [amending this section and section 6722 of this title] shall apply with respect to returns and statements required to be filed after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-240, title II, § 2102(h), Sept. 27, 2010, 124 Stat. 2564, as amended by Pub. L. 113-295, div. A, title II, § 207(a)(1), Dec. 19, 2014, 128 Stat. 4027, provided that: “The amendments made by this section [amending this section and section 6722 of this title] shall apply with respect to information returns required to be filed, and payee statements required to be furnished, on or after January 1, 2011.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to acquisitions of contracts after Aug. 17, 2006, see section 1211(d) of Pub. L. 109-280, set out as an Effective Date note under section 6050V of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to amounts received after Nov. 5, 1990, see section 11318(e)(1) of Pub. L. 101-508, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7711(c), Dec. 19, 1989, 103 Stat. 2393, provided that: “The amendments made by this section [amending this section and sections 6722 to 6724 and 7205 of this title and repealing sections 6017A, 6676, and 6687 of this title] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100-690, set out as a note under section 6050I of this title.

EFFECTIVE DATE

Pub. L. 99-514, title XV, § 1501(e), Oct. 22, 1986, 100 Stat. 2741, provided that: “The amendments made by this section [enacting this section and sections 6722 to 6724 of this title, amending sections 219, 6031, 6033 to 6034A, 6041, 6042 to 6045, 6047, 6049, 6050A to 6050C, 6050E to 6050I, 6050K, 6052, 6057, 6058, 6652, and 6676 of this title, and repealing section 6678 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986, except that the amendments made by subsections (c)(2), (c)(3), and (c)(5) [amending sections 6042, 6044, and 6049 of this title] shall apply to returns the due [date] for which (determined without regard to extensions) is after the date of the enactment of this Act [Oct. 22, 1986].”

§ 6722. Failure to furnish correct payee statements

(a) Imposition of penalty

(1) General rule

In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of \$250 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$3,000,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

(B) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

(b) Reduction where correction in specified period

(1) Correction within 30 days

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the date prescribed for furnishing such statement—

(A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$500,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in

paragraph (1) but on or before August 1 of the calendar year in which the date prescribed for furnishing such statement occurs—

(A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

(c) Exception for de minimis failures

(1) In general

If—

(A) a payee statement is furnished to the person to whom such statement is required to be furnished,

(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such statement, and

(C) such failure is corrected on or before August 1 of the calendar year in which the date prescribed for furnishing such statement occurs,

for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

(2) Limitation

The number of payee statements to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of payee statements required to be furnished by the person during the calendar year.

(3) Safe harbor for certain de minimis errors

(A) In general

If, with respect to any payee statement—

(i) there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,

(ii) no single amount in error differs from the correct amount by more than \$100, and

(iii) no single amount reported for tax withheld on any information return differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such statement shall be treated as having been filed with all of the correct required information.

(B) Exception

Subparagraph (A) shall not apply to any payee statement if the person to whom such statement is required to be furnished makes an election (at such time and in such manner as the Secretary may prescribe) that subparagraph (A) not apply with respect to such statement.

(C) Regulatory authority

The Secretary may issue regulations to prevent the abuse of the safe harbor under this paragraph, including regulations providing that this paragraph shall not apply to the extent necessary to prevent any such abuse.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000

(1) In general

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

(A) subsection (a)(1) shall be applied by substituting “\$1,000,000” for “\$3,000,000”,

(B) subsection (b)(1)(B) shall be applied by substituting “\$175,000” for “\$500,000”, and

(C) subsection (b)(2)(B) shall be applied by substituting “\$500,000” for “\$1,500,000”.

(2) Gross receipts test

A person meets the gross receipts test of this paragraph if such person meets the gross receipts test of section 6721(d)(2).

(e) Penalty in case of intentional disregard

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a)(1) shall be \$500, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$3,000,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (2).

(f) Adjustment for inflation

(1) In general

In the case of any failure relating to a statement required to be furnished in a calendar year beginning after 2014, each of the dollar amounts under subsections (a), (b), (d)(1), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting “calendar year 2011” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1)—

(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390; Pub. L. 111-240, title II, § 2102(g), Sept. 27, 2010, 124 Stat. 2562; Pub. L. 113-295, div. A, title II, § 207(a)(2), (3), div. B, title II, § 208(g), Dec. 19, 2014, 128 Stat. 4027, 4028, 4074; Pub. L. 114-27, title VIII, § 806(e), June 29, 2015, 129 Stat. 417; Pub. L. 114-113, div. Q, title II, § 202(b), Dec. 18, 2015, 129 Stat. 3077; Pub. L. 115-97, title I, § 11002(d)(1)(QQ), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2017—Subsec. (f)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (a)(1). Pub. L. 114-27, § 806(e)(1), substituted “\$250” for “\$100” and “\$3,000,000” for “\$1,500,000”.

Subsec. (b)(1)(A). Pub. L. 114-27, § 806(e)(2)(A)(i), (ii), substituted “\$50” for “\$30” and “\$250” for “\$100”.

Subsec. (b)(1)(B). Pub. L. 114-27, § 806(e)(2)(A)(iii), substituted “\$500,000” for “\$250,000”.

Subsec. (b)(2)(A). Pub. L. 114-27, § 806(e)(2)(B)(i), (ii), substituted “\$100” for “\$60” and “\$250” for “\$100”.

Subsec. (b)(2)(B). Pub. L. 114-27, § 806(e)(2)(B)(iii), substituted “\$1,500,000” for “\$500,000”.

Subsec. (c)(3). Pub. L. 114-113 added par. (3).

Subsec. (d)(1)(A). Pub. L. 114-27, § 806(e)(3)(A), substituted “\$1,000,000” for “\$500,000” and “\$3,000,000” for “\$1,500,000”.

Subsec. (d)(1)(B). Pub. L. 114-27, § 806(e)(3)(B), substituted “\$175,000” for “\$75,000” and “\$500,000” for “\$250,000”.

Subsec. (d)(1)(C). Pub. L. 114-27, § 806(e)(3)(C), substituted “\$500,000” for “\$200,000” and “\$1,500,000” for “\$500,000”.

Subsec. (e)(2). Pub. L. 114-27, § 806(e)(4)(A), substituted “\$500” for “\$250” in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 114-27, § 806(e)(4)(B), substituted “\$3,000,000” for “\$1,500,000”.

2014—Subsecs. (b)(1), (2), (c)(1)(C). Pub. L. 113-295, § 207(a)(2), substituted “the date prescribed for furnishing such statement” for “the required filing date”.

Subsec. (c)(2)(B). Pub. L. 113-295, § 207(a)(3), substituted “furnished” for “filed”.

Subsec. (f)(1). Pub. L. 113-295, § 208(g), substituted “In the case of any failure relating to a statement required to be furnished in a calendar year beginning after 2014” for “For each fifth calendar year beginning after 2012”.

2010—Pub. L. 111-240 amended section generally. Prior to amendment, section related to: in subsec. (a), general rule for imposition of penalty for failure to furnish correct payee statements; in subsec. (b), failures subject to penalty; and, in subsec. (c), penalty in case of intentional disregard.

1989—Pub. L. 101-239 substituted “correct” for “certain” in section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsec. (a) stating general rule and subsec. (b) relating to failure to notify partnership of exchange of partnership interest.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to returns required to be filed, and payee statements required to

be provided, after Dec. 31, 2016, see section 202(e) of Pub. L. 114-113, set out as a note under section 6045 of this title.

Amendment by Pub. L. 114-27 applicable with respect to returns and statements required to be filed after Dec. 31, 2015, see section 806(f) of Pub. L. 114-27, set out as a note under section 6721 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title II, § 207(b), Dec. 19, 2014, 128 Stat. 4028, provided that: “The amendments made by this section [amending this section and provisions set out as a note under section 6721 of this title] shall take effect as if included in the provision of the Creating Small Business Jobs Act of 2010 [Pub. L. 111-240, title II] to which they relate.”

Amendment by section 208(g) of Pub. L. 113-295 applicable to returns required to be filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-240 applicable with respect to information returns required to be filed, and payee statements required to be furnished, on or after Jan. 1, 2011, see section 2102(h) of Pub. L. 111-240, set out as a note under section 6721 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE

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

§ 6723. Failure to comply with other information reporting requirements

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of \$50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “comply with other information reporting requirements” for “include correct information” in section catchline and amended text generally, substituting a single par. for former subsec. (a) stating general rule, subsec. (b) relating to penalty in case of intentional disregard, and subsec. (c) relating to coordination with former section 6676 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE

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

§ 6724. Waiver; definitions and special rules**(a) Reasonable cause waiver**

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) Payment of penalty

Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) Special rule for failure to meet magnetic media requirements

No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns (more than 100 information returns in the case of a partnership having more than 100 partners) or with respect to a return described in section 6011(e)(4).

(d) Definitions

For purposes of this part—

(1) Information return

The term “information return” means—

(A) any statement of the amount of payments to another person required by—

- (i) section 6041(a) or (b) (relating to certain information at source),
- (ii) section 6042(a)(1) (relating to payments of dividends),
- (iii) section 6044(a)(1) (relating to payments of patronage dividends),
- (iv) section 6049(a) (relating to payments of interest),
- (v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),
- (vi) section 6050N(a) (relating to payments of royalties),
- (vii) section 6051(d) (relating to information returns with respect to income tax withheld),
- (viii) section 6050R (relating to returns relating to certain purchases of fish), or
- (ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),

(B) any return required by—

- (i) section 6041A(a) or (b) (relating to returns of direct sellers),
- (ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),
- (iii) section 6045(a) or (d) (relating to returns of brokers),
- (iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),
- (v) section 6050H(a) or (h)(1) (relating to mortgage interest received in trade or business from individuals),
- (vi) section 6050I(a) or (g)(1) (relating to cash received in trade or business, etc.),
- (vii) section 6050J(a) (relating to foreclosures and abandonments of security),
- (viii) section 6050K(a) (relating to exchanges of certain partnership interests),

(ix) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

(x) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(xi) section 6050Q (relating to certain long-term care benefits),

(xii) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),

(xiii) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),

(xiv) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

(xv) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),

(xvi) section 6053(c)(1) (relating to reporting with respect to certain tips),

(xvii) subsection (b) or (e) of section 1060 (relating to reporting requirements of transferors and transferees in certain asset acquisitions),

(xviii) section 4101(d) (relating to information reporting with respect to fuels taxes),

(xix) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss),

(xx) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts), or¹

(xxi) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements), and²

(xxii) section 6039(a) (relating to returns required with respect to certain options),

(xxiii) section 6050W (relating to returns to payments made in settlement of payment card transactions),

(xxiv) section 6055 (relating to returns relating to information regarding health insurance coverage),

(xxv) section 6056 (relating to returns relating to certain employers required to report on health insurance coverage), or

(xxvi) section 6050Y (relating to returns relating to certain life insurance contract transactions), and²

(C) any statement of the amount of payments to another person required to be made to the Secretary under—

(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.), and

(D) any statement required to be filed with the Secretary under section 6035.

Such term also includes any form, statement, or schedule required to be filed with

¹ So in original. The word “or” probably should not appear.

² So in original. The word “and” probably should not appear.

the Secretary under chapter 4 or with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).³

(2) Payee statement

The term “payee statement” means any statement required to be furnished under—

(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

(B) section 6039(b) (relating to information required in connection with certain options),

(C) section 6041(d) (relating to information at source),

(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).⁴

(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

(H) section 6045(b) or (d) (relating to returns of brokers),

(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),

(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),

(K) section 6049(c) (relating to returns regarding payments of interest),

(L) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

(M) section 6050H(d) or (h)(2) relating⁵ to returns relating to mortgage interest received in trade or business from individuals),

(N) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),

(O) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

(P) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

(Q) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

(R) section 6050N(b) (relating to returns regarding payments of royalties),

(S) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(T) section 6050Q(b) (relating to certain long-term care benefits),

(U) section 6050R(c) (relating to returns relating to certain purchases of fish),

(V) section 6051 (relating to receipts for employees),

(W) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

(X) section 6053(b) or (c) (relating to reports of tips),

(Y) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

(Z) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person,

(AA) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person,

(BB) section 6050S(d) (relating to returns relating to qualified tuition and related expenses),

(CC) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts),

(DD) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals).⁶

(EE) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements),

(FF) section 6050W(f) (relating to returns relating to payments made in settlement of payment card transactions),

(GG) section 6055(c) (relating to statements relating to information regarding health insurance coverage),

(HH) section 6056(c) (relating to statements relating to certain employers required to report on health insurance coverage),

(II) section 6035 (other than a statement described in paragraph (1)(D)), or

(JJ) subsection (a)(2), (b)(2), or (c)(2) of section 6050Y (relating to returns relating to certain life insurance contract transactions).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 or 4 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(3) Specified information reporting requirement

The term “specified information reporting requirement” means—

(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

(B) any requirement contained in the regulations prescribed under section 6109 that a person—

(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

³So in original. Provision probably should be set flush with par. (1).

⁴So in original. The period probably should be a comma.

⁵So in original. Probably should be preceded by an opening parenthesis.

⁶So in original. A comma probably should appear.

(ii) furnish his TIN to another person, or
 (iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

(C)⁷ any requirement contained in the regulations prescribed under section 215 that a person—

(i) furnish his TIN to another person, or
 (ii) include on his return the TIN of another person, and

(D) any requirement under section 6109(h) that—

(i) a person include on his return the name, address, and TIN of another person, or
 (ii) a person furnish his TIN to another person.

(4) Required filing date

The term “required filing date” means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing).

(e) Special rule for certain partnership returns

If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.

(f) Special rule for returns of educational institutions related to higher education tuition and related expenses

No penalty shall be imposed under section 6721 or 6722 solely by reason of failing to provide the TIN of an individual on a return or statement required by section 6050S(a)(1) if the eligible educational institution required to make such return contemporaneously makes a true and accurate certification under penalty of perjury (and in such form and manner as may be prescribed by the Secretary) that it has complied with standards promulgated by the Secretary for obtaining such individual’s TIN.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2734; amended Pub. L. 100-418, title I, § 1941(b)(2)(M), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §§ 1006(h)(3)(A), 1015(a), title III, § 3001(b)(1), (2), Nov. 10, 1988, 102 Stat. 3410, 3568, 3614; Pub. L. 101-239, title VII, §§ 7711(a), 7811(c)(3), 7813(a), Dec. 19, 1989, 103 Stat. 2391, 2407, 2412; Pub. L. 101-508, title XI, §§ 11212(e)(1), 11323(b)(2), (c)(2), Nov. 5, 1990, 104 Stat. 1388-432, 1388-465; Pub. L. 102-486, title XIX, § 1933(b), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103-66, title XIII, § 13252(b), Aug. 10, 1993, 107 Stat. 532; Pub. L. 103-322, title II, § 20415(b)(1), (2), Sept. 13, 1994, 108 Stat. 1833; Pub. L. 104-188, title I, §§ 1116(b)(2)(A), (B), 1455(a), 1615(a)(2)(B), 1702(b)(1), (c)(2), 1704(j)(3), 1901(c)(1), Aug. 20, 1996, 110 Stat. 1764, 1817, 1853, 1868, 1869, 1881, 1908; Pub. L. 104-191, title III, § 323(b), Aug. 21, 1996, 110 Stat. 2062; Pub. L. 105-34, title II, § 201(c)(2), title XII, §§ 1213(b), 1223(b), title XVI, § 1602(d)(2)(A),

Aug. 5, 1997, 111 Stat. 805, 1001, 1019, 1094; Pub. L. 105-206, title VI, §§ 6004(a)(3), 6010(o)(4)(B), (C), 6012(b)(5), (d), July 22, 1998, 112 Stat. 792, 816, 819; Pub. L. 106-554, § 1(a)(7) [title III, § 319(23)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 107-210, div. A, title II, § 202(c)(2), Aug. 6, 2002, 116 Stat. 962; Pub. L. 108-357, title VIII, §§ 805(b), 853(d)(2)(L), (M), Oct. 22, 2004, 118 Stat. 1574, 1613; Pub. L. 109-280, title VIII, § 844(d)(2), title XII, § 1211(b)(1), Aug. 17, 2006, 120 Stat. 1012, 1073; Pub. L. 109-432, div. A, title IV, § 403(c)(1), (2), Dec. 20, 2006, 120 Stat. 2955; Pub. L. 110-172, § 11(b)(2), Dec. 29, 2007, 121 Stat. 2488; Pub. L. 110-289, div. C, title III, § 3091(b), July 30, 2008, 122 Stat. 2910; Pub. L. 110-343, div. B, title IV, § 403(c)(2), (d)(2), Oct. 3, 2008, 122 Stat. 3858, 3860; Pub. L. 111-147, title V, §§ 501(c)(6), (7), 522(b), Mar. 18, 2010, 124 Stat. 106, 113; Pub. L. 111-148, title I, §§ 1502(b), 1514(b), title X, § 10108(j)(3)(E), (F), Mar. 23, 2010, 124 Stat. 251, 257, 915; Pub. L. 113-295, div. A, title II, § 220(x), Dec. 19, 2014, 128 Stat. 4036; Pub. L. 114-277, title VIII, § 805(a), June 29, 2015, 129 Stat. 416; Pub. L. 114-41, title II, § 2004(b)(2), July 31, 2015, 129 Stat. 456; Pub. L. 115-97, title I, §§ 11051(b)(2)(C), 13520(c)(1), Dec. 22, 2017, 131 Stat. 2089, 2150.)

AMENDMENT OF SUBSECTION (d)(3)

Pub. L. 115-97, title I, § 11051(b)(2)(C), (c), Dec. 22, 2017, 131 Stat. 2089, 2090, provided that, applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, subsection (d)(3) of this section is amended by striking subparagraph (C) and redesignating subparagraph (D) as (C). See 2017 Amendment note below.

CODIFICATION

Section 1211(b)(1) of Pub. L. 109-280, which directed the amendment of section 6724 without specifying the act to be amended, was executed to this section, which is section 6724 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

Amendments to subsec. (d)(2) of this section by section 1901(c)(1) of Pub. L. 104-188 were executed before amendments by sections 1116(b)(2)(B) and 1455(a)(2) of Pub. L. 104-188, to reflect the probable intent of Congress.

AMENDMENTS

2017—Subsec. (d)(1)(B)(xxvi). Pub. L. 115-97, § 13520(c)(1)(A), added cl. (xxvi). Amendment directing substitution of “or” for “and” at end of cl. (xxv) was executed by inserting “or” to reflect the probable intent of Congress because “and” did not appear.

Subsec. (d)(2)(JJ). Pub. L. 115-97, § 13520(c)(1)(B), added subpar. (JJ).

Subsec. (d)(3)(C), (D). Pub. L. 115-97, § 11051(b)(2)(C), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: “any requirement contained in the regulations prescribed under section 215 that a person—

“(i) furnish his TIN to another person, or
 “(ii) include on his return the TIN of another person, and”.

2015—Subsec. (d)(1)(D). Pub. L. 114-41, § 2004(b)(2)(A), which directed amendment of subsec. (d)(1) by “adding

⁷ See Amendment of Subsection (d)(3) note below.

at the end” subpar. (D), was executed by adding subpar. (D) after subpar. (C) to reflect the probable intent of Congress.

Subsec. (d)(2)(II). Pub. L. 114-41, § 2004(b)(2)(B), which directed amendment of subsec. (d)(2) by “adding at the end” subpar. (II), was executed by adding subpar. (II) after subpar. (HH) to reflect the probable intent of Congress.

Subsec. (f). Pub. L. 114-27 added subsec. (f).

2014—Subsec. (d)(2)(FF). Pub. L. 113-295 substituted “section 6050W(f)” for “section 6050W(c)”.

2010—Subsec. (c). Pub. L. 111-147, § 522(b), inserted before period at end “or with respect to a return described in section 6011(e)(4)”.

Subsec. (d)(1). Pub. L. 111-147, § 501(c)(6), inserted “under chapter 4 or” after “filed with the Secretary” in concluding provisions.

Subsec. (d)(1)(B)(xxiv). Pub. L. 111-148, § 1502(b)(1), added cl. (xxiv).

Subsec. (d)(1)(B)(xxv). Pub. L. 111-148, § 10108(j)(3)(E), substituted “certain” for “large”.

Pub. L. 111-148, § 1514(b)(1), added cl. (xxv).

Subsec. (d)(2). Pub. L. 111-147, § 501(c)(7), inserted “or 4” after “chapter 3” in concluding provisions.

Subsec. (d)(2)(GG). Pub. L. 111-148, § 1502(b)(2), added subpar. (GG).

Subsec. (d)(2)(HH). Pub. L. 111-148, § 10108(j)(3)(F), substituted “certain” for “large”.

Pub. L. 111-148, § 1514(b)(2), added subpar. (HH).

2008—Subsec. (d)(1)(B)(iv) to (xviii). Pub. L. 110-343, § 403(d)(2)(A), added cl. (iv) and redesignated former cls. (iv) to (xvii) as (v) to (xviii), respectively. Former cl. (xviii) redesignated (xix).

Subsec. (d)(1)(B)(xix). Pub. L. 110-343, § 403(d)(2)(A), redesignated cl. (xviii) as (xix). Former cl. (xix) redesignated (xx).

Pub. L. 110-289, § 3091(b)(1)(B), redesignated cl. (xix) relating to section 6039(a) as (xxi).

Subsec. (d)(1)(B)(xx). Pub. L. 110-343, § 403(d)(2)(A), redesignated cl. (xix) as (xx). Former cl. (xx) redesignated (xxi).

Pub. L. 110-289, § 3091(b)(1)(A), which directed amendment of cl. (xx) by striking “or” at end, could not be executed because “or” did not appear.

Subsec. (d)(1)(B)(xxi). Pub. L. 110-343, § 403(d)(2)(A), redesignated cl. (xx) as (xxi). Former cl. (xxi) redesignated (xxii).

Pub. L. 110-289, § 3091(b)(1)(B), (C), redesignated cl. (xix) as (xxi) and substituted “or” for “and” at end.

Subsec. (d)(1)(B)(xxii). Pub. L. 110-343, § 403(d)(2)(A), redesignated cl. (xxi) as (xxii). Former cl. (xxii) redesignated (xxiii).

Pub. L. 110-289, § 3091(b)(1)(D), added cl. (xxii).

Subsec. (d)(1)(B)(xxiii). Pub. L. 110-343, § 403(d)(2)(A), redesignated cl. (xxii) as (xxiii).

Subsec. (d)(2)(I). Pub. L. 110-343, § 403(c)(2), added subpar. (I). Former subpar. (I) redesignated (J).

Subsec. (d)(2)(J) to (AA). Pub. L. 110-343, § 403(d)(2)(B), added subpar. (J) and redesignated former subpars. (J) to (Z) as (K) to (AA), respectively. Former subpar. (AA) redesignated (BB).

Pub. L. 110-343, § 403(c)(2), redesignated subpars. (I) to (Z) as (J) to (AA), respectively. Former subpar. (AA) redesignated (BB).

Subsec. (d)(2)(BB). Pub. L. 110-343, § 403(d)(2)(B), redesignated subpar. (AA) as (BB). Former subpar. (BB) redesignated (CC).

Pub. L. 110-343, § 403(c)(2), redesignated subpar. (AA) as (BB). Former subpar. (BB) redesignated (CC).

Pub. L. 110-289, § 3091(b)(2), which directed amendment of subpar. (BB) by striking “or” at end, could not be executed because “or” did not appear.

Subsec. (d)(2)(CC). Pub. L. 110-343, § 403(d)(2)(B), redesignated subpar. (BB) as (CC). Former subpar. (CC) redesignated (DD).

Pub. L. 110-343, § 403(c)(2), redesignated subpar. (BB) as (CC). Former subpar. (CC) redesignated (DD).

Pub. L. 110-289, § 3091(b)(2), substituted “, or” for period at end.

Subsec. (d)(2)(DD). Pub. L. 110-343, § 403(d)(2)(B), redesignated subpar. (CC) as (DD). Former subpar. (DD) redesignated (EE).

Pub. L. 110-343, § 403(c)(2), redesignated subpar. (CC) as (DD). Former subpar. (DD) redesignated (EE).

Pub. L. 110-289, § 3091(b)(2), added subpar. (DD).

Subsec. (d)(2)(EE). Pub. L. 110-343, § 403(d)(2)(B), redesignated subpar. (DD) as (EE). Former subpar. (EE) redesignated (FF).

Pub. L. 110-343, § 403(c)(2), redesignated subpar. (DD) as (EE).

Subsec. (d)(2)(FF). Pub. L. 110-343, § 403(d)(2)(B), redesignated subpar. (EE) as (FF).

2007—Subsec. (d)(1)(B)(iv). Pub. L. 110-172, § 11(b)(2)(A), inserted “or (h)(1)” after “section 6050H(a)”.

Subsec. (d)(2)(K). Pub. L. 110-172, § 11(b)(2)(B), inserted “or (h)(2)” after “section 6050H(d)”.

2006—Subsec. (d)(1)(B)(xiv) to (xvi). Pub. L. 109-280, § 1211(b)(1), added cl. (xiv) and redesignated former cls. (xiv) and (xv) as (xv) and (xvi), respectively. Former cl. (xvi) redesignated (xvii). See Codification note above.

Subsec. (d)(1)(B)(xvii). Pub. L. 109-432, § 403(c)(1), which directed amendment of cl. (xvii) by striking out “or” at end, could not be executed because “or” did not appear subsequent to amendment by Pub. L. 109-280, § 844(d)(2)(A). See below.

Pub. L. 109-280, § 1211(b)(1), redesignated cl. (xvi) as (xvii). Former cl. (xvii) redesignated (xviii). See Codification note above.

Pub. L. 109-280, § 844(d)(2)(A), struck out “or” at end.

Subsec. (d)(1)(B)(xviii). Pub. L. 109-432, § 403(c)(1), which directed amendment of cl. (xviii) by substituting “or” for “and” at end, could not be executed because “and” did not appear at end subsequent to amendment by Pub. L. 109-280, § 844(d)(2)(A). See below.

Pub. L. 109-280, § 1211(b)(1), redesignated cl. (xvii) as (xviii). Former cl. (xviii) redesignated (xix) relating to section 264(f)(5)(A)(iv). See Codification note above.

Pub. L. 109-280, § 844(d)(2)(A), substituted “or” for “and” at end.

Subsec. (d)(1)(B)(xix). Pub. L. 109-432, § 403(c)(1), added cl. (xix) relating to section 6039(a).

Pub. L. 109-280, § 1211(b)(1), redesignated cl. (xviii) as (xix) relating to section 264(f)(5)(A)(iv). Former cl. (xix) redesignated (xx). See Codification note above.

Pub. L. 109-280, § 844(d)(2)(A), added cl. (xix) relating to section 6050U.

Subsec. (d)(1)(B)(xx). Pub. L. 109-280, § 1211(b)(1), redesignated cl. (xix) relating to section 6050U as (xx). See Codification note above.

Subsec. (d)(2)(B). Pub. L. 109-432, § 403(c)(2), substituted “6039(b)” for “6039(a)”.

Subsec. (d)(2)(CC). Pub. L. 109-280, § 844(d)(2)(B), added subpar. (CC).

2004—Subsec. (d)(1)(B)(ii) to (xv). Pub. L. 108-357, § 805(b)(1), added cl. (ii) and redesignated former cls. (ii) to (xiv) as (iii) to (xv), respectively. Former cl. (xv) redesignated (xvi).

Subsec. (d)(1)(B)(xvi). Pub. L. 108-357, § 853(d)(2)(L), redesignated cl. (xvii) as (xvi) and struck out former cl. (xvi) which read as follows: “subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).”

Pub. L. 108-357, § 805(b)(1), redesignated cl. (xv) as (xvi). Former cl. (xvi) redesignated (xvii).

Subsec. (d)(1)(B)(xvii) to (xix). Pub. L. 108-357, § 853(d)(2)(L), redesignated cls. (xviii) and (xix) as (xvii) and (xviii), respectively. Former cl. (xvii) redesignated (xvi).

Pub. L. 108-357, § 805(b)(1), redesignated cls. (xvi) to (xviii) as (xvii) to (xix), respectively.

Subsec. (d)(2)(F) to (W). Pub. L. 108-357, § 805(b)(2), added subpar. (F) and redesignated former subpars. (F) to (V) as (G) to (W), respectively. Former subpar. (W) redesignated (X).

Subsec. (d)(2)(X). Pub. L. 108-357, § 853(d)(2)(M), redesignated subpar. (Y) as (X) and struck out former subpar. (X) which read as follows: “section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).”

Pub. L. 108-357, § 805(b)(2), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (d)(2)(Y) to (CC). Pub. L. 108-357, § 853(d)(2)(M), redesignated subpars. (Z) to (CC) as (Y) to (BB), respectively. Former subpar. (Y) redesignated (X).

Pub. L. 108-357, § 805(b)(2), redesignated subpars. (X) to (BB) as (Y) to (CC), respectively.

2002—Subsec. (d)(1)(B)(xi) to (xviii). Pub. L. 107-210, § 202(c)(2)(A), added cl. (xi) and redesignated former cls. (xi) to (xvii) as (xii) to (xviii), respectively.

Subsec. (d)(2)(BB). Pub. L. 107-210, § 202(c)(2)(B), added subpar. (BB).

2000—Subsec. (d)(1)(B)(xiv) to (xvii). Pub. L. 106-554, § 1(a)(7) [title III, § 319(23)(A)], added cls. (xiv) to (xvii) and struck out former cls. (xiv) to (xvii) which read as follows:

“(xiv) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels),

“(xv) section 4101(d) (relating to information reporting with respect to fuels taxes),

“(xvi) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss); or

“(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).”

Subsec. (d)(2)(AA). Pub. L. 106-554, § 1(a)(7) [title III, § 319(23)(B)], made a technical amendment to directory language of Pub. L. 105-206, § 6010(o)(4)(C). See 1998 Amendment note below.

1998—Subsec. (c). Pub. L. 105-206, § 6012(d), inserted before period at end “(more than 100 information returns in the case of a partnership having more than 100 partners)”.

Subsec. (d)(1)(A). Pub. L. 105-206, § 6012(b)(5), made a technical amendment to directory language of Pub. L. 105-34, § 1213(b). See 1997 Amendment note below.

Subsec. (d)(1)(B)(x) to (xiv). Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xv). Pub. L. 105-206, § 6010(o)(4)(B), struck out “or” at end.

Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvi). Pub. L. 105-206, § 6010(o)(4)(B), which directed the substitution of “; or” for period at end, was executed by making the substitution for “, and” at end, to reflect the probable intent of Congress.

Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvii). Pub. L. 105-206, § 6010(o)(4)(B), added cl. (xvii).

Subsec. (d)(2)(AA). Pub. L. 105-206, § 6010(o)(4)(C), as amended by Pub. L. 106-554, § 1(a)(7) [title III, § 319(23)(B)], added subpar. (AA).

1997—Subsec. (d)(1)(A)(ix). Pub. L. 105-34, § 1213(b), as amended by Pub. L. 105-206, § 6012(b)(5), added cl. (ix).

Subsec. (d)(1)(B)(x) to (xvi). Pub. L. 105-34, § 201(c)(2)(A), as amended by Pub. L. 105-206, § 6004(a)(3), added cl. (x) and redesignated former cls. (x) to (xv) as (xi) to (xvi), respectively.

Subsec. (d)(2)(R) to (Y). Pub. L. 105-34, § 1602(d)(2)(A), added subpars. (R) to (Y) and struck out former subpars. (R) to (X) which read as follows:

“(R) section 6051 (relating to receipts for employees),

“(S) section 6050R(c) (relating to returns relating to certain purchases of fish),

“(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

“(U) section 6053(b) or (c) (relating to reports of tips),

“(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

“(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

“(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than

the Secretary with respect to the amount of payments made to such person, or

“(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.”

Subsec. (d)(2)(Z). Pub. L. 105-34, § 201(c)(2)(B), added subpar. (Z).

Subsec. (e). Pub. L. 105-34, § 1223(b), added subsec. (e). 1996—Subsec. (d)(1)(A)(viii). Pub. L. 104-188, § 1116(b)(2)(A), added cl. (viii).

Subsec. (d)(1)(B)(ix), (x). Pub. L. 104-191, § 323(b)(1), added cl. (ix) and redesignated former cl. (ix) as (x). Former cl. (x) redesignated (xi).

Subsec. (d)(1)(B)(xi). Pub. L. 104-191, § 323(b)(1), redesignated cl. (x) as (xi). Former cl. (xi) redesignated (xii).

Pub. L. 104-188, § 1702(b)(1), made technical amendment to directory language of Pub. L. 101-508, § 11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xii). Pub. L. 104-191, § 323(b)(1), redesignated cl. (xi) as (xii). Former cl. (xii) redesignated (xiii).

Pub. L. 104-188, § 1702(c)(2)(A), struck out “or” at end.

Pub. L. 104-188, § 1702(b)(1), made technical amendment to directory language of Pub. L. 101-508, § 11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xiii). Pub. L. 104-191, § 323(b)(1), redesignated cl. (xii) as (xiii). Former cl. (xiii) redesignated (xiv).

Pub. L. 104-188, § 1702(c)(2)(B), substituted “, or” for period at end.

Subsec. (d)(1)(B)(xiv), (xv). Pub. L. 104-191, § 323(b)(1), redesignated cls. (xiii) and (xiv) as (xiv) and (xv), respectively.

Subsec. (d)(1)(C). Pub. L. 104-188, § 1455(a)(1), which directed the amendment of par. (1) by inserting a new subpar. (C) after subpar. (B), was executed by making the insertion after subpar. (B)(xv), to reflect the probable intent of Congress.

Subsec. (d)(2)(Q). Pub. L. 104-191, § 323(b)(2), added subpar. (Q). Former subpar. (Q) redesignated (R).

Subsec. (d)(2)(R). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (Q) as (R). Former subpar. (R) redesignated (S).

Pub. L. 104-188, § 1116(b)(2)(B), added subpar. (R). Former subpar. (R) redesignated (S).

Subsec. (d)(2)(S). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T).

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), struck out “or” at end. See Codification note above.

Subsec. (d)(2)(T). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U).

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), substituted “, or” for period at end. See Codification note above.

Subsec. (d)(2)(U). Pub. L. 104-191, § 323(d)(1), redesignated subpar. (T), relating to section 6053(b) or (c), as (U).

Pub. L. 104-188, § 1455(a)(2), struck out “or” at end. See Codification note above.

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (T) as (U). Former subpar. (U) redesignated (V). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), added subpar. (U). See Codification note above.

Subsec. (d)(2)(V). Pub. L. 104-188, § 1455(a)(2), substituted a comma for period at end.

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (U) as (V).

Subsec. (d)(2)(W), (X). Pub. L. 104-188, § 1455(a)(2), added subpars. (W) and (X).

Subsec. (d)(3)(C). Pub. L. 104-188, § 1615(a)(2)(B), inserted “and” at end.

Subsec. (d)(3)(D). Pub. L. 104-188, § 1615(a)(2)(B), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “the requirement of section 6109(e) that a person include the TIN of any dependent on his return, and”.

Subsec. (d)(3)(E). Pub. L. 104-188, § 1615(a)(2)(B), redesignated subpar. (E) as (D).

Pub. L. 104-188, § 1704(j)(3), substituted “section 6109(h)” for “section 6109(f)” in introductory provisions.

1994—Subsec. (d)(1)(B)(iv). Pub. L. 103-322, § 20415(b)(1), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “section 6050I(a) (relating to cash received in trade or business).”.

Subsec. (d)(2)(K). Pub. L. 103-322, § 20415(b)(2), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: “section 6050I(e) (relating to returns relating to cash received in trade or business).”.

1993—Subsec. (d)(1)(B)(viii) to (xiv). Pub. L. 103-66, § 13252(b)(1), which directed amendment of subsec. (d)(1)(B) by adding a new cl. (viii) after cl. (vii) and redesignating the following cls. accordingly, was executed by adding cl. (viii) and redesignating former cls. (viii), (ix), (x), (xi), (xii) (relating to section 4101(d)), and (xii) (relating to subpar. (C) of section 338(h)(10)) as (ix), (x), (xi), (xii), (xiii), and (xiv), respectively, to reflect the probable intent of Congress.

Subsec. (d)(2)(P) to (T). Pub. L. 103-66, § 13252(b)(2), added subpar. (P) and redesignated former subpars. (P) through (S) as (Q) through (T), respectively.

1992—Subsec. (d)(3)(E). Pub. L. 102-486 added subpar. (E).

1990—Subsec. (d)(1)(B)(x). Pub. L. 101-508, § 11323(b)(2), substituted “subsection (b) or (e) of section 1060” for “section 1060(b)”.

Subsec. (d)(1)(B)(xi). Pub. L. 101-508, § 11212(e)(1), as amended by Pub. L. 104-188, § 1702(b)(1), struck out “, or subsection (e),” after “(c)(4)”.

Subsec. (d)(1)(B)(xii). Pub. L. 101-508, § 11323(c)(2), added cl. (xii) relating to subpar. (C) of section 338(h)(10).

Pub. L. 101-508, § 11212(e)(1), as amended by Pub. L. 104-188, § 1702(b)(1), added cl. (xii) relating to section 4101(d).

1989—Pub. L. 101-239, § 7711(a), amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to reasonable cause waivers, subsec. (b) relating to payment of penalty, subsec. (c) relating to special rules for failure to file interest and dividend returns or statements, and subsec. (d) relating to definitions.

Subsec. (d)(1)(B)(viii) to (xi). Pub. L. 101-239, § 7811(c)(3), amended cls. (viii) to (xi) generally. Prior to amendment, cls. (viii) to (xi) read as follows:

“(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

“(ix) section 6053(c)(1) (relating to reporting with respect to certain tips), or

“(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions).

“(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).”

Subsec. (d)(2). Pub. L. 101-239, § 7813(a), struck out “or” after “insurance,” in subpar. (Q), substituted “tips, or” for “tips,” in subpar. (R), and redesignated subpar. (U) as (S).

1988—Subsec. (d)(1)(B). Pub. L. 100-647, § 3001(b)(1), which directed that “or” be struck out at end of cl. (ix), “, or” be substituted for period at end of cl. (x), and cl. (xi) relating to section 4093 be added, was executed by striking out “or” at end of cl. (ix) and adding cl. (xi) in view of intervening amendments by section 1941(b)(2)(M)(i) of Pub. L. 100-418, and by section 1006(h)(3)(A) of Pub. L. 100-647.

Pub. L. 100-647, § 1006(h)(3)(A), struck out “or” at end of cl. (ix), substituted “, or” for period at end of cl. (x), and added cl. (xi) relating to section 1060.

Pub. L. 100-418, § 1941(b)(2)(M)(i), redesignated cls. (ii) to (x) as (i) to (ix) and struck out former cl. (i) which

read as follows: “section 4997(a) (relating to information with respect to windfall profit tax on crude oil).”.

Subsec. (d)(2). Pub. L. 100-647, § 3001(b)(2), which directed that “or” be struck out at end of subpar. (S), “, or” be substituted for period at end of subpar. (T), and subpar. (U) be added, was executed by adding subpar. (U) in view of intervening amendment by section 1941(b)(2)(M)(ii) of Pub. L. 100-418.

Pub. L. 100-418, § 1941(b)(2)(M)(ii), redesignated subpars. (B) to (J) as (A) to (I), respectively, and struck out former subpar. (A) which read as follows: “section 4997(a) (relating to records and information; regulations),” and redesignated subpars. (L) to (T) as (J) to (R), respectively, and struck out former subpar. (K) which read as follows: “section 6050C (relating to information regarding windfall profit tax on domestic crude oil).”.

Subsec. (d)(2)(B). Pub. L. 100-647, § 1015(a), substituted “6031(b) or (c)” for “6031(b)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11051(b)(2)(C) of Pub. L. 115-97 applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, see section 11051(c) of Pub. L. 115-97, set out as a note under section 61 of this title.

Amendment by section 13520(c)(1) of Pub. L. 115-97 applicable to reportable policy sales (as defined in section 6050Y(d)(2) of this title) after Dec. 31, 2017, and reportable death benefits (as defined in section 6050Y(d)(4) of this title) paid after Dec. 31, 2017, see section 13520(d) of Pub. L. 115-97, set out as a note under section 6047 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-41 applicable to property with respect to which an estate tax return is filed after July 31, 2015, see section 2004(d) of Pub. L. 114-41, set out as a note under section 1014 of this title.

Pub. L. 114-27, title VIII, § 805(b), June 29, 2015, 129 Stat. 416, provided that: “The amendments made by this section [amending this section] shall apply to returns required to be made, and statements required to be furnished, after December 31, 2015.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1502(b) of Pub. L. 111-148 applicable to calendar years beginning after 2013, see section 1502(e) of Pub. L. 111-148, set out as an Effective Date note under section 6055 of this title.

Amendment by section 1514(b) of Pub. L. 111-148 applicable to periods beginning after Dec. 31, 2013, see section 1514(d) of Pub. L. 111-148, set out as an Effective Date note under section 6056 of this title.

Amendment by section 10108(j)(3)(E), (F) of Pub. L. 111-148 applicable to periods beginning after Dec. 31, 2013, see section 10108(j)(4) of Pub. L. 111-148, set out as a note under section 6056 of this title.

Amendment by section 501(c)(6), (7) of Pub. L. 111-147 applicable to payments made after Dec. 31, 2012, with certain exceptions, see section 501(d)(1), (2) of Pub. L. 111-147, set out as a note under section 1471 of this title.

Amendment by section 522(b) of Pub. L. 111-147 applicable to returns the due date for which (determined without regard to extensions) is after Mar. 18, 2010, see section 522(c) of Pub. L. 111-147, set out as a note under section 6011 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 effective Jan. 1, 2011, see section 403(e)(1) of Pub. L. 110-343, set out as a note under section 1012 of this title.

Amendment by Pub. L. 110-289 applicable to returns for calendar years beginning after Dec. 31, 2010, with ex-

ception for purposes of carrying out any TIN matching program, see section 3091(e) of Pub. L. 110-289, set out as a note under section 3406 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Tax Relief and Health Care Act of 2006, Pub. L. 109-432, to which such amendment relates, see section 11(b)(3) of Pub. L. 110-172, set out as a note under section 168 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to calendar years beginning after Dec. 20, 2006, see section 403(d) of Pub. L. 109-432, set out as a note under section 6039 of this title.

Amendment by section 844(d)(2) of Pub. L. 109-280 applicable to contracts issued after Dec. 31, 1996, but only with respect to taxable years beginning after Dec. 31, 2009, and to charges made after Dec. 31, 2009, see section 844(g)(1), (3) of Pub. L. 109-280, set out as a note under section 72 of this title.

Amendment by section 1211(b)(1) of Pub. L. 109-280 applicable to acquisitions of contracts after Aug. 17, 2006, see section 1211(d) of Pub. L. 109-280, set out as an Effective Date note under section 6050V of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 805(b) of Pub. L. 108-357 applicable to acquisitions after Oct. 22, 2004, see section 805(d) of Pub. L. 108-357, set out as an Effective Date note under section 6043A of this title.

Amendment by section 853(d)(2)(L), (M) of Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 201(c)(2) of Pub. L. 105-34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105-34, set out as an Effective Date note under section 25A of this title.

Amendment by section 1213(b) of Pub. L. 105-34 applicable to leases entered into after Aug. 5, 1997, see section 1213(e) of Pub. L. 105-34, set out as an Effective Date note under section 110 of this title.

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

Amendment by section 1602(d)(2)(A) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 applicable to benefits paid after Dec. 31, 1996, see section 323(d) of Pub. L. 104-191, set out as an Effective Date note under section 6050Q of this title.

Amendment by section 1116(b)(2)(A), (B) of Pub. L. 104-188 applicable to payments made after Dec. 31, 1997, see section 1116(b)(3) of Pub. L. 104-188, set out as an Effective Date note under section 6050R of this title.

Amendment by section 1455(a) of Pub. L. 104-188 applicable to returns, reports, and other statements the

due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

Amendment by section 1615(a)(2)(B) of Pub. L. 104-188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104-188, set out as a note under section 21 of this title.

Amendment by section 1702(b)(1), (c)(2) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Amendment by section 1901(c)(1) of Pub. L. 104-188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104-188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-322 effective on 60th day after date on which temporary regulations are prescribed under Pub. L. 103-322, § 20415(c), see section 20415(d) of Pub. L. 103-322, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, to discharges of indebtedness after Dec. 31, 1993, see section 13252(d) of Pub. L. 103-66, set out as an Effective Date note under section 6050P of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-486 applicable to taxable years beginning after Dec. 31, 1992, see section 1933(c) of Pub. L. 102-486, set out as a note under section 6109 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11212(e)(1) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

Amendment by section 11323(b)(2), (c)(2) of Pub. L. 101-508 applicable to acquisitions after Oct. 9, 1990, but not applicable to any acquisition pursuant to a written binding contract in effect on Oct. 9, 1990, and at all times thereafter before such acquisition, see section 11323(d) of Pub. L. 101-508, set out as a note under section 338 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

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

Amendment by sections 7811(c)(3) and 7813(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by sections 1006(h)(3)(A) and 1015(a) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment re-

lates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title III, §3001(c), Nov. 10, 1988, 102 Stat. 3615, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4093 and 7232 of this title] shall take effect on January 1, 1989.

“(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

“(A) IN GENERAL.—In the case of fuel—

“(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on December 31, 1988,

“(ii) which is used (before the claim under this subparagraph is filed) by any person in a non-taxable use (as defined in section 6427(l)(2) of the 1986 Code), and

“(iii) with respect to which a claim is not permitted to be filed for any quarter under section 6427(i) of the 1986 Code,

the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than June 30, 1989. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

“(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

“(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED.—Not later than the 30th day after the date of the enactment of this Act [Nov. 10, 1988], the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE

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

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a Construction note under section 35 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

§ 6725. Failure to report information under section 4101

(a) In general

In the case of each failure described in subsection (b) by any person with respect to a ves-

sel or facility, such person shall pay a penalty of \$10,000 in addition to the tax (if any).

(b) Failures subject to penalty

For purposes of subsection (a), the failures described in this subsection are—

(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

(c) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 108-357, title VIII, §863(d)(1), Oct. 22, 2004, 118 Stat. 1620.)

EFFECTIVE DATE

Section applicable to penalties imposed after Dec. 31, 2004, see section 863(e) of Pub. L. 108-357, set out as a note under section 6719 of this title.

Subchapter C—Procedural Requirements

Sec.

6751.

Procedural requirements.

§ 6751. Procedural requirements

(a) Computation of penalty included in notice

The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

(b) Approval of assessment

(1) In general

No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any addition to tax under section 6651, 6654, or 6655; or

(B) any other penalty automatically calculated through electronic means.

(c) Penalties

For purposes of this section, the term “penalty” includes any addition to tax or any additional amount.

(Added Pub. L. 105-206, title III, §3306(a), July 22, 1998, 112 Stat. 744.)

EFFECTIVE DATE

Pub. L. 105-206, title III, §3306(c), July 22, 1998, 112 Stat. 744, as amended by Pub. L. 106-554, §1(a)(7) [title III, §302(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-632, provided that: “The amendments made by this section [enacting this subchapter] shall apply to notices issued, and penalties assessed, after June 30, 2001. In the case of any notice of penalty issued after June 30, 2001, and before July 1, 2003, the requirements of section 6751(a) of the Internal Revenue Code of 1986 shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the tax-

payer's assessment and payment history with respect to such penalty.”

CHAPTER 69—GENERAL PROVISIONS RELATING TO STAMPS

Sec.	
6801.	Authority for establishment, alteration, and distribution.
6802.	Supply and distribution.
6803.	Accounting and safeguarding.
6804.	Attachment and cancellation.
6805.	Redemption of stamps.
6806.	Posting occupational tax stamps. ¹
6807.	Stamping, marking, and branding seized goods.
6808.	Special provisions relating to stamps.

§ 6801. Authority for establishment, alteration, and distribution

(a) Establishment and alteration

The Secretary may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) Preparation and distribution of regulations, forms, stamps and dies

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 829; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-569, §2, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 98-369, div. A, title IV, §454(c)(13), July 18, 1984, 98 Stat. 822.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369 struck out “, except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary” before the period at end.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455 and Pub. L. 94-569 struck out “or his delegate” after “Secretary” and provided that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 1, 1985, see section 456(b) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

§ 6802. Supply and distribution

The Secretary shall furnish, without prepayment, to—

(1) Postmaster General

The Postmaster General a suitable quantity of adhesive stamps, coupons, tickets, or such

other devices as may be prescribed by the Secretary pursuant to section 6302(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) are located in county seats, or

(B) are certified by the Secretary to the Postmaster General as necessary;

(2) Designated depository of the United States

Any designated depository of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depository.

(Aug. 16, 1954, ch. 736, 68A Stat. 829; Pub. L. 89-44, title VI, §601(d), June 21, 1965, 79 Stat. 154; Pub. L. 94-455, title XIX, §1906(a)(36), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing and substituted in par. (2) “designated depository.” for “designated depository.”

1965—Par. (1). Pub. L. 89-44, §601(d)(1), struck out “(other than the stamps on playing cards)” after “quantity of adhesive stamps”.

Par. (3). Pub. L. 89-44, §601(d)(2), struck out par. (3) which related to supply and distribution of stamps to State agents.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

§ 6803. Accounting and safeguarding

(a) Bond

In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

(b) Regulations

The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; Pub. L. 92-310, title II, §230(a), June 6, 1972, 86 Stat. 209; Pub. L. 94-455, title XIX, §1906(a)(37), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 redesignated subsec. (b)(1) as (a), substituted “paragraph (2)” for “paragraph (2) or (3)”, and struck out “or his delegate” after “Secretary” wherever appearing.

¹ Section catchline amended by Pub. L. 90-618 without corresponding amendment of analysis.

Subsec. (b). Pub. L. 94-455 redesignated par. (2) as entire subsection, struck out “or his delegate” after “Secretary” and substituted “paragraph (2)” for “paragraphs (2) and (3)”. Par. (1) redesignated subsec. (a).

1972—Subsec. (a). Pub. L. 92-310 repealed subsec. (a) which related to bonds, deposits of receipts, and accounts of postmasters, and which required the Postmaster General to transfer all receipts to the Treasury.

§ 6804. Attachment and cancellation

Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary may prescribe by rules or regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6805. Redemption of stamps

(a) Authorization

The Secretary, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use.

(b) Method and conditions of allowance

Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) Time for filing claims

No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless presented within 3 years after the purchase of such stamps from the Government.

(d) Finality of decisions

The findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; Pub. L. 85-859, title I, §165(b), (c), Sept. 2, 1958, 72 Stat. 1313; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1958—Subsec. (a). Pub. L. 85-859, §165(b), struck out provisions which authorized the Secretary to make allowances for or redeem stamps which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

Subsec. (c). Pub. L. 85-859, §165(c), inserted “under this section” after “shall be allowed”.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

§ 6806. Occupational tax stamps

Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E) shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of such special tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 831; Pub. L. 89-44, title VI, §601(e), June 21, 1965, 79 Stat. 155; Pub. L. 90-618, title II, §204, Oct. 22, 1968, 82 Stat. 1235.)

REFERENCES IN TEXT

Subchapter B of chapter 36, referred to in text, was repealed by Pub. L. 95-600, title V, §521(b), Nov. 6, 1978, 92 Stat. 2884.

AMENDMENTS

1968—Pub. L. 90-618 substituted “Occupational tax stamps” for “Posting occupational tax stamps” in section catchline, and substituted provisions that every person liable for a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E of this title) conspicuously place and keep in his place of business all stamps denoting payment of such special tax for provisions that every person liable for a special tax conspicuously place and keep in his place or business all stamps denoting payment of said special tax, provisions that authorized the Secretary or his delegate to require that the stamps denoting the payment of the special tax imposed by section 4461 of this title be posted on or in each device so that it will be visible to any person operating the device, and provisions that every person liable for the special tax under section 4411 of this title place the stamp denoting payment of such special tax in a conspicuous place in his place of business, or, if he has no such place of business, to keep such stamp on his person.

1965—Subsec. (b). Pub. L. 89-44 struck out “amusement and” after “Coin-operated” in heading.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Oct. 22, 1968, see section 207 of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

§ 6807. Stamping, marking, and branding seized goods

If any article of manufacture or produce requiring brands, stamps, or marks of whatever

kind to be placed thereon, is sold upon levy, forfeiture (except as provided in section 5688 with respect to distilled spirits), or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks so required.

(Aug. 16, 1954, ch. 736, 68A Stat. 831.)

§ 6808. Special provisions relating to stamps

For special provisions on stamps relating to—

(1) **Distilled spirits and fermented liquors, see chapter 51.**

(2) **Machine guns and short-barrelled firearms, see chapter 53.**

(3) **Tobacco, snuff, cigars and cigarettes, see chapter 52.**

(Aug. 16, 1954, ch. 736, 68A Stat. 831; Pub. L. 88-36, title II, § 201(d), June 4, 1963, 77 Stat. 54; Pub. L. 89-44, title VI, § 601(f), June 21, 1965, 79 Stat. 155; Pub. L. 91-513, title III, § 1102(c), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 93-490, § 3(b)(6), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94-455, title XIX, §§ 1904(b)(5)(B), (7)(A), (8)(B), (9)(A), 1952(n)(1), Oct. 4, 1976, 90 Stat. 1815, 1816, 1846.)

AMENDMENTS

1976—Par. (1). Pub. L. 94-455, § 1952(n)(1), redesignated par. (3) as (1).

Par. (2). Pub. L. 94-455, § 1952(n)(1), redesignated par. (6) as (2). Former par. (2), relating to cotton futures, with the included reference to subchapter D of chapter 39, was struck out.

Par. (3). Pub. L. 94-455, § 1952(n)(1), redesignated par. (11) as (3). Former par. (3) redesignated (1).

Par. (4). Pub. L. 94-455, § 1904(b)(5)(B), struck out par. (4) relating to documents and other instruments, with the included reference to chapter 34.

Par. (6). Pub. L. 94-455, § 1952(n)(1), redesignated par. (6) as (2).

Par. (7). Pub. L. 94-455, § 1904(b)(7)(A), struck out par. (7) relating to oleomargarine, with the included reference to subchapter F of chapter 38.

Par. (10). Pub. L. 94-455, § 1904(b)(9)(A), struck out par. (10) relating to process, renovated, or adulterated butter, with the included reference to subchapter C of chapter 39.

Par. (11). Pub. L. 94-455, § 1952(n)(1), redesignated par. (11) as (3).

Par. (12). Pub. L. 94-455, § 1904(b)(8)(B), struck out par. (12) relating to white phosphorous matches, with the included reference to subchapter B of chapter 39.

1974—Par. (5). Pub. L. 93-490 struck out par. (5) relating to filled cheese, with the included reference to subchapter C of chapter 39.

1970—Par. (8). Pub. L. 91-513 struck out par. (8) relating to opium, opium for smoking, opiates, coca leaves, and marihuana, with the included reference to subchapter A of chapter 39.

1965—Par. (1). Pub. L. 89-44 struck out par. (1) relating to capital stock.

Par. (9). Pub. L. 89-44 struck out par (9) relating to playing cards.

1963—Pars. (11) to (13). Pub. L. 88-36 redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11), which was a cross reference provision for silver bullion, to subchapter F of chapter 9.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(5)(B), (7)(A), (8)(B), (9)(A) of Pub. L. 94-455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

Amendment by section 1952(n)(1) of Pub. L. 94-455 effective on ninetieth day after Oct. 4, 1976, see section 1952(o) of Pub. L. 94-455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as an Effective Date of Repeal note under former sections 4831 to 4834 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88-36, title II, June 4, 1963, 77 Stat. 54.

SAVINGS PROVISION

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

CHAPTER 70—JEOPARDY, RECEIVERSHIPS, ETC.

Subchapter	Sec. ¹
A. Jeopardy	6851
B. Receiverships, etc	6871

AMENDMENTS

1980—Pub. L. 96-589, § 6(g)(3)(C), (D), Dec. 24, 1980, 94 Stat. 3410, substituted “JEOPARDY, RECEIVERSHIPS ETC.” for “JEOPARDY, BANKRUPTCY AND RECEIVERSHIPS” in chapter heading, and “Receiverships, etc.” for “Bankruptcy and receiverships” in item for subchapter B.

Subchapter A—Jeopardy

Part	
I.	Termination of taxable year.
II.	Jeopardy assessments.
III.	Special rules with respect to certain cash.

AMENDMENTS

1982—Pub. L. 97-248, title III, § 330(b), Sept. 3, 1982, 96 Stat. 620, added item for part III.

PART I—TERMINATION OF TAXABLE YEAR

Sec.	
6851.	Termination assessments of income tax.
6852.	Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations.

AMENDMENTS

1987—Pub. L. 100-203, title X, § 10713(b)(2)(H), Dec. 22, 1987, 101 Stat. 1330-470, added item 6852.

¹ Section numbers editorially supplied.

1976—Pub. L. 94-455, title XII, §1204(c)(12), Oct. 4, 1976, 90 Stat. 1699, substituted “assessments of income tax” for “of taxable year” in item 6851.

§ 6851. Termination assessments of income tax

(a) Authority for making

(1) In general

If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

(2) Computation of tax

In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

(4) This section inapplicable where section 6861 applies

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

(b) Notice of deficiency

If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or

less than the amount assessed under subsection (a).

(c) Citizens

In the case of a citizen of the United States or of a possession of the United States about to depart from the United States, the Secretary may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(d) Departure of alien

Subject to such exceptions as may, by regulations, be prescribed by the Secretary—

(1) No alien shall depart from the United States unless he first procures from the Secretary a certificate that he has complied with all the obligations imposed upon him by the income tax laws.

(2) Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such taxes if, in the case of an alien about to depart from the United States, the Secretary determines that the collection of the tax will not be jeopardized by the departure of the alien.

(e) Sections 6861(f) and (g) to apply

The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

(f) Cross references

(1) For provisions permitting immediate levy in case of jeopardy, see section 6331(a).

(2) For provisions relating to the review of jeopardy, see section 7429.

(Aug. 16, 1954, ch. 736, 68A Stat. 833; Pub. L. 85-866, title I, §87, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94-455, title XII, §1204(b), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1696, 1834.)

AMENDMENTS

1976—Pub. L. 94-455, §1204(b)(1), substituted “assessments of income tax” for “of taxable year” in section catchline.

Subsec. (a). Pub. L. 94-455, §1204(b)(1), revised pars. (1) and (2) to provide that a termination assessment does not end the taxable year for any purpose other than the computation of the amount of tax to be assessed and collected and to set out the method for determining the tax for the current taxable year, and added pars. (3) and (4).

Subsec. (b). Pub. L. 94-455, §1204(b)(1), substituted provisions for the mailing of a notice of deficiency for provisions for the reopening of taxable period.

Subsecs. (c), (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (e). Pub. L. 94-455, §1204(b)(2), substituted provisions making section 6861(f) and (g) applicable with respect to assessments under subsec. (a).

Subsec. (f). Pub. L. 94-455, §1204(b)(2), added subsec. (f).

1958—Subsec. (d). Pub. L. 85-866 designated existing provisions as par. (1), inserted opening provisions, and added par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1204(d), Oct. 4, 1976, 90 Stat. 1699, as amended by Pub. L. 94-528, §2(a), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this

section [enacting section 7429 of this title and amending this section and sections 443, 6091, 6211, 6213, 6863, 7103, and 7421 of this title] apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] where the notice and demand takes place after February 28, 1977.”

EFFECTIVE DATE OF 1958 AMENDMENT

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

§ 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to make

(1) In general

If the Secretary finds that—

(A) a section 501(c)(3) organization has made political expenditures, and

(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

(2) Computation of tax

In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

(4) Section inapplicable to assessments after due date

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

(b) Definitions and special rules

(1) Definitions

For purposes of this section, the terms “section 501(c)(3) organization”, “political expenditure”, and “organization manager” have the respective meanings given to such terms by section 4955.

(2) Certain rules made applicable

The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists.

(Added Pub. L. 100-203, title X, § 10713(b)(1), Dec. 22, 1987, 101 Stat. 1330-469.)

PART II—JEOPARDY ASSESSMENTS

Sec. 6861.	Jeopardy assessments of income, estate, gift, and certain excise taxes.
6862.	Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.
6863.	Stay of collection of jeopardy assessments.
6864.	Termination of extended period for payment in case of carryback.

AMENDMENTS

1974—Pub. L. 93-406, title II, § 1016(b)(5), Sept. 2, 1974, 88 Stat. 932, substituted “gift, and certain excise taxes” for “and gift taxes” in items 6861 and 6862.

§ 6861. Jeopardy assessments of income, estate, gift, and certain excise taxes

(a) Authority for making

If the Secretary believes that the assessment or collection of a deficiency, as defined in section 6211, will be jeopardized by delay, he shall, notwithstanding the provisions of section 6213(a), immediately assess such deficiency (together with all interest, additional amounts, and additions to the tax provided for by law), and notice and demand shall be made by the Secretary for the payment thereof.

(b) Deficiency letters

If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 6212(a), then the Secretary shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Tax Court

The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court. The Secretary may, at any time before the decision of the Tax Court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary shall notify the Tax Court of the amount of such assessment, or abatement, if the petition is filed with the Tax

Court before the making of the assessment or is subsequently filed, and the Tax Court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Tax Court

If the jeopardy assessment is made after the decision of the Tax Court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court in its decision.

(e) Expiration of right to assess

A jeopardy assessment may not be made after the decision of the Tax Court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court.

(f) Collection of unpaid amounts

When the petition has been filed with the Tax Court and when the amount which should have been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary.

(g) Abatement if jeopardy does not exist

The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the 10th day after the day on which such jeopardy assessment is abated.

(h) Cross references

(1) For the effect of the furnishing of security for payment, see section 6863.

(2) For provision permitting immediate levy in case of jeopardy, see section 6331(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 834; Pub. L. 93-406, title II, §1016(a)(24), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1974—Pub. L. 93-406 substituted “, gift, and certain excise taxes” for “and gift taxes” in section catchline.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

§ 6862. Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes

(a) Immediate assessment

If the Secretary believes that the collection of any tax (other than income tax, estate tax, gift tax, and the excise taxes imposed by chapters 41, 42, 43, and 44) under any provision of the internal revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest, additional amounts, and additions to the tax provided for by law). Such tax, additions to the tax, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Secretary for the payment thereof.

(b) Immediate levy

For provision permitting immediate levy in case of jeopardy, see section 6331(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 836; Pub. L. 93-406, title II, §1016(a)(25), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-222, title I, §108(b)(1)(C), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96-223, title I, §101(f)(9), Apr. 2, 1980, 94 Stat. 253; Pub. L. 100-418, title I, §1941(b)(2)(N), Aug. 23, 1988, 102 Stat. 1324.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418 substituted “and 44” for “44, and 45”.

1980—Subsec. (a). Pub. L. 96-223 which directed the substitution of “the excise taxes imposed by chapters 41, 42, 43, 44, and 45” for “certain excise taxes” was executed by inserting reference to chapter 45 in view of the amendment by Pub. L. 96-222.

Pub. L. 96-222 substituted “the taxes imposed by chapters 41, 42, 43, and 44” for “certain excise taxes”.

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

1974—Pub. L. 93-406 substituted “, gift, and certain excise taxes” for “, and gift taxes” in section catchline and “gift tax, and certain excise taxes” for “and gift tax)” in subsec. (a).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96-222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, see section 108(b)(4) of Pub.

L. 96-222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

§ 6863. Stay of collection of jeopardy assessments

(a) Bond to stay collection

When an assessment has been made under section 6851, 6852,¹ 6861 or 6862, the collection of the whole or any amount of such assessment may be stayed by filing with the Secretary, within such time as may be fixed by regulations prescribed by the Secretary, a bond in an amount equal to the amount as to which the stay is desired, conditioned upon the payment of the amount (together with interest thereon) the collection of which is stayed, at the time at which, but for the making of such assessment, such amount would be due. Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If any portion of such assessment is abated, the bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Further conditions in case of income, estate, or gift taxes

In the case of taxes subject to the jurisdiction of the Tax Court—

(1) Prior to petition to Tax Court

If the bond is given before the taxpayer has filed his petition under section 6213(a), the bond shall contain a further condition that if a petition is not filed within the period provided in such section, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon from the date of the jeopardy notice and demand to the date of notice and demand under this paragraph.

(2) Effect of Tax Court decision

The bond shall be conditioned upon the payment of so much of such assessment (collection of which is stayed by the bond) as is not abated by a decision of the Tax Court which has become final. If the Tax Court determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Tax Court is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

¹ So in original.

(3) Stay of sale of seized property pending Tax Court decision

(A) General rule

Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851, 6852, or 6861, the property seized for the collection of the tax shall not be sold—

(i) before the expiration of the periods described in subsection (c)(1)(A) and (B),

(ii) before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and

(iii) if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a), 6852(a), nor 6861(a) were applicable.

Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions).

(B) Exceptions

Such property may be sold if—

(i) the taxpayer consents to the sale,

(ii) the Secretary determines that the expenses of conservation and maintenance will greatly reduce the net proceeds, or

(iii) the property is of the type described in section 6336.

(C) Review by Tax Court

If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court.

(c) Stay of sale of seized property pending district court determination under section 7429

(1) General rule

Where a jeopardy assessment has been made under section 6862(a), the property seized for the collection of the tax shall not be sold—

(A) if a civil action is commenced in accordance with section 7429(b), on or before the day on which the district court judgment in such action becomes final, or

(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.

(2) Exceptions

With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3)(B) shall apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 836; Pub. L. 94-455, title XII, §1204(c)(7)–(9), title XIX, §1906(a)(38), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1830, 1834; Pub. L. 100-203, title X, §10713(b)(2)(E), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-647, title VI, §6245(a), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 101-239, title VII, §7822(d)(2), Dec. 19, 1989, 103 Stat. 2425.)

AMENDMENTS

1989—Subsec. (b)(3)(A)(iii). Pub. L. 101-239 made technical correction to Pub. L. 100-203, §10713(b)(2)(E)(iii), see 1987 Amendment note below.

1988—Subsec. (b)(3)(C). Pub. L. 100-647 added subpar. (C).

1987—Subsec. (a). Pub. L. 100-203, §10713(b)(2)(E)(i), substituted “6851, 6852,” for “6851”.

Subsec. (b)(3)(A). Pub. L. 100-203, §10713(b)(2)(E)(ii), substituted “6851, 6852, or 6861” for “6851 or 6861”.

Subsec. (b)(3)(A)(iii). Pub. L. 100-203, §10713(b)(2)(E)(iii), as amended by Pub. L. 101-239, substituted “6851(a), 6852(a), nor 6861(a)” for “6851(a) nor 6861(a)”.

1976—Subsec. (a). Pub. L. 94-455, §§1204(c)(7), 1906(b)(13)(A), inserted reference to section 6851, substituted “an assessment” for “a jeopardy assessment”, struck out “or his delegate” after “Secretary”, and substituted “such assessment” for “the jeopardy assessment”.

Subsec. (b)(3)(A). Pub. L. 94-455, §1204(c)(8), substituted “an assessment has been made under section 6851 or 6861,” for “a jeopardy assessment has been made under section 6861” in provisions preceding cl. (i), added cl. (i), redesignated former cl. (i) as (ii) and substituted “before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period” for “if section 6861(b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time”, redesignated former cl. (ii) as (iii) and substituted “assessment), before the expiration” for “jeopardy assessment under section 6861, prior to the expiration” and “if neither sections 6851(a) nor 6861(a) were applicable” for “if section 6861(a) were not applicable”, and inserted provisions following cl. (iii).

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

Subsec. (b)(3)(C). Pub. L. 94-455, §1906(a)(38), struck out subpar. (C) which had limited the applicability of subpars. (A) and (B) to jeopardy assessments made on or after Jan. 1, 1955, with respect to taxes imposed by this title, and with respect to taxes imposed by the Internal Revenue Code of 1939.

Subsec. (c). Pub. L. 94-455, §1204(c)(9), added subsec. (c).

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6245(b), Nov. 10, 1988, 102 Stat. 3751, provided that: “The amendments made by this section [amending this section] shall take effect on the 90th day after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(7)–(9) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1906(a)(38), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which be-

gins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 6864. Termination of extended period for payment in case of carryback

For termination of extensions of time for payment of income tax granted to corporations expecting carrybacks in case of jeopardy, see section 6164(h).

(Aug. 16, 1954, ch. 736, 68A Stat. 837.)

PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

Sec.

6867. Presumptions where owner of large amount of cash is not identified.

§ 6867. Presumptions where owner of large amount of cash is not identified

(a) General rule

If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash—

(1) as his, or

(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) Rules for assessing

In the case of any assessment resulting from the application of subsection (a)—

(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

(2) such income shall be treated as taxable at the highest rate of tax specified in section 1, and

(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

(c) Effect of later substitution of true owner

If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

(d) Definitions

For purposes of this section—

(1) Cash

The term “cash” includes any cash equivalent.

(2) Cash equivalent

The term “cash equivalent” means—

(A) foreign currency,

(B) any bearer obligation, and

(C) any medium of exchange which—

(i) is of a type which has been frequently used in illegal activities, and

(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

(3) Value of cash equivalent

Any cash equivalent shall be taken into account—

(A) in the case of a bearer obligation, at its face amount, and

(B) in the case of any other cash equivalent, at its fair market value.

(Added Pub. L. 97-248, title III, §330(a), Sept. 3, 1982, 96 Stat. 619; amended Pub. L. 100-647, title I, §1001(a)(1), Nov. 10, 1988, 102 Stat. 3349.)

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100-647 substituted “the highest rate of tax specified in section 1” for “a 50-percent rate”.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 97-248, title III, §330(c), Sept. 3, 1982, 96 Stat. 620, provided that: “The amendments made by subsections (a) and (b) [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

Subchapter B—Receiverships, Etc.

Sec.

6871. Claims for income, estate, gift, and certain excise taxes in receivership proceedings, etc.

6872. Suspension of period on assessment.

6873. Unpaid claims.

AMENDMENTS

1980—Pub. L. 96-589, §6(g)(3)(A), (B), Dec. 24, 1980, 94 Stat. 3410, substituted “Receiverships, Etc.” for “Bankruptcy and Receiverships” in subchapter heading, and “gift, and certain excise taxes in receivership proceedings, etc.” for “and gift taxes in bankruptcy and receivership proceedings” in item 6871.

§ 6871. Claims for income, estate, gift, and certain excise taxes in receivership proceedings, etc.

(a) Immediate assessment in receivership proceedings

On the appointment of a receiver for the taxpayer in any receivership proceeding before any court of the United States or of any State or of the District of Columbia, any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in respect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44 on such taxpayer may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

(b) Immediate assessment with respect to certain title 11 cases

Any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in re-

spect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44 on—

(1) the debtor’s estate in a case under title 11 of the United States Code, or

(2) the debtor, but only if liability for such tax has become res judicata pursuant to a determination in a case under title 11 of the United States Code,

may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

(c) Claim filed despite pendency of tax court proceedings

In the case of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44—

(1) claims for the deficiency and for interest, additional amounts, and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the receivership proceeding (or the case under title 11 of the United States Code) is pending, despite the pendency of proceedings for the redetermination of the deficiency pursuant to a petition to the Tax Court; but

(2) in the case of a receivership proceeding, no petition for any such redetermination shall be filed with the Tax Court after the appointment of the receiver.

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 85-866, title I, §88, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94-455, title XIX, §§1906(b)(13)(A), (c)(1), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 96-589, §6(g)(1), Dec. 24, 1980, 94 Stat. 3409; Pub. L. 101-239, title VII, §7841(d)(2), Dec. 19, 1989, 103 Stat. 2428.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “or 44” for “44, or 45” in subsections (a), (b), and (c).

1980—Subsec. (a). Pub. L. 96-589 amended subsec. (a) generally, substituting reference to appointment of a receiver for the taxpayer in any receivership proceedings, for reference to adjudication of bankruptcy of a taxpayer in a liquidating proceeding, the filing or the approval of a petition of or the approval of a petition against any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding, and inserted reference to chapters 41, 42, 43, 44, and 45.

Subsecs. (b), (c). Pub. L. 96-589 added subsec. (b), redesignated former subsec. (b) as (c), inserted reference to chapters 41, 42, 43, 44, and 45, and struck out reference to bankruptcy proceedings.

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

Pub. L. 94-455, §1906(c)(1), struck out “or Territory” after “any State”.

1958—Subsec. (a). Pub. L. 85-866, §88(a), substituted “the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer” for “the approval of a petition of, or against, any taxpayer”.

Subsec. (b). Pub. L. 85-866, §88(b), substituted “the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer” for “approval of the petition”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e)

of Pub. L. 96-589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

§ 6872. Suspension of period on assessment

If the regulations issued pursuant to section 6036 require the giving of notice by any fiduciary in any case under title 11 of the United States Code, or by a receiver in any other court proceeding, to the Secretary of his qualification as such, the running of the period of limitations on the making of assessments shall be suspended for the period from the date of the institution of the proceeding to a date 30 days after the date upon which the notice from the receiver or other fiduciary is received by the Secretary; but the suspension under this sentence shall in no case be for a period in excess of 2 years.

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, § 6 (i)(12), Dec. 24, 1980, 94 Stat. 3411.)

AMENDMENTS

1980—Pub. L. 96-589 substituted “any case under title 11 of the United States Code” for “any proceeding under the Bankruptcy Act”.

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

§ 6873. Unpaid claims

(a) General rule

Any portion of a claim for taxes allowed in a receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the Secretary after the termination of such proceeding.

(b) Cross references

(1) For suspension of running of period of limitations on collection, see section 6503(b).

(2) For extension of time for payment, see section 6161(c).

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, §6(g)(2), Dec. 24, 1980, 94 Stat. 3409.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-589 struck out reference to proceedings under the Bankruptcy Act.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bank-

ruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

CHAPTER 71—TRANSFEREES AND FIDUCIARIES

Sec.

- 6901. Transferred assets.
- 6902. Provisions of special application to transferees.
- 6903. Notice of fiduciary relationship.
- 6904. Prohibition of injunctions.
- 6905. Discharge of executor from personal liability for decedent's income and gift taxes.

AMENDMENTS

1970—Pub. L. 91-614, title I, §101(e)(2), Dec. 31, 1970, 84 Stat. 1837, added item 6905.

§ 6901. Transferred assets

(a) Method of collection

The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, paid, and collected in the same manner and subject to the same provisions and limitations as in the case of the taxes with respect to which the liabilities were incurred:

(1) Income, estate, and gift taxes

(A) Transferees

The liability, at law or in equity, of a transferee of property—

(i) of a taxpayer in the case of a tax imposed by subtitle A (relating to income taxes),

(ii) of a decedent in the case of a tax imposed by chapter 11 (relating to estate taxes), or

(iii) of a donor in the case of a tax imposed by chapter 12 (relating to gift taxes),

in respect of the tax imposed by subtitle A or B.

(B) Fiduciaries

The liability of a fiduciary under section 3713(b) of title 31, United States Code¹ in respect of the payment of any tax described in subparagraph (A) from the estate of the taxpayer, the decedent, or the donor, as the case may be.

(2) Other taxes

The liability, at law or in equity of a transferee of property of any person liable in respect of any tax imposed by this title (other than a tax imposed by subtitle A or B), but only if such liability arises on the liquidation of a partnership or corporation, or on a reorganization within the meaning of section 368(a).

(b) Liability

Any liability referred to in subsection (a) may be either as to the amount of tax shown on a return or as to any deficiency or underpayment of any tax.

(c) Period of limitations

The period of limitations for assessment of any such liability of a transferee or a fiduciary shall be as follows:

¹ So in original. Probably should be followed by a comma.

(1) Initial transferee

In the case of the liability of an initial transferee, within 1 year after the expiration of the period of limitation for assessment against the transferor;

(2) Transferee of transferee

In the case of the liability of a transferee of a transferee, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor;

except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee shall expire 1 year after the return of execution in the court proceeding.

(3) Fiduciary

In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(d) Extension by agreement**(1) Extension of time for assessment**

If before the expiration of the time prescribed in subsection (c) for the assessment of the liability, the Secretary and the transferee or fiduciary have both consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. For the purpose of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments of tax made by such transferee or fiduciary or overpayments of tax made by the transferor of which the transferee or fiduciary is legally entitled to credit or refund, such agreement and any extension thereof shall be deemed an agreement and extension thereof referred to in section 6511(c).

(2) Extension of time for credit or refund

If the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, then in applying the limitations under section 6511(c) on the amount of the credit or refund, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date of the agreement.

(e) Period for assessment against transferor

For purposes of this section, if any person is deceased, or is a corporation which has terminated its existence, the period of limitation for assessment against such person shall be the period that would be in effect had death or termination of existence not occurred.

(f) Suspension of running of period of limitations

The running of the period of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 6212 (relating to income, estate, and gift taxes), be suspended for the period during which the Secretary is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(g) Address for notice of liability

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, any notice of liability enforceable under this section required to be mailed to such person, shall, if mailed to the person subject to the liability at his last known address, be sufficient for purposes of this title, even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(h) Definition of transferee

As used in this section, the term “transferee” includes donee, heir, legatee, devisee, and distributee, and with respect to estate taxes, also includes any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(i) Extension of time

For extensions of time by reason of armed service in a combat zone, see section 7508.

(Aug. 16, 1954, ch. 736, 68A Stat. 841; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(10), Sept. 13, 1982, 96 Stat. 1065.)

AMENDMENTS

1982—Subsec. (a)(1)(B). Pub. L. 97-258 substituted “section 3713(b) of title 31, United States Code” for “section 3467 of the Revised Statutes (31 U.S.C. 192)”.

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

§ 6902. Provisions of special application to transferees**(a) Burden of proof**

In proceedings before the Tax Court the burden of proof shall be upon the Secretary to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(b) Evidence

Upon application to the Tax Court, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Tax Court, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Tax Court for the redetermination of his liability in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such ap-

plication, the Tax Court may require by subpoena, ordered by the Tax Court or any division thereof and signed by a judge, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Tax Court or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpoena.

(Aug. 16, 1954, ch. 736, 68A Stat. 843; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 6903. Notice of fiduciary relationship

(a) Rights and obligations of fiduciary

Upon notice to the Secretary that any person is acting for another person in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of such other person in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of such other person), until notice is given that the fiduciary capacity has terminated.

(b) Manner of notice

Notice under this section shall be given in accordance with regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 843; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6904. Prohibition of injunctions

For prohibition of suits to restrain enforcement of liability of transferee, or fiduciary, see section 7421(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 843.)

§ 6905. Discharge of executor from personal liability for decedent's income and gift taxes

(a) Discharge of liability

In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary) for release from personal liability for such taxes, the Secretary may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 9 months after receipt of the application if no notification is made by the Secretary before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due, and shall be entitled to a receipt or writing showing such discharge.

(b) Definition of executor

For purposes of this section, the term “executor” means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) Cross reference

For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

(Added Pub. L. 91-614, title I, §101(e)(1), Dec. 31, 1970, 84 Stat. 1837; amended Pub. L. 91-614, title I, §101(f), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1970—Subsec. (a). Pub. L. 91-614, §101(f), substituted “9 months” for “1 year”.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-614, title I, §101(f), Dec. 31, 1970, 84 Stat. 1838, provided that the amendment made by that section is effective with respect to the estates of decedents dying after Dec. 31, 1973.

EFFECTIVE DATE

Section effective with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as an Effective Date of 1970 Amendment note under section 2032 of this title.

CHAPTER 72—LICENSING AND REGISTRATION

Subchapter	Sec. ¹
A. Licensing	7001
B. Registration	7011

Subchapter A—Licensing

Sec.	
7001.	Collection of foreign items.

§ 7001. Collection of foreign items

(a) License

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Secretary and shall be subject to such regulations enabling the Government to obtain the information required under subtitle A (relating to income taxes) as the Secretary shall prescribe.

(b) Penalty for failure to obtain license

For penalty for failure to obtain the license provided for in this section, see section 7231.

(Aug. 16, 1954, ch. 736, 68A Stat. 845; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

Subchapter B—Registration

Sec.	
7011.	Registration—persons paying a special tax.
7012.	Cross references.

¹ Section numbers editorially supplied.

§ 7011. Registration—persons paying a special tax

(a) Requirement

Every person engaged in any trade or business on which a special tax is imposed by law shall register with the Secretary his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) Registration in case of death or change of location

Any person exempted under the provisions of section 4905 from the payment of a special tax, shall register with the Secretary in accordance with regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 845; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7012. Cross references

(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

(3) For provisions relating to registration in relation to the taxes on gasoline and diesel fuel, see section 4101.

(4) For provisions relating to registration by dealers in distilled spirits, wines, and beer, see section 5124.

(5) For penalty for failure to register, see section 7272.

(6) For other penalties for failure to register with respect to wagering, see section 7262.

(Aug. 16, 1954, ch. 736, 68A Stat. 846; Pub. L. 85-475, §4(b)(7), June 30, 1958, 72 Stat. 260; Pub. L. 89-44, title VI, §601(g), June 21, 1965, 79 Stat. 155; Pub. L. 91-513, title III, §1102(d), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 94-455, title XIX, §§1904(b)(8)(C), 1906(a)(39), Oct. 4, 1976, 90 Stat. 1816, 1830; Pub. L. 104-188, title I, §1702(b)(4), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 109-59, title XI, §11125(b)(9), Aug. 10, 2005, 119 Stat. 1955.)

AMENDMENTS

2005—Pars. (4) to (6). Pub. L. 109-59 added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

1996—Par. (3). Pub. L. 104-188, §1702(b)(4)(A), substituted “taxes on gasoline and diesel fuel” for “production or importation of gasoline”.

Pars. (4) to (6). Pub. L. 104-188, §1702(b)(4)(B), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4) which read as follows: “For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.”

1976—Pub. L. 94-455 revised section generally, striking out cross reference to section 4804(d) relating to registration in relation to manufacture of white phosphorus matches and substituted reference to section 5861 for reference to section 5854 in cross reference covering registration in connection with firearms.

1970—Subsecs. (a), (b). Pub. L. 91-513 struck out subsecs. (a) and (b) which related to narcotic drugs and marihuana, respectively, and which had made reference to sections 4722 and 4753, respectively.

1965—Subsec. (d). Pub. L. 89-44 struck out subsec. (d) relating to manufacture of playing cards.

1958—Subsecs. (i), (j). Pub. L. 85-475, redesignated subsec. (j) as (i) and struck out former subsec. (i) which referred to section 4273.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

SAVINGS PROVISION

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

CHAPTER 73—BONDS

Sec.

7101. Form of bonds.

7102. Single bond in lieu of multiple bonds.

7103. Cross references—Other provisions for bonds.

§ 7101. Form of bonds

Whenever, pursuant to the provisions of this title (other than section 7485), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security—

(1) General rule

Such bond or security shall be in such form and with such surety or sureties as may be prescribed by regulations issued by the Secretary.

(2) United States bonds and notes in lieu of surety bonds

The person required to furnish such bond or security may, in lieu thereof, deposit bonds or notes of the United States as provided in section 9303 of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; Pub. L. 92-310, title II, §230(b), June 6, 1972, 86 Stat. 209; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(11), Sept. 13, 1982, 96 Stat. 1065.)

AMENDMENTS

1982—Par. (2). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”.

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

1972—Pub. L. 92-310 struck out reference to section 6803(a)(1).

§ 7102. Single bond in lieu of multiple bonds

In any case in which two or more bonds are required or authorized, the Secretary may provide for the acceptance of a single bond complying with the requirements for which the several bonds are required or authorized.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7103. Cross references—Other provisions for bonds**(a) Extensions of time**

(1) For bond where time to pay tax or deficiency has been extended, see section 6165.

(2) For bond to stay collection of a jeopardy assessment, see section 6863.

(3) For bond to stay assessment and collection prior to review of a Tax Court decision, see section 7485.

(4) For a bond to stay collection of a penalty assessed under section 6672, see section 6672(b).

(5) For bond in case of an election to postpone payment of estate tax where the value of a reversionary or remainder interest is included in the gross estate, see section 6165.

(b) Release of lien or seized property

(1) For the release of the lien provided for in section 6325 by furnishing the Secretary a bond, see section 6325(a)(2).

(2) For bond to obtain release of perishable goods which have been seized under forfeiture proceeding, see section 7324(3).

(3) For bond to release perishable goods under levy, see section 6336.

(4) For bond executed by claimant of seized goods valued at \$100,000 or less, see section 7325(3).

(c) Miscellaneous

(1) For bond as a condition precedent to the allowance of the credit for accrued foreign taxes, see section 905(c).

(2) For bonds relating to alcohol and tobacco taxes, see generally subtitle E.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; Pub. L. 89-44, title VIII, §802(b)(3), June 21, 1965, 79 Stat. 159; Pub. L. 91-513, title III, §1102(e), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 92-310, title II, §230(c), June 6, 1972, 86 Stat. 209; Pub. L. 93-490, §3(b)(7), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94-455, title XII, §1204(c)(10), title XIX, §1906(a)(40), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1699, 1830, 1834; Pub. L. 95-628, §9(b)(2), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 99-514, title XV, §1566(c), Oct. 22, 1986, 100 Stat. 2763.)

AMENDMENTS

1986—Subsec. (b)(4). Pub. L. 99-514 substituted “\$100,000” for “\$1,000”.

1978—Subsec. (a)(4). Pub. L. 95-628 added par. (4).

1976—Subsec. (a)(4). Pub. L. 94-455, §1204(c)(10), struck out par. (4) which made reference to section 6851(e) as covering the furnishing of bond where a taxable years is closed by the Secretary or his delegate.

Subsec. (b)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, §1906(a)(40), struck out subsec. (d) which made cross references to provisions covering bonds required with respect to articles taxable under chapter B of chapter 37 processed for exportation without payment of tax, oleomargarine removed from the place of manufacture for exportation to a foreign country, and the manufacture of oleomargarine, process, renovated, or adulterated butter, and white phosphorus matches.

1974—Subsec. (d)(3)(C). Pub. L. 93-490 struck out subpar. (C) relating to manufacturers of filled cheese and which made reference to section 4833(c).

1972—Subsec. (e). Pub. L. 92-310 repealed subsec. (e) which contained cross references for personnel bonds.

1970—Subsec. (d)(3)(D). Pub. L. 91-513 struck out subpar. (D) which related to the manufacturer of opium suitable for smoking and which made reference to section 4713(b).

1965—Subsec. (d)(3)(F). Pub. L. 89-44 struck out subpar. (F) relating to producers and importers of gasoline and manufacturers and producers of lubricating oils.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective Oct. 22, 1986, see section 1566(e) of Pub. L. 99-514, set out as a note under section 7325 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-628 applicable with respect to penalties assessed more than 60 days after Nov. 10, 1978, see section 9(c) of Pub. L. 95-628, set out as a note under section 6672 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(10) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as an Effective Date of Repeal note under section 4831 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

SAVINGS PROVISION

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

CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

Sec.	
7121.	Closing agreements.
7122.	Compromises.
7123.	Appeals dispute resolution procedures.
7124.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3465(a)(2), July 22, 1998, 112 Stat. 768, added items 7123 and 7124 and struck out former item 7123 “Cross references”.

§ 7121. Closing agreements

(a) Authorization

The Secretary is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) Finality

If such agreement is approved by the Secretary (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7122. Compromises

(a) Authorization

The Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) Record

Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than \$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

(c) Rules for submission of offers-in-compromise

(1) Partial payment required with submission

(A) Lump-sum offers

(i) In general

The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of the amount of such offer.

(ii) Lump-sum offer-in-compromise

For purposes of this section, the term “lump-sum offer-in-compromise” means any offer of payments made in 5 or fewer installments.

(B) Periodic payment offers

(i) In general

The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment.

(ii) Failure to make installment during pendency of offer

Any failure to make an installment (other than the first installment) due under such offer-in-compromise during the period such offer is being evaluated by the Secretary may be treated by the Secretary as a withdrawal of such offer-in-compromise.

(2) Rules of application

(A) Use of payment

The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

(B) Application of user fee

In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

(C) Waiver authority

The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).

(d) Standards for evaluation of offers

(1) In general

The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-com-

promise is adequate and should be accepted to resolve a dispute.

(2) Allowances for basic living expenses

(A) In general

In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

(B) Use of schedules

The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

(3) Special rules relating to treatment of offers

The guidelines under paragraph (1) shall provide that—

(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer,

(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information solely for verification of such liability; and

(ii) the taxpayer shall not be required to provide a financial statement, and

(C) any offer-in-compromise which does not meet the requirements of subparagraph (A)(i) or (B)(i), as the case may be, of subsection (c)(1) may be returned to the taxpayer as unprocessable.

(e) Administrative review

The Secretary shall establish procedures—

(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and

(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.

(f) Deemed acceptance of offer not rejected within certain period

Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.

(g) Frivolous submissions, etc.

Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 104-168, title V, §503(a), July 30, 1996, 110 Stat. 1461; Pub. L. 105-206, title III, §3462(a), (c)(1), July 22, 1998, 112 Stat. 764, 766; Pub. L. 109-222, title V, §509(a), (b), May 17, 2006, 120 Stat. 362, 363; Pub. L. 109-432, div. A, title IV, §407(d), Dec. 20, 2006, 120 Stat. 2962; Pub. L. 113-295, div. A, title II, §220(y), Dec. 19, 2014, 128 Stat. 4036.)

AMENDMENTS

2014—Subsecs. (f), (g). Pub. L. 113-295 redesignated subsec. (f) relating to frivolous submissions as (g).

2006—Subsec. (c). Pub. L. 109-222, §509(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-222, §509(a), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(3)(C). Pub. L. 109-222, §509(b)(1), added subpar. (C).

Subsec. (e). Pub. L. 109-222, §509(a), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 109-432 added subsec. (f) relating to frivolous submissions.

Pub. L. 109-222, §509(b)(2), added subsec. (f) relating to deemed acceptance of offer not rejected within certain period.

1998—Subsec. (c). Pub. L. 105-206, §3462(a), added subsec. (c).

Subsec. (d). Pub. L. 105-206, §3462(c)(1), added subsec. (d).

1996—Subsec. (b). Pub. L. 104-168 substituted “\$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.” for “\$500.”

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of this title, see section 407(f) of Pub. L. 109-432, set out as a note under section 6320 of this title.

Amendment by Pub. L. 109-222 applicable to offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006, see section 509(d) of Pub. L. 109-222, set out as a note under section 6159 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 applicable to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, see section 3462(e)(1) of Pub. L. 105-206, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title V, §503(b), July 30, 1996, 110 Stat. 1461, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE

Pub. L. 105-206, title III, §3462(d), July 22, 1998, 112 Stat. 766, provided that: “The Secretary of the Treas-

ury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

“(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status;

“(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of one spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise; and

“(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.”

§ 7123. Appeals dispute resolution procedures

(a) Early referral to appeals procedures

The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

(b) Alternative dispute resolution procedures

(1) Mediation

The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) Arbitration

The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(c) Administrative appeal relating to adverse determination of tax-exempt status of certain organizations

(1) In general

The Secretary shall prescribe procedures under which an organization which claims to be described in section 501(c) may request an administrative appeal (including a conference relating to such appeal if requested by the organization) to the Internal Revenue Service Office of Appeals of an adverse determination described in paragraph (2).

(2) Adverse determinations

For purposes of paragraph (1), an adverse determination is described in this paragraph if such determination is adverse to an organization with respect to—

(A) the initial qualification or continuing qualification of the organization as exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) the initial classification or continuing classification of the organization as a private foundation under section 509(a), or

(C) the initial classification or continuing classification of the organization as a private operating foundation under section 4942(j)(3).

(Added Pub. L. 105-206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 768; amended Pub. L. 114-113, div. Q, title IV, § 404(a), Dec. 18, 2015, 129 Stat. 3118.)

PRIOR PROVISIONS

A prior section 7123 was renumbered section 7124 of this title.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-113 added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 404(b), Dec. 18, 2015, 129 Stat. 3118, provided that: “The amendment made by subsection (a) [amending this section] shall apply to determinations made on or after May 19, 2014.”

§ 7124. Cross references

For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(Aug. 16, 1954, ch. 736, 68A Stat. 850, § 7123; Pub. L. 97-258, § 3(f)(12), Sept. 13, 1982, 96 Stat. 1065; renumbered § 7124, Pub. L. 105-206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 767.)

AMENDMENTS

1998—Pub. L. 105-206 renumbered section 7123 of this title as this section.

1982—Subsec. (a). Pub. L. 97-258, § 3(f)(12)(A), struck out heading “Criminal penalties”.

Subsec. (b). Pub. L. 97-258, § 3(f)(12)(B), struck out subsec. (b) which set forth cross reference to R.S. 3469 (31 U.S.C. 194) relating to compromises after judgment.

CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter	Sec. ¹
A. Crimes	7201
B. Other offenses	7261
C. Forfeitures	7301
D. Miscellaneous penalty and forfeiture provisions	7341

Subchapter A—Crimes

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

PART I—GENERAL PROVISIONS

Sec.	
7201.	Attempt to evade or defeat tax.
7202.	Willful failure to collect or pay over tax.
7203.	Willful failure to file return, supply information, or pay tax.
7204.	Fraudulent statement or failure to make statement to employees.
7205.	Fraudulent withholding exemption certificate or failure to supply information.
7206.	Fraud and false statements.
7207.	Fraudulent returns, statements, or other documents.
7208.	Offenses relating to stamps.
7209.	Unauthorized use or sale of stamps.

¹ Section numbers editorially supplied.

Sec.	
7210.	Failure to obey summons.
7211.	False statements to purchasers or lessees relating to tax.
7212.	Attempts to interfere with administration of internal revenue laws.
7213.	Unauthorized disclosure of information.
7213A.	Unauthorized inspection of returns or return information.
7214.	Offenses by officers and employees of the United States.
7215.	Offenses with respect to collected taxes.
7216.	Disclosure or use of information by preparers of returns.
7217.	Prohibition on executive branch influence over taxpayer audits and other investigations.

AMENDMENTS

1998—Pub. L. 105-206, title I, §1105(b), July 22, 1998, 112 Stat. 711, added item 7217.

1997—Pub. L. 105-35, §2(b)(2), Aug. 5, 1997, 111 Stat. 1105, added item 7213A.

1982—Pub. L. 97-248, title III, §357(b)(2), Sept. 3, 1982, 96 Stat. 646, struck out item 7217 “Civil damages for unauthorized disclosure of returns and return information”.

1976—Pub. L. 94-455, title XII, §1202(e)(2), Oct. 4, 1976, 90 Stat. 1687, added item 7217.

1971—Pub. L. 92-178, title III, §316(b), Dec. 10, 1971, 85 Stat. 529, added item 7216.

1958—Pub. L. 85-321, §3(b), Feb. 11, 1958, 72 Stat. 6, added item 7215.

§ 7201. Attempt to evade or defeat tax

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 851; Pub. L. 97-248, title III, §329(a), Sept. 3, 1982, 96 Stat. 618.)

AMENDMENTS

1982—Pub. L. 97-248 substituted “\$100,000 (\$500,000 in the case of a corporation)” for “\$10,000”.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §329(e), Sept. 3, 1982, 96 Stat. 619, provided that: “The amendments made by this section [amending this section and sections 7203, 7206, and 7207 of this title] shall apply to offenses committed after the date of the enactment of this Act [Sept. 3, 1982].”

§ 7202. Willful failure to collect or pay over tax

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 851.)

§ 7203. Willful failure to file return, supply information, or pay tax

Any person required under this title to pay any estimated tax or tax, or required by this

title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting “felony” for “misdemeanor” and “5 years” for “1 year”.

(Aug. 16, 1954, ch. 736, 68A Stat. 851; Pub. L. 90-364, title I, §103(e)(5), June 28, 1968, 82 Stat. 264; Pub. L. 97-248, title III, §§327, 329(b), Sept. 3, 1982, 96 Stat. 617, 618; Pub. L. 98-369, div. A, title IV, §412(b)(9), July 18, 1984, 98 Stat. 792; Pub. L. 100-690, title VII, §7601(a)(2)(B), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101-647, title XXXIII, §3303(a), Nov. 29, 1990, 104 Stat. 4918.)

AMENDMENTS

1990—Pub. L. 101-647 substituted “substituting ‘felony’ for ‘misdemeanor’ and” for “substituting”.

1988—Pub. L. 100-690 inserted at end “In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting ‘5 years’ for ‘1 year’.”

1984—Pub. L. 98-369 struck out “(other than a return required under the authority of section 6015)” after “to make a return”.

1982—Pub. L. 97-248, §329(b), substituted “\$25,000 (\$100,000 in the case of a corporation)” for “\$10,000”.

Pub. L. 97-248, §327, inserted last sentence providing that, in the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure.

1968—Pub. L. 90-364 struck out reference to section 6016.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-647, title XXXIII, §3303(c), Nov. 29, 1990, 104 Stat. 4918, provided that: “The amendment made by subsection (a) [amending this section] shall apply to actions, and failures to act, occurring after the date of the enactment of this Act [Nov. 29, 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100-690, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 329(b) of Pub. L. 97-248 applicable to offenses committed after Sept. 3, 1982, see sec-

tion 329(e) of Pub. L. 97-248, set out as a note under section 7201 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

§ 7204. Fraudulent statement or failure to make statement to employees

In lieu of any other penalty provided by law (except the penalty provided by section 6674) any person required under the provisions of section 6051 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 852.)

§ 7205. Fraudulent withholding exemption certificate or failure to supply information

(a) Withholding on wages

Any individual required to supply information to his employer under section 3402 who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 3402, shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(b) Backup withholding on interest and dividends

If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 852; Pub. L. 89-368, title I, §101(e)(5), Mar. 15, 1966, 80 Stat. 62; Pub. L. 97-34, title VII, §721(b), Aug. 13, 1981, 95 Stat. 341; Pub. L. 97-248, title III, §§306(b), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98-67, title I, §§102(a), 107(b), Aug. 5, 1983, 97 Stat. 369, 382; Pub. L. 98-369, div. A, title I, §159(a), July 18, 1984, 98 Stat. 696; Pub. L. 101-239, title VII, §7711(b)(2), Dec. 19, 1989, 103 Stat. 2393.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “If any individual willfully makes—

“(1) any false certification or affirmation on any statement required by a payor in order to meet the due diligence requirements of section 6676(b), or

“(2) a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.”

1984—Pub. L. 98-369 in subsecs. (a) and (b) substituted “in addition to” for “in lieu of” and struck out ref-

erence to penalty under section 6682 after “penalty provided by law”.

1983—Pub. L. 98-67 designated existing provisions as subsec. (a), added subsec. (b), and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, this section is amended by designating the existing provisions as subsec. (a) with a heading of “Withholding on wages”, and by adding a new subsec. (b). Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted. Subsec. (b), referred to above, read as follows:

“(b) Withholding of interest and dividends

“Any person who—

“(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or

“(2) is required to furnish notice under section 3452(f)(1)(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than \$500, or imprisoned not more than 1 year, or both.”

1981—Pub. L. 97-34 substituted “\$1,000” for “\$500”.

1966—Pub. L. 89-368 substituted “section 3402” and “any other penalty provided by law (except the penalty provided by section 6682)” for “section 3402(f)” and “any penalty otherwise provided” respectively.

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §159(b), July 18, 1984, 98 Stat. 696, provided that: “The amendments made by this section [amending this section] shall apply to actions and failures to act occurring after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 107(b) of Pub. L. 98-67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to acts and failures to act after Dec. 31, 1981, see section 721(d) of Pub. L. 97-34, set out as a note under section 6682 of this title.

§ 7206. Fraud and false statements

Any person who—

(1) Declaration under penalties of perjury

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) Aid or assistance

Willfully aids or assists in, or procures, counsels, or advises the preparation or presen-

tation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

(3) Fraudulent bonds, permits, and entries

Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) Removal or concealment with intent to defraud

Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) Compromises and closing agreements

In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—

(A) Concealment of property

Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(B) Withholding, falsifying, and destroying records

Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 852; Pub. L. 97-248, title III, §329(c), Sept. 3, 1982, 96 Stat. 618.)

AMENDMENTS

1982—Pub. L. 97-248 substituted “\$100,000 (\$500,000 in the case of a corporation)” for “\$5,000”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to offenses committed after Sept. 3, 1982, see section 329(e) of Pub. L. 97-248, set out as a note under section 7201 of this title.

§ 7207. Fraudulent returns, statements, or other documents

Any person who willfully delivers or discloses to the Secretary any list, return, account, state-

ment, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 853; Pub. L. 87-792, §7(m)(3), Oct. 10, 1962, 76 Stat. 831; Pub. L. 91-172, title I, §101(e)(5), Dec. 30, 1969, 83 Stat. 524; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-603, §1(d)(5), Dec. 28, 1980, 94 Stat. 3505; Pub. L. 97-248, title III, §329(d), Sept. 3, 1982, 96 Stat. 619; Pub. L. 98-369, div. A, title IV, §491(d)(51), July 18, 1984, 98 Stat. 852; Pub. L. 100-203, title X, §10704(c), Dec. 22, 1987, 101 Stat. 1330-463; Pub. L. 105-277, div. J, title I, §1004(b)(2)(E), Oct. 21, 1998, 112 Stat. 2681-890; Pub. L. 107-276, §6(d), Nov. 2, 2002, 116 Stat. 1933.)

AMENDMENTS

2002—Pub. L. 107-276 substituted “pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527” for “pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104”.

1998—Pub. L. 105-277 struck out “or (e)” after “subsection (d)”.

1987—Pub. L. 100-203 inserted reference to subsec. (e) of section 6104.

1984—Pub. L. 98-369 struck out “or (c)” after “subsection (b)”.

1982—Pub. L. 97-248 substituted “\$10,000 (\$50,000 in the case of a corporation)” for “\$1,000” wherever appearing.

1980—Pub. L. 96-603 substituted “subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104” for “sections 6047(b) or (c), 6056, or 6104(d)”.

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

1969—Pub. L. 91-172 substituted “sections 6047(b) or (c), 6056, or 6104(d)” for “section 6047(b) or (c)”.

1962—Pub. L. 87-792 inserted sentence providing that any person required pursuant to section 6047(b) or (c) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-276, §6(h)(3), Nov. 2, 2002, 116 Stat. 1934, provided that: “The amendment made by subsection (d) [amending this section] shall apply to reports and notices required to be filed on or after the date of the enactment of this Act [Nov. 2, 2002].”

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to returns for years beginning after Dec. 31, 1986, and on and after

Dec. 22, 1987, in case of applications submitted after July 15, 1987, or on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987, see section 10704(d) of Pub. L. 100-203, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to offenses committed after Sept. 3, 1982, see section 329(e) of Pub. L. 97-248, set out as a note under section 7201 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

ANNUAL REPORTS

Pub. L. 110-428, §2(e), Oct. 15, 2008, 122 Stat. 4840, provided that: "The Secretary of the Treasury shall annually submit to Congress and make publicly available a report on the filing of false and fraudulent returns by individuals incarcerated in Federal and State prisons. Such report shall include statistics on the number of false and fraudulent returns associated with each Federal and State prison."

§ 7208. Offenses relating to stamps

Any person who—

(1) Counterfeiting

With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) Mutilation or removal

Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) Use of mutilated, insufficient, or counterfeited stamps

Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title,

(A) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(C) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) Reuse of stamps

(A) Preparation for reuse

Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) Trafficking

Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) Possession

Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) Emptied stamped packages

Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 853.)

§ 7209. Unauthorized use or sale of stamps

Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 854; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7210. Failure to obey summons

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), 7602, 7603, and 7604(b), neglects to ap-

pear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 854; Apr. 2, 1956, ch. 160, §4(h), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(3), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

§ 7211. False statements to purchasers or lessees relating to tax

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral—

(1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or

(2) ascribing a particular part of such price to a tax imposed under the authority of the United States,

knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 854.)

§ 7212. Attempts to interfere with administration of internal revenue laws

(a) Corrupt or forcible interference

Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both. The term “threats of force”, as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b) Forcible rescue of seized property

Any person who forcibly rescues or causes to be rescued any property after it shall have been

seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than \$500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

(Aug. 16, 1954, ch. 736, 68A Stat. 855.)

§ 7213. Unauthorized disclosure of information

(a) Returns and return information

(1) Federal employees and other persons

It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(1)(C), (3)(B)(i), or (7)(A)(ii), (k)(10), (l)(6), (7), (8), (9), (10), (12), (15), (16), (19), (20), or (21) or (m)(2), (4), (5), (6), or (7) of section 6103 or under section 6104(c). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) Other persons

It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) Solicitation

It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) Shareholders

It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(b) Disclosure of operations of manufacturer or producer

Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) Disclosures by certain delegates of Secretary

All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

(d) Disclosure of software

Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(e) Cross references

(1) Penalties for disclosure of information by preparers of returns

For penalty for disclosure or use of information by preparers of returns, see section 7216.

(2) Penalties for disclosure of confidential information

For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

(Aug. 16, 1954, ch. 736, 68A Stat. 855; Pub. L. 85-866, title I, §90(c), Sept. 2, 1958, 72 Stat. 1666; Pub. L. 86-778, title I, §103(s), Sept. 13, 1960, 74 Stat. 940; Pub. L. 94-455, title XII, §1202(d), (h)(3), Oct. 4, 1976, 90 Stat. 1686, 1688; Pub. L. 95-600, title VII, §701(bb)(1)(C), (6), Nov. 6, 1978, 92 Stat. 2922, 2923; Pub. L. 96-249, title I, §127(a)(2)(D), May 26, 1980, 94 Stat. 366; Pub. L. 96-265, title IV, §408(a)(2)(D), June 9, 1980, 94 Stat. 468, as amended Pub. L. 96-611, §11(a)(2)(B)(iv), Dec. 28, 1980, 94 Stat. 3574; Pub. L. 96-499, title III, §302(b), Dec.

5, 1980, 94 Stat. 2604; Pub. L. 96-611, §11(a)(4)(A), Dec. 28, 1980, 94 Stat. 3574; Pub. L. 97-248, title III, §356(b)(2), Sept. 3, 1982, 96 Stat. 645; Pub. L. 97-365, §8(c)(2), Oct. 25, 1982, 96 Stat. 1754; Pub. L. 98-369, div. A, title IV, §453(b)(4), div. B, title VI, §2653(b)(4), July 18, 1984, 98 Stat. 820, 1156; Pub. L. 98-378, §21(f)(5), Aug. 16, 1984, 98 Stat. 1326; Pub. L. 100-485, title VII, §701(b)(2)(C), Oct. 13, 1988, 102 Stat. 2426; Pub. L. 100-647, title VIII, §8008(c)(2)(B), Nov. 10, 1988, 102 Stat. 3787; Pub. L. 101-239, title VI, §6202(a)(1)(C), Dec. 19, 1989, 103 Stat. 2228; Pub. L. 101-508, title V, §5111(b)(3), Nov. 5, 1990, 104 Stat. 1388-273; Pub. L. 104-168, title XII, §1206(b)(5), July 30, 1996, 110 Stat. 1473; Pub. L. 105-33, title XI, §11024(b)(8), Aug. 5, 1997, 111 Stat. 722; Pub. L. 105-35, §2(b)(1), Aug. 5, 1997, 111 Stat. 1104; Pub. L. 105-206, title III, §3413(b), July 22, 1998, 112 Stat. 754; Pub. L. 107-134, title II, §201(c)(10), Jan. 23, 2002, 115 Stat. 2444; Pub. L. 108-173, title I, §105(e)(4), title VIII, §811(c)(2)(C), Dec. 8, 2003, 117 Stat. 2167, 2369; Pub. L. 109-280, title XII, §1224(b)(5), Aug. 17, 2006, 120 Stat. 1093; Pub. L. 111-148, title I, §1414(d), Mar. 23, 2010, 124 Stat. 237; Pub. L. 112-240, title II, §209(b)(3), Jan. 2, 2013, 126 Stat. 2326; Pub. L. 114-184, §2(b)(2)(C), June 30, 2016, 130 Stat. 537.)

AMENDMENTS

2016—Subsec. (a)(2). Pub. L. 114-184 substituted “(i)(1)(C), (3)(B)(i),” for “(i)(3)(B)(i).”

2013—Subsec. (a)(2). Pub. L. 112-240 inserted “(k)(10),” before “(l)(6).”

2010—Subsec. (a)(2). Pub. L. 111-148 substituted “(20), or (21)” for “or (20).”

2006—Subsec. (a)(2). Pub. L. 109-280, which directed insertion of “or under section 6104(c)” after “6103” in subsec. (a)(2) of section 7213, without specifying the act to be amended, was executed by making the insertion in subsec. (a)(2) of this section, which is section 7213 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2003—Subsec. (a)(2). Pub. L. 108-173, §811(c)(2)(C), substituted “(19), or (20)” for “or (19).”

Pub. L. 108-173, §105(e)(4), substituted “(16), or (19)” for “or (16).”

2002—Subsec. (a)(2). Pub. L. 107-134 substituted “(i)(3)(B)(i) or (7)(A)(ii),” for “(i)(3)(B)(i).”

1998—Subsecs. (d), (e). Pub. L. 105-206 added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (a)(2). Pub. L. 105-35 inserted “(5),” after “(m)(2), (4).”

Pub. L. 105-33 substituted “(15), or (16)” for “or (15).”

1996—Subsec. (a)(2). Pub. L. 104-168 substituted “(12), or (15)” for “or (12).”

1990—Subsec. (a)(2). Pub. L. 101-508 substituted “(6), or (7)” for “or (6).”

1989—Subsec. (a)(2). Pub. L. 101-239 substituted “(10), or (12)” for “or (10).”

1988—Subsec. (a)(2). Pub. L. 100-647 substituted “(m)(2), (4), or (6)” for “(m)(2) or (4).”

Pub. L. 100-485 substituted “(9), or (10)” for “(9), (10), or (11).”

1984—Subsec. (a)(2). Pub. L. 98-378 substituted “(10), or (11)” for “or (10).”

Pub. L. 98-369, §2653(b)(4), substituted “(9), or (10)” for “or (9).”

Pub. L. 98-369, §453(b)(4), substituted “(7), (8), or (9)” for “(7), or (8).”

1982—Subsec. (a)(2). Pub. L. 97-365 substituted “(m)(2) or (4)” for “(m)(4).”

Pub. L. 97-248 inserted “(i)(3)(B)(i),” after “under subsection (d).”

1980—Subsec. (a)(2). Pub. L. 96-611, §11(a)(4)(A), substituted “(l)(6), (7), or (8)” for “(l)(6) or (7).”

Pub. L. 96-499 substituted “person (not described in paragraph (1))” for “officer, employee, or agent, or

former officer, employee, or agent, of any State (as defined in section 6103(b)(5)), any local child support enforcement agency, any educational institution, or any State food stamp agency (as defined in section 6103(l)(7)(C))” and “(m)(4) of section 6103” for “(m)(4)(B) of section 6103”.

Pub. L. 96-265, §408(a)(2)(D), as amended by Pub. L. 96-611, §11(a)(2)(B)(iv), substituted “subsection (d), (l)(6), (7), or (8), or (m)(4)(B)” for “subsection (d), (l)(6) or (7), or (m)(4)(B).”

Pub. L. 96-249 substituted “any educational institution, or any State food stamp agency (as defined in section 6103(l)(7)(C))” for “or any educational institution” and “subsection (d), (l)(6) or (7), or (m)(4)(B)” for “subsection (d), (l)(6), or (m)(4)(B).”

1978—Subsec. (a)(1). Pub. L. 95-600, §701(bb)(6)(A), inserted “willfully” before “to disclose.”

Subsec. (a)(2). Pub. L. 95-600, §701(bb)(1)(C), (6)(A), inserted provision relating to educational institutions, inserted “willfully” before “to disclose”, and substituted “subsection (d), (l)(6), or (m)(4)(B) of section 6103” for “section 6103(d) or (l)(6).”

Subsec. (a)(3). Pub. L. 95-600, §701(bb)(6)(B), substituted “thereafter willfully to” for “to thereafter.”

Subsec. (a)(4). Pub. L. 95-600, §701(bb)(6)(C), inserted “willfully” before “to offer.”

Subsec. (a)(5). Pub. L. 95-600, §701(bb)(6)(A), inserted “willfully” before “to disclose.”

1976—Subsec. (a). Pub. L. 94-455, §1202(d), added pars. (3) and (4), redesignated former par. (3) as (5), and in pars. (1), (2), and (5) raised from a misdemeanor to a felony any criminal violation of the disclosure rules, increased from \$1,000 to \$5,000 and from one year imprisonment to five years imprisonment the maximum criminal penalties for an unauthorized disclosure of a return or return information, extended the criminal penalties to apply to unauthorized disclosures of any return or return information and not merely income returns and other financial information appearing on income returns, and extended the criminal penalties to apply to former Federal and State officers and to officers and employees of contractors having access to returns and return information in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, etc., of equipment.

Subsec. (c). Pub. L. 94-455, §1202(d), redesignated subsec. (d) as (c). Former subsec. (c), covering offenses relating to the reproduction of documents, was struck out.

Subsecs. (d), (e). Pub. L. 94-455, §1202(d), (h)(3), redesignated subsec. (e) as (d) and, in par. (1) of subsec. (d) as so redesignated, substituted a cross reference to section 7216 as covering penalties for disclosure or use of information by preparers of returns for a cross reference to section 6106 as covering special provisions applicable to returns of tax under chapter 23 (relating to Federal Unemployment Tax). Former subsec. (d) redesignated (c).

1960—Subsecs. (d), (e). Pub. L. 86-778 added subsec. (d) and redesignated former subsec. (d) as (e).

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

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-184 applicable to disclosures made after June 30, 2016, see section 2(c) of Pub. L. 114-184, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Aug. 17, 2006, but not applicable to requests made before such date, see section 1224(c) of Pub. L. 109-280, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disclosures made on or after Jan. 23, 2002, see section 201(d)

of Pub. L. 107-134, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105-35, §2(c), Aug. 5, 1997, 111 Stat. 1105, provided that: “The amendments made by this section [enacting section 7213A of this title and amending this section] shall apply to violations occurring on and after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105-33, see section 11721 of Pub. L. 105-33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-378 applicable with respect to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 21(g) of Pub. L. 98-378, set out as a note under section 6103 of this title.

Amendment by section 453(b)(4) of Pub. L. 98-369 effective on the first day of the first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

Amendment by section 2653(b)(4) of Pub. L. 98-369 applicable to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 2653(c) of Pub. L. 98-369, as amended, set out as a note under section 6402 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97-365 effective Oct. 25, 1982, see section 8(d) of Pub. L. 97-365, set out as a note under section 6103 of this title.

Amendment by Pub. L. 97-248 effective on the day after Sept. 3, 1982, see section 356(c) of Pub. L. 97-248, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-611, §11(a)(4)(B), Dec. 28, 1980, 94 Stat. 3574, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on December 5, 1980.”

Amendment by Pub. L. 96-499 effective Dec. 5, 1980, see section 302(c) of Pub. L. 96-499, set out as a note under section 6103 of this title.

Amendment by Pub. L. 96-265, as amended by section 11(a)(2)(B)(iv) of Pub. L. 96-611, effective June 9, 1980, see section 11(a)(3) of Pub. L. 96-611 and section 408(a)(3) of Pub. L. 96-265, set out as notes under section 6103 of this title.

Amendment by Pub. L. 96-249 effective May 26, 1980, see section 127(a)(3) of Pub. L. 96-249, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective Jan. 1, 1977, see section 701(bb)(8) of Pub. L. 95-600, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1958 AMENDMENT

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

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

For provisions that nothing in amendments by section 2653 of Pub. L. 98-369 be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 98-369, set out as a note under section 6402 of this title.

§ 7213A. Unauthorized inspection of returns or return information

(a) Prohibitions

(1) Federal employees and other persons

It shall be unlawful for—

(A) any officer or employee of the United States, or

(B) any person described in subsection (1)(18) or (n) of section 6103 or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2) or under section 6104(c).

(b) Penalty

(1) In general

Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

(2) Federal officers or employees

An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

(c) Definitions

For purposes of this section, the terms “inspect”, “return”, and “return information” have the respective meanings given such terms by section 6103(b).

(Added Pub. L. 105-35, §2(a), Aug. 5, 1997, 111 Stat. 1104; amended Pub. L. 107-210, div. A, title II, §202(b)(3), Aug. 6, 2002, 116 Stat. 961; Pub. L. 109-280, title XII, §1224(b)(6), Aug. 17, 2006, 120 Stat. 1093.)

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109-280, which directed insertion of “or under section 6104(c)” after “7213(a)(2)” in subsec. (a)(2) of section 7213A, without specifying the act to be amended, was executed by making the insertion in subsec. (a)(2) of this section, which is section 7213A of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2002—Subsec. (a)(1)(B). Pub. L. 107-210 substituted “subsection (l)(18) or (n) of section 6103” for “section 6103(n)”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Aug. 17, 2006, but not applicable to requests made before such date, see section 1224(c) of Pub. L. 109-280, set out as a note under section 6103 of this title.

EFFECTIVE DATE

Section applicable to violations occurring on and after Aug. 5, 1997, see section 2(c) of Pub. L. 105-35, set out as an Effective Date of 1997 Amendment note under section 7213 of this title.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a Construction note under section 35 of this title.

§ 7214. Offenses by officers and employees of the United States

(a) Unlawful acts of revenue officers or agents

Any officer or employee of the United States acting in connection with any revenue law of the United States—

(1) who is guilty of any extortion or willful oppression under color of law; or

(2) who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment; or

(4) who conspires or colludes with any other person to defraud the United States; or

(5) who knowingly makes opportunity for any person to defraud the United States; or

(6) who does or omits to do any act with intent to enable any other person to defraud the United States; or

(7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or

(8) who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary; or

(9) who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who

shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

(b) Interest of internal revenue officer or employee in tobacco or liquor production

Any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation or production of fermented liquors shall be fined not more than \$5,000.

(c) Cross reference

For penalty on collecting or disbursing officers trading in public funds or debts or property, see 18 U.S.C. 1901.

(Aug. 16, 1954, ch. 736, 68A Stat. 856; Pub. L. 85-859, title II, § 204(5), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a)(8). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1958—Subsec. (c). Pub. L. 85-859 struck out a cross reference that related to penalty imposed for unlawfully removing or permitting to be removed distilled spirits from a bonded warehouse.

EFFECTIVE DATE OF 1958 AMENDMENT

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

§ 7215. Offenses with respect to collected taxes

(a) Penalty

Any person who fails to comply with any provision of section 7512(b) shall, in addition to any other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than one year, or both, together with the costs of prosecution.

(b) Exceptions

This section shall not apply—

(1) to any person, if such person shows that there was reasonable doubt as to (A) whether the law required collection of tax, or (B) who was required by law to collect tax, and

(2) to any person, if such person shows that the failure to comply with the provisions of section 7512(b) was due to circumstances beyond his control.

For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages (whether or not created by the payment of such wages) shall not be considered to be circumstances beyond the control of a person.

(Added Pub. L. 85-321, § 2, Feb. 11, 1958, 72 Stat. 6; amended Pub. L. 97-248, title III, §§ 307(a)(15), 308(a), Sept. 3, 1982, 96 Stat. 590, 591; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369.)

AMENDMENTS

1983—Subsec. (b). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, last sentence of subsec. (b) is amended to read as follows: “For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person.” Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

§ 7216. Disclosure or use of information by preparers of returns

(a) General rule

Any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of the tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who knowingly or recklessly—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(b) Exceptions

(1) Disclosure

Subsection (a) shall not apply to a disclosure of information if such disclosure is made—

(A) pursuant to any other provision of this title, or

(B) pursuant to an order of a court.

(2) Use

Subsection (a) shall not apply to the use of information in the preparation of, or in connection with the preparation of, State and local tax returns and declarations of estimated tax of the person to whom the information relates.

(3) Regulations

Subsection (a) shall not apply to a disclosure or use of information which is permitted by regulations prescribed by the Secretary under this section. Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews.

(Added Pub. L. 92-178, title III, § 316(a), Dec. 10, 1971, 85 Stat. 529; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, § 412(b)(10), July 18, 1984, 98 Stat. 792; Pub. L. 100-647, title VI, § 6242(b), Nov. 10, 1988, 102 Stat. 3749; Pub. L.

101-239, title VII, § 7739(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (b)(3). Pub. L. 101-239 inserted at end “Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews.”

1988—Subsec. (a). Pub. L. 100-647 substituted “and who knowingly or recklessly” for “and who”.

1984—Subsec. (a). Pub. L. 98-369 struck out from introductory text “or declarations or amended declarations of estimated tax under section 6015,” after “chapter 1,” and struck out “or declaration” after “such return” in three places.

1976—Subsec. (b)(3). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7739(b), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to disclosures or uses after Dec. 31, 1988, see section 6242(d) of Pub. L. 100-647, set out as an Effective Date note under section 6712 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 92-178, title III, § 316(c), Dec. 10, 1971, 85 Stat. 530, provided that: “The amendments made by this section [enacting this section] shall take effect on the first day of the first month which begins after the date of the enactment of this Act [Dec. 10, 1971].”

§ 7217. Prohibition on executive branch influence over taxpayer audits and other investigations

(a) Prohibition

It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

(b) Reporting requirement

Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

(c) Exceptions

Subsection (a) shall not apply to any written request made—

(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service;

(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section; or

(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

(d) Penalty

Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(e) Applicable person

For purposes of this section, the term “applicable person” means—

(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President; and

(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.

(Added Pub. L. 105-206, title I, § 1105(a), July 22, 1998, 112 Stat. 711.)

PRIOR PROVISIONS

A prior section 7217, added Pub. L. 94-455, title XII, § 1202(e)(1), Oct. 4, 1976, 90 Stat. 1687; amended Pub. L. 95-600, title VII, § 701(bb)(7), Nov. 6, 1978, 92 Stat. 2923, related to civil damages for unauthorized disclosure of returns and return information, prior to repeal by Pub. L. 97-248, title III, § 357(b)(1), (c), Sept. 3, 1982, 96 Stat. 646, applicable with respect to disclosures made after Sept. 3, 1982.

EFFECTIVE DATE

Pub. L. 105-206, title I, § 1105(c), July 22, 1998, 112 Stat. 711, provided that: “The amendments made by this section [enacting this section] shall apply to requests made after the date of the enactment of this Act [July 22, 1998].”

PART II—PENALTIES APPLICABLE TO CERTAIN TAXES

Sec.	
7231.	Failure to obtain license for collection of foreign items.
7232.	Failure to register or reregister under section 4101, false representations of registration status, etc.
[7233 to 7241. Repealed.]	

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11164(b)(4), Aug. 10, 2005, 119 Stat. 1976, inserted “or reregister” after “register” in item 7232.

1997—Pub. L. 105-34, title X, § 1032(e)(12)(C), Aug. 5, 1997, 111 Stat. 935, added item 7232 and struck out former item 7232 “Failure to register, or false statement by manufacturer or producer of gasoline, diesel fuel, or aviation fuel”.

1996—Pub. L. 104-188, title I, § 1704(t)(20)(B), Aug. 20, 1996, 110 Stat. 1888, struck out “lubricating oil,” after “gasoline,” in item 7232.

1990—Pub. L. 101-508, title XI, § 11801(c)(22)(D)(ii), Nov. 5, 1990, 104 Stat. 1388-528, struck out item 7240 “Officials investing or speculating in sugar”.

1988—Pub. L. 100-647, title III, § 3001(b)(3)(C), Nov. 10, 1988, 102 Stat. 3615, substituted “, lubricating oil, diesel fuel, or aviation fuel” for “or lubricating oil” in item 7232.

Pub. L. 100-418, title I, § 1941(b)(3)(F), Aug. 23, 1988, 102 Stat. 1324, struck out item 7241 “Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil”.

1980—Pub. L. 96-223, title I, § 101(e)(2), Apr. 2, 1980, 94 Stat. 252, added item 7241.

1976—Pub. L. 94-455, title XIX, §§ 1904(b)(7)(B)(ii), (8)(D)(ii), (9)(B)(ii), (10)(F)(ii), 1952(n)(2)(B), Oct. 4, 1976,

90 Stat. 1815, 1816, 1818, 1846, struck out items 7233 “Failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations”, 7234 “Violation of laws relating to oleomargarine or adulterated butter operations”, 7235 “Violation of laws relating to adulterated butter and process or renovated butter”, 7239 “Violations of laws relating to white phosphorus matches”, and 7241 “Penalty for fraudulent equalization tax certificates”.

1974—Pub. L. 93-490, § 3(b)(2), Oct. 26, 1974, 88 Stat. 1467, struck out item 7236 “Violation of laws relating to filled cheese”.

1970—Pub. L. 91-513, title III, § 1101(b)(4)(B), Oct. 27, 1970, 84 Stat. 1292, struck out items 7237 “Violation of laws relating to narcotic drugs and to marihuana” and 7238 “Violation of laws relating to opium for smoking”.

1965—Pub. L. 89-44, title VIII, § 802(b)(6), June 21, 1965, 79 Stat. 159, struck out “or give bond” after “Failure to register” in item 7232.

1964—Pub. L. 88-563, § 6(c)(2), Sept. 2, 1964, 78 Stat. 847, inserted item 7241.

§ 7231. Failure to obtain license for collection of foreign items

Any person required by section 7001 (relating to collection of certain foreign items) to obtain a license who knowingly undertakes to collect the payments described in section 7001 without having obtained a license therefor, or without complying with regulations prescribed under section 7001, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 857.)

§ 7232. Failure to register or reregister under section 4101, false representations of registration status, etc.

Every person who fails to register or reregister as required by section 4101, or who in connection with any purchase of any taxable fuel (as defined in section 4083) or aviation fuel falsely represents himself to be registered as provided by section 4101, or who willfully makes any false statement in an application for registration or reregistration under section 4101, shall, upon conviction thereof, be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 858; Pub. L. 89-44, title VIII, § 802(b)(4), June 21, 1965, 79 Stat. 159; Pub. L. 100-647, title III, § 3001(b)(3)(A), (B), Nov. 10, 1988, 102 Stat. 3614; Pub. L. 104-188, title I, § 1704(t)(20)(A), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 105-34, title X, § 1032(e)(12)(A), (B), Aug. 5, 1997, 111 Stat. 935; Pub. L. 105-206, title VI, § 6010(h)(2), July 22, 1998, 112 Stat. 815; Pub. L. 108-357, title VIII, § 863(b), Oct. 22, 2004, 118 Stat. 1620; Pub. L. 109-59, title XI, § 11164(b)(2), Aug. 10, 2005, 119 Stat. 1975.)

AMENDMENTS

2005—Pub. L. 109-59 inserted “or reregister” after “register” in section catchline and text and “or reregistration” after “registration” in text.

2004—Pub. L. 108-357 substituted “\$10,000” for “\$5,000”.

1998—Pub. L. 105-206 provided that amendment made by section 1032(e)(12)(A) of Pub. L. 105-34 shall be applied as if “gasoline, diesel fuel,” were the material proposed to be stricken. See 1997 Amendment note below.

1997—Pub. L. 105-34, §1032(e)(12)(B), amended section catchline generally. Prior to amendment, catchline read as follows: “Failure to register, or false statement by manufacturer or producer of gasoline, diesel fuel, or aviation fuel”.

Pub. L. 105-34, §1032(e)(12)(A), which directed the substitution of “any taxable fuel (as defined in section 4083)” for “gasoline, lubricating oil, diesel fuel”, was executed by making the substitution for “gasoline, diesel fuel,” to reflect the probable intent of Congress. See 1998 Amendment note above.

1996—Pub. L. 104-188 struck out “lubricating oil,” after “gasoline,” in section catchline and text.

1988—Pub. L. 100-647 substituted “, lubricating oil, diesel fuel, or aviation fuel” for “or lubricating oil” in section catchline and in text.

1965—Pub. L. 89-44 struck out “or give bond” after “Failure to register” in section catchline and “or give bond” after “register” and “and bonded” after “registered” in text.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to actions, or failures to act, after Aug. 10, 2005, see section 11164(c) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to penalties imposed after Dec. 31, 2004, see section 863(e) of Pub. L. 108-357, set out as an Effective Date note under section 6719 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective Jan. 1, 1989, see section 3001(c) of Pub. L. 100-647, set out as a note under section 6724 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89-44, set out as a note under section 4082 of this title.

[§ 7233. Repealed. Pub. L. 94-455, title XIX, § 1952(n)(2)(A), Oct. 4, 1976, 90 Stat. 1846]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 858, related to failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.

EFFECTIVE DATE OF REPEAL

Repeal effective on 90th day after Oct. 4, 1976, see section 1952(o) of Pub. L. 94-455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

[§ 7234. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(7)(B)(i), Oct. 4, 1976, 90 Stat. 1815]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 858, related to false branding, selling, or packing of oleomargarine, removal or defacement of stamps, marks, or brands on packages of oleomargarine or adulterated butter, failure of wholesale dealers to keep or permit inspection of books, or to render returns, and offenses involving imported oleomargarine or adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7235. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(9)(B)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 859, related to the false branding, sale, packing, or stamping of adulterated butter, the failure of wholesale dealers to keep or permit inspection of books or to render returns, the failure to comply with provisions relating to the manufacture, storage, and marking of process or renovated butter, fraud by manufacturers, and the failure to pay the special tax on dealers in adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7236. Repealed. Pub. L. 93-490, § 3(b)(1), Oct. 26, 1974, 88 Stat. 1466]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 860, set out acts and penalties for violations of laws relating to filled cheese.

EFFECTIVE DATE OF REPEAL

Repeal applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as a note under sections 4831 to 4834 of this title.

[§§ 7237, 7238. Repealed. Pub. L. 91-513, title III, § 1101(b)(4)(A), Oct. 27, 1970, 84 Stat. 1292]

Section 7237, acts Aug. 16, 1954, ch. 736, 68A Stat. 860; Jan. 20, 1955, ch. 1, 69 Stat. 3; July 18, 1956, ch. 629, title I, § 103, 70 Stat. 568; Nov. 8, 1966, Pub. L. 89-793, title V, § 501, 80 Stat. 1449, set out acts constituting violations relating to narcotic drugs and marihuana. See section 801 et seq. of Title 21, Food and Drugs.

Section 7238, act Aug. 16, 1954, ch. 736, 68A Stat. 861, set the penalty for the violation of provisions of this title relating to opium for smoking.

EFFECTIVE DATE OF REPEAL

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

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of repeal of these sections by section 1101 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

[§ 7239. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(8)(D)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 861, related to violations regarding the selling of unstamped white phosphorus matches and the use of insufficient stamps.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7240. Repealed. Pub. L. 101-508, title XI, § 11801(c)(22)(D)(i), Nov. 5, 1990, 104 Stat. 1388-528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 861; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1904(b)(6)(A), 90 Stat. 1815, set forth penalties for persons who invested or speculated in sugar while acting in any official capacity in the administration of former chapter 37 of this title.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[§ 7241. Repealed. Pub. L. 100-418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96-223, title I, § 101(e)(1), Apr. 2, 1980, 94 Stat. 252, prescribed penalty for willful failure to furnish certain information regarding windfall profit tax on domestic crude oil.

A prior section 7241, Pub. L. 88-563, § 6(b), Sept. 2, 1964, 78 Stat. 847, which related to penalty for fraudulent equalization tax certificates, was repealed by Pub. L. 94-455, title XIX, § 1904(b)(10)(F)(i), (iii), Oct. 4, 1976, 90 Stat. 1818, effective with respect to statements and certificates executed after June 30, 1974.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

Subchapter B—Other Offenses

- | | |
|---|--|
| Sec.
7261.

7262.

[7263 to 7267. Repealed.]
7268.

7269.
7270.
7271.
7272.
7273.

[7274. Repealed.]
7275. | Representation that retailers' excise tax is excluded from price of article.
Violation of occupational tax laws relating to wagering—failure to pay special tax.

Possession with intent to sell in fraud of law or to evade tax.
Failure to produce records.
Insurance policies.
Penalties for offenses relating to stamps.
Penalty for failure to register or reregister.
Penalties for offenses relating to special taxes.

Repealed.]
Penalty for offenses relating to certain airline tickets and advertising. |
|---|--|

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11164(b)(4), Aug. 10, 2005, 119 Stat. 1976, inserted “or reregister” after “register” in item 7272.

1976—Pub. L. 94-455, title XIX, §§ 1904(b)(7)(C)(ii), (8)(E)(ii), (9)(C)(ii), 1952(n)(3)(B), Oct. 4, 1976, 90 Stat. 1815, 1816, 1846, struck out items 7263 “Penalties relating to cotton futures”, 7264 “Offenses relating to renovated or adulterated butter”, 7265 “Other offenses relating to oleomargarine or adulterated butter operations”, 7267 “Offenses relating to white phosphorus matches”, and 7274 “Penalty for offenses relating to white phosphorus matches”.

1974—Pub. L. 93-490, § 3(b)(4), Oct. 26, 1974, 88 Stat. 1467, struck out item 7266 “Offenses relating to filled cheese”.

1970—Pub. L. 91-258, title II, § 203(c)(2), May 21, 1970, 84 Stat. 239, added item 7275.

1965—Pub. L. 89-44, title VI, § 601(i), June 21, 1965, 79 Stat. 155, struck out item 7275 “Failure to print correct price on tickets”.

§ 7261. Representation that retailers' excise tax is excluded from price of article

Whoever, in connection with the sale or lease, or offer for sale or lease, of any article taxable under chapter 31, makes any statement, written or oral, in advertisement or otherwise, intended or calculated to lead any person to believe that the price of the article does not include the tax imposed by chapter 31, shall on conviction thereof be fined not more than \$1,000.

(Aug. 16, 1954, ch. 736, 68A Stat. 862.)

§ 7262. Violation of occupational tax laws relating to wagering—failure to pay special tax

Any person who does any act which makes him liable for special tax under subchapter B of chapter 35 without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than \$1,000 and not more than \$5,000.

(Aug. 16, 1954, ch. 736, 68A Stat. 862.)

[§ 7263. Repealed. Pub. L. 94-455, title XIX, § 1952(n)(3)(A), Oct. 4, 1976, 90 Stat. 1846]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 862, provided penalties for violations related to cotton futures.

EFFECTIVE DATE OF REPEAL

Repeal effective on 90th day after Oct. 4, 1976, see section 1952(o) of Pub. L. 94-455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

[§ 7264. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(9)(C)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, provided the penalty for offenses relating to renovated or adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7265. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(7)(C)(i), Oct. 4, 1976, 90 Stat. 1815]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, provided penalties for offenses relating to oleomargarine or adulterated butter operations.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7266. Repealed. Pub. L. 93-490, § 3(b)(3), Oct. 26, 1974, 88 Stat. 1467]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, set out offenses and penalties relating to filled cheese.

EFFECTIVE DATE OF REPEAL

Repeal applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as a note under sections 4831 to 4834 of this title.

[§ 7267. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(8)(E)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 864, provided penalties for offenses relating to white phosphorus matches.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

§ 7268. Possession with intent to sell in fraud of law or to evade tax

Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of \$500 or not less than double the amount of taxes fraudulently attempted to be evaded.

(Aug. 16, 1954, ch. 736, 68A Stat. 865.)

§ 7269. Failure to produce records

Whoever fails to comply with any duty imposed upon him by section 6018, 6036 (in the case of an executor), or 6075(a), or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Secretary who desires to examine the same in the performance of his duties under chapter 11 (relating to estate taxes), shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7270. Insurance policies

Any person who fails to comply with the requirements of section 4374 (relating to liability for tax on policies issued by foreign insurers), with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Pub. L. 94-455, title XIX, § 1904(b)(5)(A), Oct. 4, 1976, 90 Stat. 1815.)

AMENDMENTS

1976—Pub. L. 94-455 substituted “liability for tax on policies issued by foreign insurers” for “the affixing of stamps on insurance policies, etc.”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

§ 7271. Penalties for offenses relating to stamps

Any person who with respect to any tax payable by stamps—

(1) Failure to attach or cancel stamps, etc.

Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

(2) Instruments

Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

(3) Disposal and receipt of stamped packages

In the case of any container which is stamped, branded, or marked (whether or not under authority of law) in such manner as to show that the provisions of the internal revenue laws with respect to the contents or intended contents thereof have been complied with, and which is empty or contains any contents other than contents therein when the container was lawfully stamped, branded, or marked—

(A) Transfers or receives (whether by sale, gift, or otherwise) such container knowing it to be empty or to contain such other contents; or

(B) Stamps, brands, or marks such container, or otherwise produces such a stamped, branded, or marked container, knowing it to be empty or to contain such other contents;

shall be liable for each such offense to a penalty of \$50.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Pub. L. 94-455, title XIX, § 1906(a)(41), Oct. 4, 1976, 90 Stat. 1830.)

AMENDMENTS

1976—Pars. (2) to (4). Pub. L. 94-455 redesignated pars. (3) and (4) as (2) and (3), respectively. Former par. (2), which related to persons who manufactured or imported and sold, or offered for sale, or caused to be manufactured or imported and sold, or offered for sale, any playing card, package, or other article without the full amount of tax being paid, was struck out.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 7272. Penalty for failure to register or reregister

(a) In general

Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of \$50 (\$10,000 in the case of a failure to register or reregister under section 4101).

(b) Cross references

For provisions relating to persons required by this title to register, see sections 4101, 4412, and 7011.

(Aug. 16, 1954, ch. 736, 68A Stat. 866; Pub. L. 85-475, §4(b)(8), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title II, §204(6), (7), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 89-44, title VI, §601(h), June 21, 1965, 79 Stat. 155; Pub. L. 94-455, title XIX, §§1904(b)(8)(F), 1906(a)(42), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1816, 1830, 1834; Pub. L. 108-357, title VIII, §863(a), Oct. 22, 2004, 118 Stat. 1619; Pub. L. 109-59, title XI, §11164(b)(3), Aug. 10, 2005, 119 Stat. 1975.)

AMENDMENTS

2005—Pub. L. 109-59, §11164(b)(3)(B), inserted “or re-register” after “register” in section catchline.

Subsec. (a). Pub. L. 109-59, §11164(b)(3)(A), inserted “or reregister” after “failure to register”.

2004—Subsec. (a). Pub. L. 108-357 inserted “(\$10,000 in the case of a failure to register under section 4101)” after “\$50”.

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

Subsec. (b). Pub. L. 94-455, §§1904(b)(8)(F), 1906(a)(42), struck out “4722, 4753, 4804(d),” after “4412.”

1965—Subsec. (b). Pub. L. 89-44 struck out “4455,” after “4412.”

1958—Subsec. (a). Pub. L. 85-859, §204(6), excluded persons required to register under subtitle E and persons engaging in a trade or business on which a special tax is imposed by such subtitle.

Subsec. (b). Pub. L. 85-859, §204(7), struck out references to sections 5802 and 5841 of this title.

Subsec. (b). Pub. L. 85-475 struck out reference to section 4273.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to actions, or failures to act, after Aug. 10, 2005, see section 11164(c) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to penalties imposed after Dec. 31, 2004, see section 863(e) of Pub. L. 108-357, set out as an Effective Date note under section 6719 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(8)(F) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(42), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

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

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

§ 7273. Penalties for offenses relating to special taxes

Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than \$10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed.

(Aug. 16, 1954, ch. 736, 68A Stat. 866; Pub. L. 90-618, title II, §205, Oct. 22, 1968, 82 Stat. 1235.)

AMENDMENTS

1968—Pub. L. 90-618 redesignated former subsec. (a) as existing provisions, struck out heading “General rule”, all references to subsecs. (a) or (b) of section 6806 of this title, provision that nothing in this subsec. affects the liability of any person doing any act, etc., upon which a special tax is imposed for such special tax, and struck out subsec. (b) setting forth penalties for the failure to comply with the provisions of section 6806(c) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Oct. 22, 1968, see section 207 of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

[§ 7274. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(8)(E)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 866, provided penalties for offenses relating to white phosphorus matches.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

§ 7275. Penalty for offenses relating to certain airline tickets and advertising**(a) Tickets**

In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

- (1) the amount paid for such transportation, and
- (2) the taxes imposed by subsections (a) and (b) of section 4261.

(b) Advertising

In the case of transportation by air all of which is taxable transportation (as defined in section 4262) or would be taxable transportation if section 4262 did not include subsection (b) thereof, any advertising made by or on behalf of any person furnishing such transportation (or offering to arrange such transportation) which states the cost of such transportation shall—

- (1) state such cost as the total of (A) the amount to be paid for such transportation, and (B) the taxes imposed by sections 4261(a), (b), and (c), and
- (2) if any such advertising states separately the amount to be paid for such transportation or the amount of such taxes, shall¹ state such

¹ So in original. The word “shall” probably should not appear.

total at least as prominently as the more prominently stated of the amount to be paid for such transportation or the amount of such taxes and shall describe such taxes substantially as: “user taxes to pay for airport construction and airway safety and operations”.

(c) Non-tax charges

(1) In general

In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

(2) Inclusion in transportation cost

Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.

(d) Penalty

Any person who violates any provision of subsection (a), (b), or (c) is, for each violation, guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.

(Added Pub. L. 91-258, title II, §203(c)(1), May 21, 1970, 84 Stat. 239; amended Pub. L. 91-680, §3, Jan. 12, 1971, 84 Stat. 2064; Pub. L. 97-248, title II, §281A(b)(1), Sept. 3, 1982, 96 Stat. 567; Pub. L. 112-95, title XI, §1104(a), Feb. 14, 2012, 126 Stat. 151.)

PRIOR PROVISIONS

A prior section 7275, act Aug. 16, 1954, ch. 736, 68 Stat. 866, related to cross references, prior to repeal by Pub. L. 89-44, title VI, §601(i), June 21, 1965, 79 Stat. 155.

AMENDMENTS

2012—Subsecs. (c), (d). Pub. L. 112-95 added subsec. (c), redesignated former subsec. (c) as (d), and, in subsec. (d), substituted “subsection (a), (b), or (c)” for “subsection (a) or (b)”.

1982—Subsec. (a). Pub. L. 97-248 redesignated former par. (1) as pars. (1) and (2) and struck out former par. (2) which provided that a ticket for transportation, if it showed amounts paid with respect to any segment of such transportation, had to comply with former par. (1) with respect to such segments as well as with respect to the sum of the segments.

1971—Subsec. (a)(1). Pub. L. 91-680, §3(a)(1), inserted “and” after “and (b)”.

Subsec. (a)(2), (3). Pub. L. 91-680, §3(a)(2), (3), redesignated par. (3) as (2), and struck out reference to par. (2). Former par. (2), which prohibited airline tickets from separately stating the amount paid for the air transportation and the amount paid for taxes, was struck out.

Subsec. (b)(1). Pub. L. 91-680, §3(b), struck out “only” after “state such cost”.

Subsec. (b)(2). Pub. L. 91-680, §3(b), substituted provisions authorizing advertising to separately state in the prescribed manner the amount paid for the air transportation and the amount paid for taxes, for provisions prohibiting advertising from separately stating the amount paid for the air transportation and the amount paid for taxes.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title XI, §1104(b), Feb. 14, 2012, 126 Stat. 151, provided that: “The amendments made by this section [amending this section] shall apply to taxable transportation provided after March 31, 2012.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title II, §281A(b)(2), Sept. 3, 1982, 96 Stat. 568, as amended by Pub. L. 98-369, div. A, title VII, §714(b), July 18, 1984, 98 Stat. 961, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to transportation beginning after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 91-680, §4, Jan. 12, 1971, 84 Stat. 2065, provided that: “The amendments made by the third section of this Act [amending this section] shall apply to transportation beginning after June 30, 1970.”

EFFECTIVE DATE

Section applicable to transportation beginning after June 30, 1970, see section 211(b) of Pub. L. 91-258, set out as Effective Date of 1970 Amendment note under section 4041 of this title.

Subchapter C—Forfeitures

Part

- I. Property subject to forfeiture.
- II. Provisions common to forfeitures.

PART I—PROPERTY SUBJECT TO FORFEITURE

Sec.

- 7301. Property subject to tax.
- 7302. Property used in violation of internal revenue laws.
- 7303. Other property subject to forfeiture.
- 7304. Penalty for fraudulently claiming drawback.

§ 7301. Property subject to tax

(a) Taxable articles

Any property on which, or for or in respect whereof, any tax is imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, and shall be forfeited to the United States.

(b) Raw materials

All property found in the possession of any person intending to manufacture the same into property of a kind subject to tax for the purpose of selling such taxable property in fraud of the internal revenue laws, or with design to evade the payment of such tax, may also be seized, and shall be forfeited to the United States.

(c) Equipment

All property whatsoever, in the place or building, or any yard or enclosure, where the property described in subsection (a) or (b) is found, or which is intended to be used in the making of property described in subsection (a), with intent to defraud the United States of tax or any part thereof, on the property described in subsection (a) may also be seized, and shall be forfeited to the United States.

(d) Packages

All property used as a container for, or which shall have contained, property described in subsection (a) or (b) may also be seized, and shall be forfeited to the United States.

(e) Conveyances

Any property (including aircraft, vehicles, vessels, or draft animals) used to transport or for the deposit or concealment of property described in subsection (a) or (b), or any property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsection (a), may also be seized, and shall be forfeited to the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 867; Pub. L. 85-859, title II, §204(8), Sept. 2, 1958, 72 Stat. 1429.)

AMENDMENTS

1958—Subsec. (e). Pub. L. 85-859 included property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsec. (a).

EFFECTIVE DATE OF 1958 AMENDMENT

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

§ 7302. Property used in violation of internal revenue laws

It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 867.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

CONSTITUTIONALITY

For information regarding constitutionality of section 7302 of act Aug. 16, 1954, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

§ 7303. Other property subject to forfeiture

There may be seized and forfeited to the United States the following:

(1) Counterfeit stamps

Every stamp involved in the offense described in section 7208 (relating to counterfeit, reused, cancelled, etc., stamps), and the vellum, parchment, document, paper, package, or article upon which such stamp was placed or impressed in connection with such offense.

(2) False stamping of packages

Any container involved in the offense described in section 7271 (relating to disposal of stamped packages), and of the contents of such container.

(3) Fraudulent bonds, permits, and entries

All property to which any false or fraudulent instrument involved in the offense described in section 7207 relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 868; Pub. L. 85-881, §1(c), Sept. 2, 1958, 72 Stat. 1704; Pub. L. 93-490, §3(b)(5), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94-455, title XIX, §1904(b)(8)(G), (9)(D), Oct. 4, 1976, 90 Stat. 1816.)

AMENDMENTS

1976—Par. (2). Pub. L. 94-455, §1904(b)(9)(D), redesignated par. (7) as (2). Former par. (2), which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients, was repealed. See 1958 Amendment note below.

Par. (3). Pub. L. 94-455, §1904(b)(9)(D), redesignated par. (8) as (3). Former par. (3), relating to offenses by manufacturers or importers of or wholesale dealers in oleomargarine or adulterated butter, was struck out.

Par. (4). Pub. L. 94-455, §1904(b)(9)(D), struck out par. (4) which related to the purchase or receipt of adulterated butter.

Par. (5). Pub. L. 94-455, §1904(b)(9)(D), struck out par. (5) which related to packages of oleomargarine found without required stamps or marks.

Par. (6). Pub. L. 94-455, §1904(b)(8)(G), struck out par. (6) which related to white phosphorus matches.

Pars. (7), (8). Pub. L. 94-455, §1904(b)(9)(D), redesignated pars. (7) and (8) as (2) and (3), respectively.

1974—Par. (4). Pub. L. 93-490 substituted provisions relating to purchase or receipt of adulterated butter and payment of tax under section 4821 of this title for provisions relating to purchase or receipt of filled cheese or adulterated butter and payment of tax under section 4821 or 4841 of this title.

Par. (5). Pub. L. 93-490 substituted provisions relating to packages of oleomargarine subject to tax under subchapter F of chapter 38 of this title for provisions relating to oleomargarine or filled cheese subject to tax under subchapter F of chapter 38 or part II of subchapter C of chapter 39 of this title.

1958—Pub. L. 85-881 repealed par. (2) which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93-490, set out as an Effective Date of Repeal note under sections 4831 to 4834 of this title.

§ 7304. Penalty for fraudulently claiming drawback

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on

goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

PART II—PROVISIONS COMMON TO FORFEITURES

Sec.	
7321.	Authority to seize property subject to forfeiture.
7322.	Delivery of seized personal property to United States marshal.
7323.	Judicial action to enforce forfeiture.
7324.	Special disposition of perishable goods.
7325.	Personal property valued at \$100,000 or less.
7326.	Disposal of forfeited or abandoned property in special cases.
7327.	Customs laws applicable.
7328.	Cross references.

AMENDMENTS

1986—Pub. L. 99-514, title XV, §1566(d), Oct. 22, 1986, 100 Stat. 2763, substituted “\$100,000” for “\$2,500” in item 7325.

1976—Pub. L. 94-455, title XIX, §1904(b)(8)(H)(ii), Oct. 4, 1976, 90 Stat. 1816, struck out item 7328 “Confiscation of matches exported” and redesignated item 7329 as 7328.

1958—Pub. L. 85-859, title II, §204(11), Sept. 2, 1958, 72 Stat. 1429, substituted “\$2,500” for “\$1,000” in item 7325.

§ 7321. Authority to seize property subject to forfeiture

Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7322. Delivery of seized personal property to United States marshal

Any forfeitable property which may be seized under the provisions of this title may, at the option of the Secretary, be delivered to the United States marshal of the district, and remain in the care and custody and under the control of such marshal, pending disposal thereof as provided by law.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7323. Judicial action to enforce forfeiture

(a) Nature and venue

The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the United States District Court for the district where such seizure is made.

(b) Service of process when property has been returned under bond

In case bond as provided in section 7324(3) shall have been executed and the property returned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (a) of this section, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid.

(c) Cost of seizure taxable

The cost of seizure made before process issues shall be taxable by the court.

(Aug. 16, 1954, ch. 736, 68A Stat. 869.)

§ 7324. Special disposition of perishable goods

When any property which is seized under the provisions of section 7301 or section 7302 is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense—

(1) Application for examination

The owner thereof, or the United States marshal of the district, may apply to the Secretary to examine it; and

(2) Appraisal

If, in the opinion of the Secretary, it shall be necessary that such property should be sold to prevent such waste or expense, the Secretary shall appraise the same; and thereupon

(3) Return to owner under bond

The owner shall have such property returned to him upon giving bond in an amount equal to such appraised value to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the Secretary, the United States marshal, or otherwise, as may be ordered and directed by the court, which bond shall be filed by the Secretary with the United States attorney for the district in which the proceedings in rem authorized in section 7323 may be commenced.

(4) Sale in absence of bond

(A) Order to sell

If such owner shall neglect or refuse to give such bond, the Secretary shall issue to any Treasury officer or employee or to the United States marshal an order to sell the same.

(B) Manner of sale

Such Treasury officer or employee or the marshal shall as soon as practicable make public sale of such property in accordance

with such regulations as may be prescribed by the Secretary.

(C) Disposition of proceeds

The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(5) Form of bond and sureties

For provisions relating to form and sureties on bonds, see section 7101.

(Aug. 16, 1954, ch. 736, 68A Stat. 870; Pub. L. 85-859, title II, § 204(9), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 85-866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pars. (1) to (4). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1958—Par. (3). Pub. L. 85-866 struck out “district” before “attorney”.

Pub. L. 85-859 included property seized under section 7302 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

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

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

§ 7325. Personal property valued at \$100,000 or less

In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of this title which, in the opinion of the Secretary, are of the appraised value of \$100,000 or less, the Secretary shall, except in cases otherwise provided, proceed as follows:

(1) List and appraisalment

The Secretary shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisalment thereof to be made by three sworn appraisers, to be selected by the Secretary who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisalment shall be properly attested by the Secretary and such appraisers. Each appraiser shall be allowed for his services such compensation as the Secretary shall by regulations prescribe, to be paid in the manner similar to that provided for other necessary charges incurred in collecting internal revenue.

(2) Notice of seizure

If such goods are found by such appraisers to be of the value of \$100,000 or less, the Secretary shall publish a notice for 3 weeks, in some newspaper of the district where the seizure was made, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(3) Execution of bond by claimant

Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the Secretary a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of \$2,500, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the Secretary, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States attorney for the district, and such attorney shall proceed thereon in the ordinary manner prescribed by law.

(4) Sale in absence of bond

If no claim is interposed and no bond is given within the time above specified, the Secretary shall give reasonable notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall, unless otherwise provided by law, sell the articles so seized at public auction, or upon competitive bids, in accordance with such regulations as may be prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 870; Pub. L. 85-859, title II, § 204(10), (12), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 85-866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, § 1566(a), (b), Oct. 22, 1986, 100 Stat. 2763.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “\$100,000” for “\$2,500” in section catchline, introductory provisions, and par. (2), and substituted “\$2,500” for “\$250” in par. (3).

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

1958—Pub. L. 85-866 struck out “district” before “attorney” in par. (3).

Pub. L. 85-859 substituted “\$2,500” for “\$1,000” in section catchline, opening par., and par. (2), and inserted “, unless otherwise provided by law,” before “sell the articles” in par. (4).

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, § 1566(e), Oct. 22, 1986, 100 Stat. 2763, provided that: “The amendments made by this section [amending this section and section 7103 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1958 AMENDMENTS

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

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

§ 7326. Disposal of forfeited or abandoned property in special cases

(a) Coin-operated gaming devices

Any coin-operated gaming device as defined in section 4462¹ upon which a tax is imposed by sec-

¹ See References in Text note below.

tion 4461¹ and which has been forfeited under any provision of this title shall be destroyed, or otherwise disposed of, in such manner as may be prescribed by the Secretary.

(b) Firearms

For provisions relating to disposal of forfeited firearms, see section 5872(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 871; Pub. L. 85-859, title II, § 204(13), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 89-44, title VI, § 601(j), June 21, 1965, 79 Stat. 155; Pub. L. 91-513, title III, § 1102(f), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 94-455, title XIX, §§ 1906(a)(43), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1830, 1834.)

REFERENCES IN TEXT

Sections 4461 and 4462, referred to in subsec. (a), were repealed by Pub. L. 95-600, title V, § 521(b), Nov. 6, 1978, 92 Stat. 2884.

AMENDMENTS

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

Subsecs. (b), (c). Pub. L. 94-455, § 1906(a)(43), redesignated subsec. (c) as (b) and in subsec. (b) as so redesignated substituted “section 5872(b)” for “section 5862(b)”. Former subsec. (b), relating to narcotic drugs, was repealed. See 1970 Amendment note below.

1970—Subsec. (b). Pub. L. 91-513 struck out subsec. (b) which related to narcotic drugs and which made reference to sections 4714, 4733, and 4745(d) of this title.

1965—Subsec. (a). Pub. L. 89-44 substituted “section 4462” for “section 4462(a)(2)”.

1958—Subsec. (a). Pub. L. 85-859 added subsec. (a).

Subsecs. (b), (c). Pub. L. 85-859 redesignated former pars. (1) and (2) as subsecs. (b) and (c), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

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

SAVINGS PROVISION

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

§ 7327. Customs laws applicable

The provisions of law applicable to the remission or mitigation by the Secretary of forfeitures under the customs laws shall apply to for-

feitures incurred or alleged to have been incurred under the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 871; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7328. Cross references

(1) **For the issuance of certificates of probable cause relieving officers making seizures of responsibility for damages, see 28 U. S. C. 2465.**

(2) **For provisions relating to forfeitures generally in connection with alcohol taxes, see chapter 51.**

(3) **For provisions relating to forfeitures generally in connection with tobacco taxes, see chapter 52.**

(4) **For provisions relating to forfeitures generally in connection with taxes on certain firearms, see chapter 53.**

(Aug. 16, 1954, ch. 736, 68A Stat. 871, § 7329; renumbered § 7328, Pub. L. 94-455, title XIX, § 1904(b)(8)(H)(i), Oct. 4, 1976, 90 Stat. 1816.)

PRIOR PROVISIONS

A prior section 7328, act Aug. 16, 1954, ch. 736, 68A Stat. 871, provided for confiscation of white phosphorus matches exported or attempted to be exported, prior to repeal by Pub. L. 94-455, § 1904(b)(8)(H)(i).

A prior section 7329 was renumbered section 7328 of this title.

Subchapter D—Miscellaneous Penalty and Forfeiture Provisions

Sec.	
7341.	Penalty for sales to evade tax.
7342.	Penalty for refusal to permit entry or examination.
7343.	Definition of term “person”.
7344.	Extended application of penalties relating to officers of the Treasury Department.
7345.	Revocation or denial of passport in case of certain tax delinquencies.

AMENDMENTS

2015—Pub. L. 114-94, div. C, title XXXII, § 32101(h), Dec. 4, 2015, 129 Stat. 1733, added item 7345.

§ 7341. Penalty for sales to evade tax

(a) Nonenforceability of contract

Whenever any person who is liable to pay any tax imposed by this title upon, for, or in respect of, any property sells or causes or allows the same to be sold before such tax is paid, with intent to avoid such tax, or in fraud of the internal revenue laws, any debt contracted in such sale, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court.

(b) Forfeiture of sum paid on contract

If such property has been paid for, in whole or in part, the sum so paid shall be deemed forfeited.

(c) Moiety

Any person who shall sue for the sum so paid (in an action of debt) shall recover from the seller the amount so paid, one-half to his own use and the other half to the use of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7342. Penalty for refusal to permit entry or examination

Any owner of any building or place, or person having the agency or superintendence of the same, who refuses to admit any officer or employee of the Treasury Department acting under the authority of section 7606 (relating to entry of premises for examination of taxable articles) or refuses to permit him to examine such article or articles, shall, for every such refusal, forfeit \$500.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7343. Definition of term “person”

The term “person” as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7344. Extended application of penalties relating to officers of the Treasury Department

All provisions of law imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury, or under any agency or office thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any internal revenue law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or employees in connection with such law, or are persons having the custody or disposition of any public money.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7345. Revocation or denial of passport in case of certain tax delinquencies

(a) In general

If the Secretary receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST Act.

(b) Seriously delinquent tax debt

(1) In general

For purposes of this section, the term “seriously delinquent tax debt” means an unpaid, legally enforceable Federal tax liability of an individual—

- (A) which has been assessed,
- (B) which is greater than \$50,000, and
- (C) with respect to which—

(i) a notice of lien has been filed pursuant to section 6323 and the administrative rights under section 6320 with respect to such filing have been exhausted or have lapsed, or

(ii) a levy is made pursuant to section 6331.

(2) Exceptions

Such term shall not include—

(A) a debt that is being paid in a timely manner pursuant to an agreement to which the individual is party under section 6159 or 7122, and

(B) a debt with respect to which collection is suspended with respect to the individual—

(i) because a due process hearing under section 6330 is requested or pending, or

(ii) because an election under subsection (b) or (c) of section 6015 is made or relief under subsection (f) of such section is requested.

(c) Reversal of certification

(1) In general

In the case of an individual with respect to whom the Commissioner makes a certification under subsection (a), the Commissioner shall notify the Secretary (and the Secretary shall subsequently notify the Secretary of State) if such certification is found to be erroneous or if the debt with respect to such certification is fully satisfied or ceases to be a seriously delinquent tax debt by reason of subsection (b)(2).

(2) Timing of notice

(A) Full satisfaction of debt

In the case of a debt that has been fully satisfied or has become legally unenforceable, such notification shall be made not later than the date required for issuing the certificate of release of lien with respect to such debt under section 6325(a).

(B) Innocent spouse relief

In the case of an individual who makes an election under subsection (b) or (c) of section 6015, or requests relief under subsection (f) of such section, such notification shall be made not later than 30 days after any such election or request.

(C) Installment agreement or offer-in-compromise

In the case of an installment agreement under section 6159 or an offer-in-compromise under section 7122, such notification shall be made not later than 30 days after such agreement is entered into or such offer is accepted by the Secretary.

(D) Erroneous certification

In the case of a certification found to be erroneous, such notification shall be made as soon as practicable after such finding.

(d) Contemporaneous notice to individual

The Commissioner shall contemporaneously notify an individual of any certification under subsection (a), or any reversal of certification under subsection (c), with respect to such individual. Such notice shall include a description in simple and nontechnical terms of the right to bring a civil action under subsection (e).

(e) Judicial review of certification

(1) In general

After the Commissioner notifies an individual under subsection (d), the taxpayer may bring a civil action against the United States in a district court of the United States or the Tax Court to determine whether the certifi-

cation was erroneous or whether the Commissioner has failed to reverse the certification.

(2) Determination

If the court determines that such certification was erroneous, then the court may order the Secretary to notify the Secretary of State that such certification was erroneous.

(f) Adjustment for inflation

In the case of a calendar year beginning after 2016, the dollar amount in subsection (a) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting “calendar year 2015” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000.

(g) Delegation of certification

A certification under subsection (a) or reversal of certification under subsection (c) may only be delegated by the Commissioner of Internal Revenue to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division, of the Internal Revenue Service.

(Added Pub. L. 114-94, div. C, title XXXII, §32101(a), Dec. 4, 2015, 129 Stat. 1729; amended Pub. L. 115-97, title I, §11002(d)(1)(RR), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

REFERENCES IN TEXT

Section 32101 of the FAST Act, referred to in subsec. (a), is section 32101 of Pub. L. 114-94, which enacted this section and section 2714a of Title 22, Foreign Relations and Intercourse, and amended sections 6103, 6320, 6331, and 7508 of this title.

AMENDMENTS

2017—Subsec. (f)(2). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

CHAPTER 76—JUDICIAL PROCEEDINGS

Subchapter	Sec.
A. Civil actions by the United States	7401
B. Proceedings by Taxpayers and Third Parties	7421
C. The Tax Court	7441
D. Court review of Tax Court decisions	7481
E. Burden of proof	7491

AMENDMENTS

1998—Pub. L. 105-206, title III, §3001(b), July 22, 1998, 112 Stat. 727, added item for subchapter E.

¹ Section numbers editorially supplied.

1976—Pub. L. 94-455, title XIX, §1952(n)(4)(B), Oct. 4, 1976, 90 Stat. 1846, struck out item for subchapter E “Miscellaneous provisions”.

1966—Pub. L. 89-719, title I, §110(d)(3), Nov. 2, 1966, 80 Stat. 1145, substituted “Taxpayers and Third Parties” for “taxpayers” in item for subchapter B.

Subchapter A—Civil Actions by the United States

Sec. 7401.	Authorization.
7402.	Jurisdiction of district courts.
7403.	Action to enforce lien or to subject property to payment of tax.
7404.	Authority to bring civil action for estate taxes.
7405.	Action for recovery of erroneous refunds.
7406.	Disposition of judgments and moneys recovered.
7407.	Action to enjoin tax return preparers.
7408.	Actions to enjoin specified conduct related to tax shelters and reportable transactions.
7409.	Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
7410.	Cross references.

AMENDMENTS

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(I)(ii), May 25, 2007, 121 Stat. 202, substituted “tax return preparers” for “income tax return preparers” in item 7407.

2004—Pub. L. 108-357, title VIII, §820(b)(2), Oct. 22, 2004, 118 Stat. 1585, added item 7408 and struck out former item 7408 “Action to enjoin promoters of abusive tax shelters, etc.”

1987—Pub. L. 100-203, title X, §10713(a)(2), Dec. 22, 1987, 101 Stat. 1330-469, added item 7409 and redesignated former item 7409 as 7410.

1982—Pub. L. 97-248, title III, §321(b), Sept. 3, 1982, 96 Stat. 612, added item 7408 and redesignated former item 7408 as 7409.

1976—Pub. L. 94-455, title XII, §1203(i)(4), Oct. 4, 1976, 90 Stat. 1695, added item 7407 and redesignated former item 7407 as 7408.

§ 7401. Authorization

No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

(Aug. 16, 1954, ch. 736, 68A Stat. 873; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7402. Jurisdiction of district courts

(a) To issue orders, processes, and judgments

The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

(b) To enforce summons

If any person is summoned under the internal revenue laws to appear, to testify, or to produce

books, papers, or other data, the district court of the United States for the district in which such person resides or may be found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(c) For damages to United States officers or employees

Any officer or employee of the United States acting under authority of this title, or any person acting under or by authority of any such officer or employee, receiving any injury to his person or property in the discharge of his duty shall be entitled to maintain an action for damages therefor, in the district court of the United States, in the district wherein the party doing the injury may reside or shall be found.

[(d) Repealed. Pub. L. 92-310, title II, § 230(d), June 6, 1972, 86 Stat. 209]

(e) To quiet title

The United States district courts shall have jurisdiction of any action brought by the United States to quiet title to property if the title claimed by the United States to such property was derived from enforcement of a lien under this title.

(f) General jurisdiction

For general jurisdiction of the district courts of the United States in civil actions involving internal revenue, see section 1340 of title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 873; Pub. L. 89-719, title I, § 107(a), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 93-310, title II, § 230(d), June 6, 1972, 86 Stat. 209.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92-310 repealed subsec. (d) which granted district courts jurisdiction of actions brought on official bonds.

1966—Subsecs. (e), (f). Pub. L. 89-719 added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7403. Action to enforce lien or to subject property to payment of tax

(a) Filing

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Secretary, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability. For purposes of the preceding sentence, any acceleration of payment under section 6166(g) shall be treated as a neglect to pay tax.

(b) Parties

All persons having liens upon or claiming any interest in the property involved in such action shall be made parties thereto.

(c) Adjudication and decree

The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(d) Receivership

In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 89-719, title I, § 107(b), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), title XX, § 2004(f)(2), Oct. 4, 1976, 90 Stat. 1834, 1872; Pub. L. 97-34, title IV, § 422(e)(8), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-34 struck out “or 6166A(h)” after “section 6166(g)”.

1976—Subsec. (a). Pub. L. 94-455, §§ 1906(b)(13)(A), 2004(f)(2), struck out “or his delegate” after “Secretary” and inserted provisions relating to the acceleration of payment under section 6166(g) or 6166A(h).

Subsecs. (c), (d). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1966—Subsec. (c). Pub. L. 89-719 inserted sentence permitting the United States, if the property is sold to satisfy a first lien held by the United States, to bid at the sale such sum, not more than the amount of such lien with expenses of sale, as the Secretary or his delegate directs.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7404. Authority to bring civil action for estate taxes

If the estate tax imposed by chapter 11 is not paid on or before the due date thereof, the Secretary shall proceed to collect the tax under the

provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court of the United States having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This section insofar as it applies to the collection of a deficiency shall be subject to the provisions of sections 6213 and 6601.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7405. Action for recovery of erroneous refunds

(a) Refunds after limitation period

Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) Refunds otherwise erroneous

Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) Interest

For provision relating to interest on erroneous refunds, see section 6602.

(d) Periods of limitation

For periods of limitations on actions under this section, see section 6532(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 874.)

§ 7406. Disposition of judgments and moneys recovered

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary as collections of internal revenue taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 875; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7407. Action to enjoin tax return preparers

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person who is a tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as a tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the Dis-

trict Court of the United States for the district in which the tax return preparer resides or has his principal place of business or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such tax return preparer or any taxpayer.

(b) Adjudication and decrees

In any action under subsection (a), if the court finds—

(1) that a tax return preparer has—

(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as a tax return preparer,

(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that a tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as a tax return preparer.

(Added Pub. L. 94-455, title XII, §1203(g), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 101-239, title VII, §7738(a), (b), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 110-28, title VIII, §8246(a)(2)(I)(i), May 25, 2007, 121 Stat. 202.)

PRIOR PROVISIONS

A prior section 7407 was renumbered section 7410 of this title.

AMENDMENTS

2007—Pub. L. 110-28, §8246(a)(2)(I)(i)(I), substituted “tax return preparers” for “income tax return preparers” in section catchline.

Subsec. (a). Pub. L. 110-28, §8246(a)(2)(I)(i)(II)–(IV), substituted “tax return” for “income tax return” after “with respect to whose”, “tax return preparer” for “income tax preparer” after “district in which the” and after “against such”, and “a tax return preparer” for “an income tax return preparer” in two places.

Subsec. (b). Pub. L. 110-28, §8246(a)(2)(I)(i)(II), substituted “a tax return preparer” for “an income tax return preparer” in introductory provisions and subpar. (B) of par. (1) and in two places in concluding provisions.

1989—Subsec. (a). Pub. L. 101-239, §7738(b), substituted “A civil” for “Except as provided in subsection (c), a civil”.

Subsec. (c). Pub. L. 101-239, §7738(a), struck out subsec. (c) relating to bonds to stay injunctions.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub.

L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7738(c), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendments made by this section [amending this section] shall apply to actions commenced after December 31, 1989.”

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 7701 of this title.

§ 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

(b) Adjudication and decree

In any action under subsection (a), if the court finds—

- (1) that the person has engaged in any specified conduct, and
- (2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

(c) Specified conduct

For purposes of this section, the term “specified conduct” means any action, or failure to take action, which is—

- (1) subject to penalty under section 6700, 6701, 6707, or 6708, or
- (2) in violation of any requirement under regulations issued under section 330 of title 31, United States Code.

(d) Citizens and residents outside the United States

If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.

(Added Pub. L. 97-248, title III, §321(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 98-369, div. A, title I, §143(b), July 18, 1984, 98 Stat. 682; Pub. L. 108-357, title VIII, §820(a), (b)(1), Oct. 22, 2004, 118 Stat. 1585.)

PRIOR PROVISIONS

A prior section 7408 was renumbered section 7410 of this title.

AMENDMENTS

2004—Pub. L. 108-357, §820(b)(1), amended section catchline generally, substituting “Actions to enjoin

specified conduct related to tax shelters and reportable transactions” for “Action to enjoin promoters of abusive tax shelters, etc.”

Subsecs. (a) to (d). Pub. L. 108-357, §820(a), added subsecs. (a) to (c), redesignated former subsec. (c) as (d), and struck out former subsecs. (a) and (b), which authorized a civil action to enjoin any person from further engaging in conduct subject to penalty under section 6700 or 6701 of this title and authorized the court, if it found that the person had engaged in such conduct and that injunctive relief was appropriate, to enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700 or 6701.

1984—Subsec. (a). Pub. L. 98-369, §143(b)(1), (2), inserted “or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)” and inserted reference to section 6701 at end of second sentence.

Subsec. (b). Pub. L. 98-369, §143(b)(1), (3), inserted “or section 6701 (relating to penalties for aiding and abetting understatement of tax liability),” in par. (1) and inserted reference to section 6701 at end.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §820(c), Oct. 22, 2004, 118 Stat. 1585, provided that: “The amendment made by this section [amending this section] shall take effect on the day after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on day after July 18, 1984, see section 143(c) of Pub. L. 98-369, set out as a note under section 6700 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §321(c), Sept. 3, 1982, 96 Stat. 612, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to seek injunction

(1) In general

If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

(2) Requirements

An action may be brought under subsection (a) only if—

- (A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

(B) the Commissioner of Internal Revenue has personally determined that—

(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(ii) injunctive relief is appropriate to prevent future political expenditures.

(b) Adjudication and decree

In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

(c) Definitions

For purposes of this section, the terms “section 501(c)(3) organization” and “political expenditures” have the respective meanings given to such terms by section 4955.

(Added Pub. L. 100-203, title X, §10713(a)(1), Dec. 22, 1987, 101 Stat. 1330-468.)

PRIOR PROVISIONS

A prior section 7409 was renumbered section 7410 of this title.

§ 7410. Cross references

(1) For provisions for collecting taxes in general, see chapter 64.

(2) For venue in a civil action for the collection of any tax, see section 1396 of Title 28 of the United States Code.

(3) For venue of a proceeding for the recovery of any fine, penalty, or forfeiture, see section 1395 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 875, §7407; renumbered §7408, Pub. L. 94-455, title XII, §1203(g), Oct. 4, 1976, 90 Stat. 1693; renumbered §7409, Pub. L. 97-248, title III, §321(a), Sept. 3, 1982, 96 Stat. 612; renumbered §7410, Pub. L. 100-203, title X, §10713(a)(1), Dec. 22, 1987, 101 Stat. 1330-468.)

Subchapter B—Proceedings by Taxpayers and Third Parties

Sec.	
7421.	Prohibition of suits to restrain assessment or collection.
7422.	Civil actions for refund.
7423.	Repayments to officers or employees.
7424.	Intervention.
7425.	Discharge of liens.
7426.	Civil actions by persons other than taxpayers.
7427.	Tax return preparers.
7428.	Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

Sec.	
7429.	Review of jeopardy levy or assessment procedures.
7430.	Awarding of costs and certain fees.
7431.	Civil damages for unauthorized inspection or disclosure of returns and return information.
7432.	Civil damages for failure to release lien.
7433.	Civil damages for certain unauthorized collection actions.
7433A.	Civil damages for certain unauthorized collection actions by persons performing services under qualified tax collection contracts.
7434.	Civil damages for fraudulent filing of information returns.
7435.	Civil damages for unauthorized enticement of information disclosure.
7436.	Proceedings for determination of employment status.
7437.	Cross references.

AMENDMENTS

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(J)(ii), May 25, 2007, 121 Stat. 202, substituted “Tax return preparers” for “Income tax return preparers” in item 7427.

2004—Pub. L. 108-357, title VIII, §881(b)(2), Oct. 22, 2004, 118 Stat. 1626, added item 7433A.

1997—Pub. L. 105-35, §3(d)(5), Aug. 5, 1997, 111 Stat. 1106, inserted “inspection or” before “disclosure” in item 7431.

Pub. L. 105-34, title XIV, §1454(b)(4), Aug. 5, 1997, 111 Stat. 1057, added items 7436 and 7437 and struck out former item 7436 “Cross references”.

1996—Pub. L. 104-168, title VI, §601(b), title XII, §1203(b), July 30, 1996, 110 Stat. 1462, 1471, added items 7434 and 7435 and redesignated former item 7434 as 7436.

1988—Pub. L. 100-647, title VI, §§6237(e)(4), 6239(c), 6240(b), 6241(c), Nov. 10, 1988, 102 Stat. 3743, 3746-3748, inserted “levy or” after “jeopardy” in item 7429, struck out “court” after “Awarding of” in item 7430, added items 7432 and 7433, and redesignated former item 7432 as 7434.

1982—Pub. L. 97-248, title II, §292(d)(1), title III, §357(b)(3), Sept. 3, 1982, 96 Stat. 574, 646, added items 7430 and 7431 and redesignated former item 7430 as 7432.

1976—Pub. L. 94-455, title XII, §§1203(b)(2)(B), 1204(c)(13), title XIII, §1306(b)(6), Oct. 4, 1976, 90 Stat. 1690, 1699, 1719, added items 7427 to 7429 and redesignated former item 7427 as 7430.

1966—Pub. L. 89-719, title I, §110(d)(1), (2), Nov. 2, 1966, 80 Stat. 1145, inserted “and Third Parties” in subchapter heading, substituted “Intervention” for “Civil action to clear title to property” in item 7424, added items 7425 and 7426, and redesignated former item 7425 as 7427.

§ 7421. Prohibition of suits to restrain assessment or collection

(a) Tax

Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6232(c), 6330(e)(1), 6331(i), 6672(c), 6694(c), 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

(b) Liability of transferee or fiduciary

No suit shall be maintained in any court for the purpose of restraining the assessment or collection (pursuant to the provisions of chapter 71) of—

(1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any internal revenue tax, or

(2) the amount of the liability of a fiduciary under section 3713(b) of title 31, United States Code¹ in respect of any such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 876; Pub. L. 89-719, title I, §110(c), Nov. 2, 1966, 80 Stat. 1144; Pub. L. 94-455, title XII, §1204(c)(11), Oct. 4, 1976, 90 Stat. 1699; Pub. L. 95-628, §9(b)(1), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 97-258, §3(f)(13), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105-34, title XII, §1222(b)(1), 1239(e)(3), title XIV, §1454(b)(2), Aug. 5, 1997, 111 Stat. 1019, 1028, 1057; Pub. L. 105-206, title III, §3201(e)(3), July 22, 1998, 112 Stat. 740; Pub. L. 105-277, div. J, title IV, §4002(c)(1), (f), Oct. 21, 1998, 112 Stat. 2681-906, 2681-907; Pub. L. 106-554, §1(a)(7) [title III, §§313(b)(2)(B), 319(24)], Dec. 21, 2000, 114 Stat. 2763, 2763A-642, 2763A-647; Pub. L. 114-74, title XI, §1101(f)(10), Nov. 2, 2015, 129 Stat. 638.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-74 substituted “6232(c)” for “6225(b), 6246(b)”.

2000—Subsec. (a). Pub. L. 106-554 inserted “6330(e)(1),” after “6246(b),” and substituted “6672(c)” for “6672(b)”.

1998—Subsec. (a). Pub. L. 105-277 substituted “6015(e)” for “6015(d)” and inserted “6331(i),” after “6246(b),”.

Pub. L. 105-206 inserted “6015(d),” after “sections”.

1997—Subsec. (a). Pub. L. 105-34, §1454(b)(2), substituted “7429(b), and 7436” for “and 7429(b)”.

Pub. L. 105-34, §1239(e)(3), inserted “6225(b),” after “6213(a),”.

Pub. L. 105-34, §1222(b)(1), inserted “6246(b),” after “6213(a),”.

1982—Subsec. (b)(2). Pub. L. 97-258 substituted “section 3713(b) of title 31, United States Code” for “section 3467 of the Revised Statutes (31 U.S.C. 192)”.

1978—Subsec. (a). Pub. L. 95-628 inserted references to sections 6672(b) and 6694(c).

1976—Subsec. (a). Pub. L. 94-455 substituted “7426(a) and (b)(1), and 7429(b)” for “and 7426(a) and (b)(1)”.

1966—Subsec. (a). Pub. L. 89-719 inserted reference to section 7426(a), (b)(1), and “by any person, whether or not such person is the person against whom such tax was assessed”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

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

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(1) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(e)(3) of Pub. L. 105-34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105-34, set out as a note under section 6501 of this title.

Amendment by section 1454(b)(2) of Pub. L. 105-34, effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105-34, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-628 applicable with respect to penalties assessed more than 60 days after Nov. 10, 1978, see section 9(c) of Pub. L. 95-628, set out as a note under section 6672 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS

Pub. L. 105-206, title III, §3468, July 22, 1998, 112 Stat. 770, provided that:

“(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

“(b) EXCEPTIONS.—Subsection (a) shall not apply in any case where—

“(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily; or

“(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer's attorney or other representative.”

§ 7422. Civil actions for refund

(a) No suit prior to filing claim for refund

No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(b) Protest or duress

Such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.

(c) Suits against collection officer a bar

A suit against any officer or employee of the United States (or former officer or employee) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States

¹ So in original. Probably should be followed by a comma.

had been a party to such suit in applying the doctrine of *res judicata* in all suits in respect of any internal revenue tax, and in all proceedings in the Tax Court and on review of decisions of the Tax Court.

(d) Credit treated as payment

The credit of an overpayment of any tax in satisfaction of any tax liability shall, for the purpose of any suit for refund of such tax liability so satisfied, be deemed to be a payment in respect of such tax liability at the time such credit is allowed.

(e) Stay of proceedings

If the Secretary prior to the hearing of a suit brought by a taxpayer in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the proceedings in taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition with the Tax Court for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files a petition with the Tax Court, the district court or the United States Court of Federal Claims, as the case may be, shall lose jurisdiction of taxpayer's suit to whatever extent jurisdiction is acquired by the Tax Court of the subject matter of taxpayer's suit for refund. If the taxpayer does not file a petition with the Tax Court for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits against officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

(f) Limitation on right of action for refund

(1) General rule

A suit or proceeding referred to in subsection (a) may be maintained only against the United States and not against any officer or employee of the United States (or former officer or employee) or his personal representative. Such suit or proceeding may be maintained against the United States notwithstanding the provisions of section 2502 of title 28 of the United States Code (relating to aliens' privilege to sue) and notwithstanding the provisions of section 1502 of such title 28 (relating to certain treaty cases).

(2) Misjoinder and change of venue

If a suit or proceeding brought in a United States district court against an officer or employee of the United States (or former officer or employee) or his personal representative is improperly brought solely by virtue of paragraph (1), the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action commenced, upon proper service of process on the United States. Such suit or proceeding shall upon request by the United States be transferred to the district or division where it should have been brought if such action initially had been brought against the United States.

(g) Special rules for certain excise taxes imposed by chapter 42 or 43

(1) Right to bring actions

(A) In general

With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(B) Definitions

For purposes of subparagraph (A), the terms "taxable event", "first tier tax", and "second tier tax" have the respective meanings given to such terms by section 4963.

(2) Limitation on suit for refund

No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975 with respect to any act (or failure to act) giving rise to liability for tax under such sections, unless no other suit has been maintained for credit or refund of, and no petition has been filed in the Tax Court with respect to a deficiency in, any other tax imposed by such sections with respect to such act (or failure to act).

(3) Final determination of issues

For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975 with respect to any act (or failure to act) giving rise to liability for tax under such sections, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such act (or failure to act) under such sections, and failure by the parties to such suit to bring any such question before the Court shall constitute a bar to such question.

[(h) Repealed. Pub. L. 114-74, title XI, § 1101(f)(11), Nov. 2, 2015, 129 Stat. 638]

(i) Special rule for actions with respect to tax shelter promoter and understatement penalties

No action or proceeding may be brought in the United States Court of Federal Claims for any refund or credit of a penalty imposed by section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to

penalties for aiding and abetting understatement of tax liability).

(j) Special rule for actions with respect to estates for which an election under section 6166 is made

(1) In general

The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

(2) Estates to which subsection applies

This subsection shall apply to any estate if, as of the date the action is filed—

(A) no portion of the installments payable under section 6166 have been accelerated;

(B) all such installments the due date for which is on or before the date the action is filed have been paid;

(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired; and

(D) no proceeding for declaratory judgment under section 7479 is pending.

(3) Prohibition on collection of disallowed liability

If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.

(k) Cross references

(1) For provisions relating generally to claims for refund or credit, see chapter 65 (relating to abate-ments, credit, and refund) and chapter 66 (relating to limitations).

(2) For duty of United States attorneys to defend suits, see section 507 of Title 28 of the United States Code.

(3) For jurisdiction of United States district courts, see section 1346 of Title 28 of the United States Code.

(4) For payment by the Treasury of judgments against internal revenue officers or employees, upon certificate of probable cause, see section 2006 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 876; Pub. L. 85-866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89-713, § 3(a), Nov. 2, 1966, 80 Stat. 1108; Pub. L. 91-172, title I, § 101(i), (j)(56), Dec. 30, 1969, 83 Stat. 525, 532; Pub. L. 92-178, title III, § 309(a), Dec. 10, 1971, 85 Stat. 525; Pub. L. 93-406, title II, § 1016(a)(26), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title XIII, § 1307(d)(2)(F)(viii), title XVI, § 1605(b)(11), title XIX, § 1906(a)(44), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1830, 1834; Pub. L.

96-222, title I, § 108(b)(1)(D)-(F), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96-223, title I, § 101(f)(1)(J), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96-596, § 2(c)(2), Dec. 24, 1980, 94 Stat. 3474; Pub. L. 97-164, title I, § 151, Apr. 2, 1982, 96 Stat. 46; Pub. L. 97-248, title IV, § 402(c)(11), Sept. 3, 1982, 96 Stat. 668; Pub. L. 98-369, div. A, title VII, § 714(g)(1), (p)(2)(H), July 18, 1984, 98 Stat. 961, 965; Pub. L. 99-514, title XVIII, § 1899A(58), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 100-203, title X, § 10712(c)(5), Dec. 22, 1987, 101 Stat. 1330-467; Pub. L. 100-418, title I, § 1941(b)(2)(B)(x), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-168, title XIII, § 1311(c)(4), July 30, 1996, 110 Stat. 1478; Pub. L. 105-206, title III, § 3104(a), July 22, 1998, 112 Stat. 731; Pub. L. 114-74, title XI, § 1101(f)(11), Nov. 2, 2015, 129 Stat. 638.)

REFERENCES IN TEXT

The date of enactment of this title, referred to in subsec. (e), is Aug. 16, 1954.

AMENDMENTS

2015—Subsec. (h). Pub. L. 114-74 struck out subsec. (h). Text read as follows: “No action may be brought for a refund attributable to partnership items (as defined in section 6231(a)(3)) except as provided in section 6228(b) or section 6230(c).”

1998—Subsecs. (j), (k). Pub. L. 105-206 added subsec. (j) and redesignated former subsec. (j) as (k).

1996—Subsec. (g)(2), (3). Pub. L. 104-168 inserted “4958,” after “4955.”

1992—Subsecs. (e), (i). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” wherever appearing.

1988—Subsec. (e). Pub. L. 100-418 substituted “or 44” for “44, or 45”.

1987—Subsec. (g)(2), (3). Pub. L. 100-203 inserted “4955,” after “4952.”

1986—Subsec. (g)(1)(B). Pub. L. 99-514 substituted “section 4963” for “section 4962”.

1984—Subsec. (h). Pub. L. 98-369, § 714(p)(2)(H), substituted “section 6231(a)(3)” for “section 6131(a)(3)”.

Subsecs. (i), (j). Pub. L. 98-369, § 714(g)(1), added subsec. (i) and redesignated former subsec. (i) as (j).

1982—Subsec. (e). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims” wherever appearing.

Subsecs. (h), (i). Pub. L. 97-248 added subsec. (h) and redesignated former subsec. (h) as (i).

1980—Subsec. (e). Pub. L. 96-223 inserted reference to chapter 45.

Subsec. (g). Pub. L. 96-596 substituted in par. (1) provision authorizing, with respect to any taxable event, payment of the full amount of the first tier tax as constituting sufficient payment in order to maintain an action under this section with respect to the second tier tax and defining the terms “taxable event”, “first tier tax”, and “second tier tax” as having the respective meanings given to such terms by section 4962 of this title for provision authorizing, with respect to any act or failure to act giving rise to liability under sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975 of this title, payment of the full amount of tax imposed under specified subsections of those sections as constituting sufficient payment in order to maintain an action under this section with respect to such act or failure to act.

Pub. L. 96-222 substituted in pars. (1) to (3) “4944, 4945, 4951, 4952” for “4944, 4945” and in par. (1) “section 4945(a) (relating to initial taxes on taxable expenditures), section 4951(a) (relating to initial taxes on self dealing), 4952(a) (relating to initial taxes on taxable expenditures)” for “section 4945(a) (relating to initial taxes on taxable expenditures)” and “section 4945(b) (relating to additional taxes on taxable expenditures),

section 4951(b) (relating to additional taxes on self-dealing), 4952(b) (relating to additional taxes on taxable expenditures)” for “section 4945(b) (relating to additional taxes on taxable expenditures)”.

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

Subsec. (c). Pub. L. 94-455, §1906(a)(44), struck out “instituted after June 15, 1942,” after “res judicata in all suits” and “where the petition to the Tax Court was filed after such date” after “decisions of the Tax Court”.

Subsec. (e). Pub. L. 94-455, §§1307(d)(2)(F)(viii), 1605(b)(11), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” and substituted “chapter 41, 42,” for “chapter 42” and “43, or 44” for “or 43”.

1974—Subsec. (e). Pub. L. 93-406, §1016(a)(26)(A), substituted “chapter 42 or 43” for “chapter 42”.

Subsec. (g). Pub. L. 93-406, §1016(a)(26)(B)–(F), substituted “chapter 42 or 43” for “chapter 42” in heading, substituted “4945, 4971, or 4975” for “or 4945”, “section 4945(a) (relating to initial taxes on taxable expenditures), 4971(a) (relating to initial tax on failure to meet minimum funding standard), 4975(a) (relating to initial tax on prohibited transactions)” for “section 4945(a) (relating to initial taxes on taxable expenditures)”, and “section 4945(b) (relating to additional taxes on taxable expenditures), section 4971(b) (relating to additional tax on failure to meet minimum funding standard), or section 4975(b) (relating to additional tax on prohibited transactions)” for “or section 4945(b) (relating to additional taxes on taxable expenditures)” in par. (1), and substituted “4945, 4971, or 4975” for “or 4945” in pars. (2) and (3).

1971—Subsec. (f)(1). Pub. L. 92-178 authorized maintenance of suit or proceeding against the United States notwithstanding provisions of section 1502 of Title 28 (relating to certain treaty cases).

1969—Subsec. (e). Pub. L. 91-172, §101(j)(56), inserted reference to chapter 42 taxes.

Subsecs. (g), (h). Pub. L. 91-172, §101(i), added subsec. (g) and redesignated former subsec. (g) as (h).

1966—Subsecs. (f), (g). Pub. L. 89-713 added subsec. (f) and redesignated former subsec. (f) as (g).

1958—Subsec. (f)(2). Pub. L. 85-866 struck out “district” before “attorneys”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3104(c), July 22, 1998, 112 Stat. 732, provided that: “The amendments made by this section [amending this section and section 7479 of this title] shall apply to any claim for refund filed after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995 and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104-168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see

section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 714(g)(1) of Pub. L. 98-369 applicable to any claim for refund or credit filed after July 18, 1984, see section 714(g)(4) of Pub. L. 98-369, set out as an Effective Date note under section 1509 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 714(p)(2)(H) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96-222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, see section 108(b)(4) of Pub. L. 96-222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(viii) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(11) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

Amendment by section 1906(a)(44), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, and in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title III, §309(b), Dec. 10, 1971, 85 Stat. 525, provided that: “The amendment made by sub-

section (a) [amending this section] shall apply to suits or proceedings which are instituted after January 30, 1967.”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-713, §3(d), Nov. 2, 1966, 80 Stat. 1109, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 2502 of Title 28, Judiciary and Judicial Procedure] shall apply to suits brought against officers, employees, or personal representatives referred to therein which are instituted 90 days or more after the date of the enactment of this Act [Nov. 2, 1966]. The amendment made by subsection (c) [amending section 7482 of this title] shall apply to all decisions of the Tax Court entered after the date of enactment of this Act.”

EFFECTIVE DATE OF 1958 AMENDMENT

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

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 7423. Repayments to officers or employees

The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

(1) Collections recovered

To any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit; also

(2) Damages and costs

All damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the due performance of his official duty under this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 877; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in provisions preceding par. (1).

§ 7424. Intervention

If the United States is not a party to a civil action or suit, the United States may intervene in such action or suit to assert any lien arising under this title on the property which is the subject of such action or suit. The provisions of section 2410 of title 28 of the United States Code (except subsection (b)) and of section 1444 of title 28 of the United States Code shall apply in any case in which the United States intervenes

as if the United States had originally been named a defendant in such action or suit. In any case in which the application of the United States to intervene is denied, the adjudication in such civil action or suit shall have no effect upon such lien.

(Aug. 16, 1954, ch. 736, 68A Stat. 877; Pub. L. 89-719, title I, §108, Nov. 2, 1966, 80 Stat. 1140.)

AMENDMENTS

1966—Pub. L. 89-719 substituted “Intervention” for “Civil action to clear title to property” in section catchline and substituted provisions, set out in a single paragraph, granting the government authority to intervene in a court proceeding to assert any lien arising under this title on property which is the subject of a civil action or suit to which the government is not a party with the same procedural rules to apply as where the government is initially joined properly as a party and with the proceedings to have no effect on the government’s lien if the application to intervene is denied, for provisions, formerly set out in three subsections, setting out a procedure by which a person having a lien upon or interest in property referred to in section 7403 could file a civil action to clear title to the property and obtain an adjudication of the matter involved in the same manner as in the case of a civil action filed under section 7403.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when the title or lien of the United States arose or when the lien or interest of another person was acquired, with certain exceptions, see section 114(a) to (c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CIVIL ACTIONS TO CLEAR TITLE TO PROPERTY COMMENCED BEFORE NOV. 2, 1966

Pub. L. 89-719, title I, §114(d), Nov. 2, 1966, 80 Stat. 1147, provided that civil actions commenced before Nov. 2, 1966, to clear title to property pursuant to this section as in effect before Nov. 2, 1966, were to be determined in accord with this section as in effect before Nov. 2, 1966.

§ 7425. Discharge of liens

(a) Judicial proceedings

If the United States is not joined as a party, a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code, or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title—

(1) shall be made subject to and without disturbing the lien of the United States, if notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced, or

(2) shall have the same effect with respect to the discharge or divestment of such lien of the United States as may be provided with respect to such matters by the local law of the place where such property is situated, if no notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced or if the law makes no provision for such filing.

If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of

this title, the United States may claim, with the same priority as its lien had against the property sold, the proceeds (exclusive of costs) of such sale at any time before the distribution of such proceeds is ordered.

(b) Other sales

Notwithstanding subsection (a) a sale of property on which the United States has or claims a lien, or a title derived from enforcement of a lien, under the provisions of this title, made pursuant to an instrument creating a lien on such property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on such property—

(1) shall, except as otherwise provided, be made subject to and without disturbing such lien or title, if notice of such lien was filed or such title recorded in the place provided by law for such filing or recording more than 30 days before such sale and the United States is not given notice of such sale in the manner prescribed in subsection (c)(1); or

(2) shall have the same effect with respect to the discharge or divestment of such lien or such title of the United States, as may be provided with respect to such matters by the local law of the place where such property is situated, if—

(A) notice of such lien or such title was not filed or recorded in the place provided by law for such filing more than 30 days before such sale,

(B) the law makes no provision for such filing, or

(C) notice of such sale is given in the manner prescribed in subsection (c)(1).

(c) Special rules

(1) Notice of sale

Notice of a sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary) in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary.

(2) Consent to sale

Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property shall discharge or divest such property of the lien or title of the United States if the United States consents to the sale of such property free of such lien or title.

(3) Sale of perishable goods

Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property liable to perish or become greatly reduced in price or value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of such sale is given (in accordance with regulations prescribed by the Secretary) in writing, by registered or certified mail or by personal service, to the Secretary before such sale. The proceeds (exclusive of costs) of such sale shall be held as a fund subject to the liens and claims of the

United States, in the same manner and with the same priority as such liens and claims had with respect to the property sold, for not less than 30 days after the date of such sale.

(4) Forfeitures of land sales contracts

For purposes of subsection (b), a sale of property includes any forfeiture of a land sales contract.

(d) Redemption by United States

(1) Right to redeem

In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.

(2) Amount to be paid

In any case in which the United States redeems real property pursuant to paragraph (1), the amount to be paid for such property shall be the amount prescribed by subsection (d) of section 2410 of title 28 of the United States Code.

(3) Certificate of redemption

(A) In general

In any case in which real property is redeemed by the United States pursuant to this subsection, the Secretary shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to such property in the name of the United States. If no such officer is designated by local law or if such officer fails to issue such documents, the Secretary shall execute a certificate of redemption therefor.

(B) Filing

The Secretary shall, without delay, cause such documents or certificate to be duly recorded in the proper registry of deeds. If the State in which the real property redeemed by the United States is situated has not by law designated an office in which such certificate may be recorded, the Secretary shall file such certificate in the office of the clerk of the United States district court for the judicial district in which such property is situated.

(C) Effect

A certificate of redemption executed by the Secretary shall constitute prima facie evidence of the regularity of such redemption and shall, when recorded, transfer to the United States all the rights, title, and interest in and to such property acquired by the person from whom the United States redeems such property by virtue of the sale of such property.

(Added Pub. L. 89-719, title I, §109, Nov. 2, 1966, 80 Stat. 1141; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, §1572(a), Oct. 22, 1986, 100 Stat. 2765.)

PRIOR PROVISIONS

A prior section 7425 was renumbered 7434 of this title.

AMENDMENTS

1986—Subsec. (c)(4). Pub. L. 99-514 added par. (4).
 1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1572(b), Oct. 22, 1986, 100 Stat. 2765, provided that: “The amendment made by subsection (a) [amending this section] shall apply to forfeitures after the 30th day after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

§ 7426. Civil actions by persons other than taxpayers

(a) Actions permitted

(1) Wrongful levy

If a levy has been made on property or property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a district court of the United States. Such action may be brought without regard to whether such property has been surrendered to or sold by the Secretary.

(2) Surplus proceeds

If property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property junior to that of the United States and to be legally entitled to the surplus proceeds of such sale may bring a civil action against the United States in a district court of the United States.

(3) Substituted sale proceeds

If property has been sold pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), any person who claims to be legally entitled to all or any part of the amount held as a fund pursuant to such agreement may bring a civil action against the United States in a district court of the United States.

(4) Substitution of value

If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.

(b) Adjudication

The district court shall have jurisdiction to grant only such of the following forms of relief as may be appropriate in the circumstances:

(1) Injunction

If a levy or sale would irreparably injure rights in property which the court determines to be superior to rights of the United States in such property, the court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

(2) Recovery of property

If the court determines that such property has been wrongfully levied upon, the court may—

(A) order the return of specific property if the United States is in possession of such property;

(B) grant a judgment for the amount of money levied upon; or

(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

(i) the amount received by the United States from the sale of such property, or

(ii) the fair market value of such property immediately before the levy.

For the purposes of subparagraph (C), if the property was declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(3) Surplus proceeds

If the court determines that the interest or lien of any party to an action under this section was transferred to the proceeds of a sale of such property, the court may grant a judgment in an amount equal to all or any part of the amount of the surplus proceeds of such sale.

(4) Substituted sale proceeds

If the court determines that a party has an interest in or lien on the amount held as a fund pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), the court may grant a judgment in an amount equal to all or any part of the amount of such fund.

(5) Substitution of value

If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.

(c) Validity of assessment

For purposes of an adjudication under this section, the assessment of tax upon which the interest or lien of the United States is based shall be conclusively presumed to be valid.

(d) Limitation on rights of action

No action may be maintained against any officer or employee of the United States (or former

officer or employee) or his personal representative with respect to any acts for which an action could be maintained under this section.

(e) Substitution of United States as party

If an action, which could be brought against the United States under this section, is improperly brought against any officer or employee of the United States (or former officer or employee) or his personal representative, the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action was commenced upon proper service of process on the United States.

(f) Provision inapplicable

The provisions of section 7422(a) (relating to prohibition of suit prior to filing claim for refund) shall not apply to actions under this section.

(g) Interest

Interest shall be allowed at the overpayment rate established under section 6621—

(1) in the case of a judgment pursuant to subsection (b)(2)(B), from the date the Secretary receives the money wrongfully levied upon to the date of payment of such judgment;

(2) in the case of a judgment pursuant to subsection (b)(2)(C), from the date of the sale of the property wrongfully levied upon to the date of payment of such judgment; and

(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.

(h) Recovery of damages permitted in certain cases

(1) In general

Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of \$1,000,000 (\$100,000 in the case of negligence) or the sum of—

(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent disregard of any provision of this title by the officer or employee (reduced by any amount of such damages awarded under subsection (b)); and

(B) the costs of the action.

(2) Requirement that administrative remedies be exhausted; mitigation; period

The rules of section 7433(d) shall apply for purposes of this subsection.

(3) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(i) Cross reference

For period of limitation, see section 6532(c).

(Added Pub. L. 89-719, title I, §110(a), Nov. 2, 1966, 80 Stat. 1142; amended Pub. L. 93-625, §7(a)(2)(E), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §350(a), Sept. 3, 1982, 96 Stat. 639; Pub. L. 99-514, title XV, §1511(c)(16), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 105-206, title III, §§3102(b), 3106(b)(1), (2), July 22, 1998, 112 Stat. 730, 733.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105-206, §3106(b)(1), added par. (4).

Subsec. (b)(5). Pub. L. 105-206, §3106(b)(2)(A), added par. (5).

Subsec. (g)(3). Pub. L. 105-206, §3106(b)(2)(B), added par. (3).

Subsecs. (h), (i). Pub. L. 105-206, §3102(b), added subsec. (h) and redesignated former subsec. (h) as (i).

1986—Subsec. (g). Pub. L. 99-514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1982—Subsec. (b)(2)(C). Pub. L. 97-248 inserted “if such property was sold,” before “grant a judgment” and “the greater of—” after “not exceeding”, redesignated remaining provisions as cl. (i), and added cl. (ii).

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

1975—Subsec. (g). Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3102(d), July 22, 1998, 112 Stat. 731, provided that: “The amendments made by this section [amending this section and section 7433 of this title] shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act [July 22, 1998].”

Amendment by section 3106(b)(1), (2) of Pub. L. 105-206 effective July 22, 1998, see section 3106(c) of Pub. L. 105-206, set out as a note under section 6325 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §350(b), Sept. 3, 1982, 96 Stat. 639, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to levies made after December 31, 1982.”

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which section would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten time of bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)-(c) of Pub. L. 89-719, set out as Effective Date of 1966 Amendments note under section 6323 of this title.

§ 7427. Tax return preparers

In any proceeding involving the issue of whether or not a tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect to such issue shall be upon the Secretary.

(Added Pub. L. 94-455, title XII, §1203(b)(2)(A), Oct. 4, 1976, 90 Stat. 1690; amended Pub. L. 110-28, title VIII, §8246(a)(2)(J)(i), May 25, 2007, 121 Stat. 202.)

PRIOR PROVISIONS

A prior section 7427 was renumbered 7437 of this title.

AMENDMENTS

2007—Pub. L. 110-28 substituted “Tax return preparers” for “Income tax return preparers” in section catchline and “a tax return preparer” for “an income tax return preparer” in text.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

§ 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.**(a) Creation of remedy**

In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)),

(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)),

(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or

(E) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) and exempt from tax under section 501(a), or

(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of

the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

(b) Limitations**(1) Petitioner**

A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

(2) Exhaustion of administrative remedies

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Federal Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

(4) Nonapplication for certain revocations

No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).

(c) Validation of certain contributions made during pendency of proceedings**(1) In general**

If—

(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

(C) either—

(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

(iii) a judgment of the Court of Federal Claims has been entered,

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

(2) Limitation

Paragraph (1) shall apply only—

(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed \$1,000 (for this purpose treating a husband and wife as one contributor), and

(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

(3) Exception

This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.

(d) Subpoena power for district court for District of Columbia

In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States.

(Added Pub. L. 94-455, title XIII, §1306(a), Oct. 4, 1976, 90 Stat. 1717; amended Pub. L. 95-600, title VII, §701(dd)(2), Nov. 6, 1978, 92 Stat. 2924; Pub. L. 97-164, title I, §152, Apr. 2, 1982, 96 Stat. 46; Pub. L. 98-369, div. A, title X, §1033(b), July 18, 1984, 98 Stat. 1039; Pub. L. 102-572, title IX, §902(b), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 108-357, title III, §317(a), Oct. 22, 2004, 118 Stat. 1470; Pub. L. 109-280, title XII, §1223(c), Aug. 17, 2006, 120 Stat. 1091; Pub. L. 114-113, div. Q, title IV, §406(a), Dec. 18, 2015, 129 Stat. 3120.)

PRIOR PROVISIONS

A prior section 7428 was renumbered 7437 of this title.

AMENDMENTS

2015—Subsec. (a)(1)(E). Pub. L. 114-113 added subpar. (E).

2006—Subsec. (b)(4). Pub. L. 109-280, which directed addition of par. (4) at the end of section 7428(b), without specifying the act to be amended, was executed by making the addition at the end of subsec. (b) of this section, which is section 7428 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2004—Subsec. (a)(1)(D). Pub. L. 108-357 added subpar. (D).

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” and “Court of Federal Claims” for “Claims Court” in concluding provisions.

Subsecs. (b)(2), (c)(1)(C)(iii). Pub. L. 102-572, §902(b)(2), substituted “Court of Federal Claims” for “Claims Court”.

1984—Subsec. (d). Pub. L. 98-369 added subsec. (d).

1982—Subsecs. (a), (b)(2), (c)(1)(C)(iii). Pub. L. 97-164 substituted “Claims Court” for “Court of Claims”.

1978—Subsec. (a). Pub. L. 95-600 inserted provision relating to change in qualification or classification.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §406(b), Dec. 18, 2015, 129 Stat. 3120, provided that: “The amendments made by this section [amending this section] shall apply to pleadings filed after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to notices and returns with respect to annual periods beginning after 2006, see section 1223(f) of Pub. L. 109-280, set out as a note under section 6033 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title III, §317(b), Oct. 22, 2004, 118 Stat. 1470, provided that: “The amendments made by this section [amending this section] shall apply with respect to pleadings filed after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective as if included in this section at the time section was added to this title, see section 701(dd)(3) of Pub. L. 95-600, set out as a note under section 7476 of this title.

EFFECTIVE DATE

Pub. L. 94-455, title XIII, §1306(c), Oct. 4, 1976, 90 Stat. 1720, provided that: “The amendments made by this section [enacting this section and amending sections 7451, 7459, 7470, and 7482 of this title, enacting section 1507 of Title 28, Judiciary and Judicial Procedure, and amending sections 1346 and 2201 of Title 28] shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act [Oct. 4, 1976] but only with respect to determinations (or requests for determinations) made after January 1, 1976.”

§ 7429. Review of jeopardy levy or assessment procedures

(a) Administrative review

(1) Administrative review

(A) Prior approval required

No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the In-

ternal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

(B) Information to taxpayer

Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.

(2) Request for review

Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.

(3) Redetermination by Secretary

After a request for review is made under paragraph (2), the Secretary shall determine—

(A) whether or not—

(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

(b) Judicial review

(1) Proceedings permitted

Within 90 days after the earlier of—

(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

(2) Jurisdiction for determination

(A) In general

Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

(B) Tax Court

If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with re-

spect to all the taxes and taxable periods included in such written statement.

(3) Determination by court

Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

(A) whether or not—

(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

(4) Order of court

If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

(c) Extension of 20-day period where taxpayer so requests

If the taxpayer requests an extension of the 20-day period set forth in subsection (b)(2) and establishes reasonable grounds why such extension should be granted, the court may grant an extension of not more than 40 additional days.

(d) Computation of days

For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

(e) Venue

(1) District court

A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.

(2) Transfer of actions

If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had

been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred.

(f) Finality of determination

Any determination made by a court under this section shall be final and conclusive and shall not be reviewed by any other court.

(g) Burden of proof

(1) Reasonableness of levy, termination, or jeopardy assessment

In a proceeding under subsection (b) involving the issue of whether the making of a levy described in subsection (a)(1) or the making of an assessment under section 6851, 6852, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

(2) Reasonableness of amount of assessment

In a proceeding under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6852, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer.

(Added Pub. L. 94-455, title XII, §1204(a), Oct. 4, 1976, 90 Stat. 1695; amended Pub. L. 98-369, div. A, title IV, §446(a), July 18, 1984, 98 Stat. 817; Pub. L. 100-203, title X, §10713(b)(2)(F), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-647, title VI, §6237(a)-(e)(3), Nov. 10, 1988, 102 Stat. 3741-3743; Pub. L. 105-206, title III, §3434(a), July 22, 1998, 112 Stat. 760.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-206 substituted “Administrative review” for “Information to taxpayer” in heading and amended text of par. (1) generally. Prior to amendment, text read as follows: “Within 5 days after the day on which an assessment is made under section 6851(a), 6852(a), 6861(a), or 6862, or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a), the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment or levy.”

1988—Pub. L. 100-647, §6237(e)(3), inserted “levy or” after “jeopardy” in section catchline.

Subsec. (a)(1). Pub. L. 100-647, §6237(a), inserted “or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a),” after “6862,” and “or levy” after “such assessment”.

Subsec. (a)(3). Pub. L. 100-647, §6237(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “After a request for review is made under paragraph (2), the Secretary shall determine whether or not—

“(A) the making of the assessment under section 6851, 6852, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

“(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6852, 6861, or 6862 is appropriate under the circumstances.”

Subsec. (b). Pub. L. 100-647, §6237(c), amended subsec. (b) generally, substituting provisions of pars. (1) to (4) for provisions of former pars. (1) to (3) relating to actions permitted, determination by district court, and order of district court.

Subsec. (c). Pub. L. 100-647, §6237(e)(1), struck out “district” before “court”.

Subsec. (e). Pub. L. 100-647, §6237(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.”

Subsec. (f). Pub. L. 100-647, §6237(e)(1), struck out “district” after “made by a”.

Subsec. (g)(1). Pub. L. 100-647, §6237(e)(2), in heading substituted “levy, termination,” for “termination” and in text substituted “a proceeding” for “an action” and inserted “the making of a levy described in subsection (a)(1) or” after “whether”.

Subsec. (g)(2). Pub. L. 100-647, §6237(e)(2)(C), substituted “a proceeding” for “an action”.

1987—Subsec. (a)(1). Pub. L. 100-203, §10713(b)(2)(F)(i), substituted “6851(a), 6852(a)” for “6851(a),”.

Subsecs. (a)(3)(A), (B), (b)(2)(A), (B), (g)(1), (2). Pub. L. 100-203, §10713(b)(2)(F)(ii), substituted “6851, 6852,” for “6851,” wherever appearing.

1984—Subsec. (b)(2). Pub. L. 98-369 inserted provision that if the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period shall not begin before the day on which proper service was made on the United States.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3434(b), July 22, 1998, 112 Stat. 760, provided that: “The amendment made by this section [amending this section] shall apply to taxes assessed and levies made after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6237(f), Nov. 10, 1988, 102 Stat. 3743, provided that: “The amendments made by this section [amending this section] shall apply to jeopardy levies issued and assessments made on or after July 1, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title IV, §446(b), July 18, 1984, 98 Stat. 817, provided that: “The amendment made by subsection (a) [amending this section] shall apply to actions commenced after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE

Section applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

§ 7430. Awarding of costs and certain fees

(a) In general

In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

(2) reasonable litigation costs incurred in connection with such court proceeding.

(b) Limitations

(1) Requirement that administrative remedies be exhausted

A judgment for reasonable litigation costs shall not be awarded under subsection (a) in

any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service. Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.

(2) Only costs allocable to the United States

An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

(3) Costs denied where party prevailing protracts proceedings

No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

(4) Period for applying to IRS for administrative costs

An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.

(c) Definitions

For purposes of this section—

(1) Reasonable litigation costs

The term “reasonable litigation costs” includes—

(A) reasonable court costs, and

(B) based upon prevailing market rates for the kind or quality of services furnished—

(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of \$125 per hour unless the court determines that a special factor, such as the limited availability of qualified attorneys for such proceeding, the difficulty of the issues presented in the case, or the local availability of tax expertise, justifies a higher rate.

In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under

section 1(f)(3) for such calendar year, by substituting “calendar year 1995” for “calendar year 2016” in subparagraph (A)(ii) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(2) Reasonable administrative costs

The term “reasonable administrative costs” means—

(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(C) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals; (ii) the date of the notice of deficiency; or (iii) the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.

(3) Attorneys' fees

(A) In general

For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

(B) Pro bono services

The court may award reasonable attorneys' fees under subsection (a) in excess of the attorneys' fees paid or incurred if such fees are less than the reasonable attorneys' fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.

(4) Prevailing party

(A) In general

The term “prevailing party” means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

(i) which—

(I) has substantially prevailed with respect to the amount in controversy, or

(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

(ii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) except to the extent differ-

ing procedures are established by rule of court and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

(B) Exception if United States establishes that its position was substantially justified

(i) General rule

A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

(ii) Presumption of no justification if Internal Revenue Service did not follow certain published guidance

For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

(iii) Effect of losing on substantially similar issues

In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.

(iv) Applicable published guidance

For purposes of clause (ii), the term “applicable published guidance” means—

(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.

(C) Determination as to prevailing party

Any determination under this paragraph as to whether a party is a prevailing party shall be made by agreement of the parties or—

(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

(ii) in the case where such final determination is made by a court, the court.

(D) Special rules for applying net worth requirement

In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(ii) of this paragraph—

(i) the net worth limitation in clause (i) of such section shall apply to—

(I) an estate but shall be determined as of the date of the decedent’s death, and

(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section.

(E) Special rules where judgment less than taxpayer’s offer

(i) In general

A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

(ii) Exceptions

This subparagraph shall not apply to—

(I) any judgment issued pursuant to a settlement; or

(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

(iii) Special rules

If this subparagraph applies to any court proceeding—

(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding; and

(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

(iv) Coordination

This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.

(5) Administrative proceedings

The term “administrative proceeding” means any procedure or other action before the Internal Revenue Service.

(6) Court proceedings

The term “court proceeding” means any civil action brought in a court of the United States (including the Tax Court and the United States Court of Federal Claims).

(7) Position of United States

The term “position of the United States” means—

(A) the position taken by the United States in a judicial proceeding to which subsection (a) applies, and

(B) the position taken in an administrative proceeding to which subsection (a) applies as of the earlier of—

(i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or

(ii) the date of the notice of deficiency.

(d) Special rules for payment of costs**(1) Reasonable administrative costs**

An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(2) Reasonable litigation costs

An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

(e) Multiple actions

For purposes of this section, in the case of—

(1) multiple actions which could have been joined or consolidated, or

(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

(f) Right of appeal**(1) Court proceedings**

An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

(2) Administrative proceedings

A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to the filing of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute). If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.

(3) Appeal of Tax Court decision

An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(g) Qualified offer

For purposes of subsection (c)(4)—

(1) In general

The term “qualified offer” means a written offer which—

(A) is made by the taxpayer to the United States during the qualified offer period;

(B) specifies the offered amount of the taxpayer’s liability (determined without regard to interest);

(C) is designated at the time it is made as a qualified offer for purposes of this section; and

(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

(2) Qualified offer period

For purposes of this subsection, the term “qualified offer period” means the period—

(A) beginning on the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

(B) ending on the date which is 30 days before the date the case is first set for trial.

(Added Pub. L. 97-248, title II, §292(a), Sept. 3, 1982, 96 Stat. 572; amended Pub. L. 98-369, div. A, title VII, §714(c), July 18, 1984, 98 Stat. 961; Pub. L. 99-514, title XV, §1551(a)–(g), Oct. 22, 1986, 100 Stat. 2752, 2753; Pub. L. 100-647, title I, §1015(i), title VI, §6239(a), Nov. 10, 1988, 102 Stat. 3571, 3743; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-168, title VII, §§701(a)–(c)(2), 702(a), 703(a), 704(a), July 30, 1996, 110 Stat. 1463, 1464; Pub. L. 105-34, title XII, §1285(a)–(c), title XIV, §1453(a), Aug. 5, 1997, 111 Stat. 1038, 1055; Pub. L. 105-206, title III, §3101(a)–(e), title VI, §§6012(h), 6014(e), July 22, 1998, 112 Stat. 727, 728, 819, 820; Pub. L. 106-554, §1(a)(7) [title III, §319(25)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 115-97, title I, §11002(d)(1)(SS), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

PRIOR PROVISIONS

A prior section 7430 was renumbered section 7437 of this title.

AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)” in concluding provisions.

2000—Subsec. (c)(3). Pub. L. 106-554, §1(a)(7) [title III, §319(25)(A)], substituted “Attorneys” for “Attorneys” in heading.

Subsec. (c)(3)(B). Pub. L. 106-554, §1(a)(7) [title III, §319(25)(B)], substituted “attorneys’ fees” for “attorneys fees” wherever appearing.

1998—Subsec. (b)(4), (5). Pub. L. 105-206, §6012(h), redesignated par. (5) as (4).

Subsec. (c)(1)(B)(iii). Pub. L. 105-206, §3101(a), substituted “\$125” for “\$110” and inserted “the difficulty of the issues presented in the case, or the local availability of tax expertise,” before “justifies a higher rate”.

Subsec. (c)(2). Pub. L. 105-206, §3101(b), added concluding provisions and struck out former concluding provisions which read as follows: “Such term shall only include costs incurred on or after the earlier of (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.”

Subsec. (c)(3). Pub. L. 105-206, §3101(c), substituted “attorneys” for “attorney’s” in heading and amended text of par. (3) generally. Prior to amendment, text

read as follows: “For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.”

Subsec. (c)(4)(B)(iii), (iv). Pub. L. 105-206, § 3101(d), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (c)(4)(D). Pub. L. 105-206, § 6014(e), substituted “subparagraph (A)(ii)” for “subparagraph (A)(iii)” in introductory provisions.

Subsec. (c)(4)(E). Pub. L. 105-206, § 3101(e)(1), added subpar. (E).

Subsec. (g). Pub. L. 105-206, § 3101(e)(2), added subsec. (g).

1997—Subsec. (b)(5). Pub. L. 105-34, § 1285(b), added par. (5).

Subsec. (c)(4)(D). Pub. L. 105-34, § 1453(a), added subpar. (D).

Subsec. (f)(2). Pub. L. 105-34, § 1285(c), substituted “the filing of a petition for review with” for “appeal to” and inserted at end “If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.”

Subsec. (f)(3). Pub. L. 105-34, § 1285(a), added par. (3).

1996—Subsec. (b)(1). Pub. L. 104-168, § 703(a), inserted at end “Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.”

Subsec. (b)(3), (4). Pub. L. 104-168, § 704(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows:

“(3) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

“(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

“(B) EXCEPTION FOR SECTION 501(c)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).”

Subsec. (c)(1). Pub. L. 104-168, § 702(a)(3), inserted closing provisions “In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting ‘calendar year 1995’ for ‘calendar year 1992’ in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.”

Subsec. (c)(1)(B)(iii). Pub. L. 104-168, § 702(a)(1), (2), substituted “\$110” for “\$75” and struck out “an increase in the cost of living or” before “a special factor.”

Subsec. (c)(2)(B). Pub. L. 104-168, § 701(c)(1), substituted “paragraph (4)(C)” for “paragraph (4)(B)”.

Subsec. (c)(4)(A). Pub. L. 104-168, § 701(a), redesignated cls. (ii) and (iii) as (i) and (ii), respectively, and struck out former cl. (i) which read as follows: “which establishes that the position of the United States in the proceeding was not substantially justified.”

Subsec. (c)(4)(B). Pub. L. 104-168, § 701(b), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(4)(C). Pub. L. 104-168, § 701(c)(2), substituted “Any determination under this paragraph” for “Any determination under subparagraph (A)”.

Pub. L. 104-168, § 701(b), redesignated subpar. (B) as (C).

1992—Subsec. (c)(6). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1988—Pub. L. 100-647, § 6239(a), substituted “costs” for “court costs” in section catchline and amended text generally, revising and restating provisions so as to include costs and fees in administrative proceedings.

Subsec. (c)(2)(A)(iii). Pub. L. 100-647, § 1015(i), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “meets the requirements of section 504(b)(1)(B) of title 5, United States Code (as in effect on the date of the enactment of the Tax Reform Act of 1986 and applied by taking into account the commencement of the proceeding described in subsection (a) in lieu of the initiation of the adjudication referred to in such section).”

1986—Subsec. (a). Pub. L. 99-514, § 1551(f), inserted “(payable in the case of the Tax Court in the same manner as such an award by a district court)” in concluding provisions.

Subsec. (b). Pub. L. 99-514, § 1551(a), (b), redesignated pars. (2) to (4) as (1) to (3), respectively, added par. (4), and struck out former par. (1), maximum dollar amount, which read as follows: “The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed \$25,000.”

Subsec. (c)(1)(A). Pub. L. 99-514, § 1551(c), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The term ‘reasonable litigation costs’ includes—

“(i) reasonable court costs,

“(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

“(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party’s case, and

“(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.”

Subsec. (c)(2)(A). Pub. L. 99-514, § 1551(d), substituted “was not substantially justified” for “was unreasonable” in cl. (i), and added cl. (iii).

Subsec. (c)(4). Pub. L. 99-514, § 1551(e), added par. (4).

Subsec. (f). Pub. L. 99-514, § 1551(g), struck out subsec. (f), termination, which read as follows: “This section shall not apply to any proceeding commenced after December 31, 1985.”

1984—Subsec. (a)(2). Pub. L. 98-369 inserted reference to United States Claims Court.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3101(g), July 22, 1998, 112 Stat. 729, provided that: “The amendments made by this section [amending this section and section 7431 of this title] shall apply to costs incurred (and, in the case of the amendment made by subsection (c) [amending this section], services performed) more than 180 days after the date of the enactment of this Act [July 22, 1998].”

Amendment by sections 6012(h) and 6014(e) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, § 1285(d), Aug. 5, 1997, 111 Stat. 1039, provided that: “The amendments made by this section [amending this section] shall apply to civil actions or proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, § 1453(b), Aug. 5, 1997, 111 Stat. 1055, provided that: “The amendment made by this section [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 701(a)–(c)(2) of Pub. L. 104-168 applicable in case of proceedings commenced after July

30, 1996, see section 701(d) of Pub. L. 104-168, set out as a note under section 6404 of this title.

Pub. L. 104-168, title VII, § 702(b), July 30, 1996, 110 Stat. 1464, provided that: “The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title VII, § 703(b), July 30, 1996, 110 Stat. 1464, provided that: “The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title VII, § 704(b), July 30, 1996, 110 Stat. 1464, provided that: “The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(i) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title VI, § 6239(d), Nov. 10, 1988, 102 Stat. 3746, provided that: “The amendments made by this section [amending this section and section 504 of Title 5, Government Organization and Employees] shall apply to proceedings commencing after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, § 1551(h), Oct. 22, 1986, 100 Stat. 2753, provided that:

“(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to amounts paid after September 30, 1986, in civil actions or proceedings, commenced after December 31, 1985.

“(2) SUBSECTION (f).—The amendment made by subsection (f) [amending this section] shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982 [see Effective Date note below].

“(3) APPLICABILITY OF AMENDMENTS TO CERTAIN PRIOR CASES.—The amendments made by this section shall apply to any case commenced after December 31, 1985, and finally disposed of before the date of the enactment of this Act [Oct. 22, 1986], except that in any such case, the 30-day period referred to in section 2412(d)(1)(B) of title 28, United States Code, or Rule 231 of the Tax Court, as the case may be, shall be deemed to commence on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 97-248, title II, § 292(e), Sept. 3, 1982, 96 Stat. 574, as amended by Pub. L. 98-369, div. A, title I, § 160, July 18, 1984, 98 Stat. 696, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 6673 of this title and section 2412 of Title 28, Judiciary and Judicial Procedure] shall apply to civil actions or proceedings commenced after February 28, 1983.

“(2) PENALTY.—The amendments made by subsections (b) and (d)(2) [amending section 6673 of this title] shall

apply to any action or proceeding in the United States Tax Court which—

“(A) is commenced after December 31, 1982, or

“(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984 [July 18, 1984].”

§ 7431. Civil damages for unauthorized inspection or disclosure of returns and return information

(a) In general

(1) Inspection or disclosure by employee of United States

If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 or in violation of section 6104(c), such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions

No liability shall arise under this section with respect to any inspection or disclosure—

- (1) which results from a good faith, but erroneous, interpretation of section 6103, or
- (2) which is requested by the taxpayer.

(c) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

- (1) the greater of—

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of—

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

- (2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to

the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

- (1) paragraph (1) or (2) of section 7213(a),
- (2) section 7213A(a), or
- (3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions

For purposes of this section, the terms “inspect”, “inspection”, “return”, and “return information” have the respective meanings given such terms by section 6103(b).

(g) Extension to information obtained under section 3406

For purposes of this section—

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(h) Special rule for information obtained under section 6103(k)(9)

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

(Added Pub. L. 97-248, title III, §357(a), Sept. 3, 1982, 96 Stat. 645; amended Pub. L. 98-67, title I, §104(b), Aug. 5, 1983, 97 Stat. 379; Pub. L. 105-34, title XII, §1205(c)(2), Aug. 5, 1997, 111 Stat. 998; Pub. L. 105-35, §3(a)-(d)(4), (6), Aug. 5, 1997, 111 Stat. 1105, 1106; Pub. L. 105-206, title III, §3101(f), title VI, §6012(b)(3), July 22, 1998, 112 Stat. 729, 819; Pub. L. 109-280, title XII, §1224(b)(7), Aug. 17, 2006, 120 Stat. 1093.)

PRIOR PROVISIONS

A prior section 7431 was renumbered section 7437 of this title.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109-280, which directed insertion of “or in violation of section 6104(c)” after “6103” in subsec. (a)(2) of section 7431, without specifying the act to be amended, was executed by making the insertion in subsec. (a)(2) of this section, which is section 7431 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1998—Subsec. (c)(2). Pub. L. 105-206, §3101(f), substituted “, plus” for the period at end.

Subsec. (c)(3). Pub. L. 105-206, §3101(f), added par. (3).

Subsecs. (g), (h). Pub. L. 105-206, §6012(b)(3), redesignated subsec. (g), relating to special rule for informa-

tion obtained under section 6103(k)(8), as (h), and substituted “(9)” for “(8)” in heading.

1997—Pub. L. 105-35, §3(d)(4), inserted “inspection or” before “disclosure” in section catchline.

Subsec. (a)(1), (2). Pub. L. 105-35, §3(a)(1), (2), substituted “Inspection or disclosure” for “Disclosure” in headings and “inspects or discloses” for “discloses” in text.

Subsec. (b). Pub. L. 105-35, §3(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.”

Subsec. (c)(1). Pub. L. 105-35, §3(d)(1), (2), inserted “inspection or” before “disclosure” in subpars. (A) and (B)(i) and substituted “willful inspection or disclosure or an inspection or disclosure” for “willful disclosure or a disclosure” in subpar. (B)(ii).

Subsec. (d). Pub. L. 105-35, §3(d)(1), inserted “inspection or” before “disclosure”.

Subsec. (e). Pub. L. 105-35, §3(b), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-35, §3(b), (d)(3), redesignated subsec. (e) as (f) and amended it generally. Prior to amendment, subsec. (f) read as follows:

“(f) RETURN; RETURN INFORMATION.—For purposes of this section, the terms ‘return’ and ‘return information’ have the respective meanings given such terms in section 6103(b).”

Subsec. (g). Pub. L. 105-35, §3(b), (d)(6), redesignated subsec. (f) as (g) and substituted “any inspection or use” for “any use” in par. (2).

Pub. L. 105-34, §1205(c)(2), added subsec. (g) relating to special rule for information obtained under section 6103(k)(8).

1983—Subsec. (f). Pub. L. 98-67 added subsec. (f).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Aug. 17, 2006, but not applicable to requests made before such date, see section 1224(c) of Pub. L. 109-280, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3101(f) of Pub. L. 105-206 applicable to costs incurred more than 180 days after July 22, 1998, see section 3101(g) of Pub. L. 105-206, set out as a note under section 7430 of this title.

Amendment by section 6012(b)(3) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105-35, §3(e), Aug. 5, 1997, 111 Stat. 1106, provided that: “The amendments made by this section [amending this section] shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by Pub. L. 105-34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105-34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §357(c), Sept. 3, 1982, 96 Stat. 646, provided that: “The amendments made by this section [enacting this section and repealing section 7217 of this title] shall apply with respect to disclosures made after the date of enactment of this Act [Sept. 3, 1982].”

§ 7432. Civil damages for failure to release lien**(a) In general**

If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

- (1) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, plus
- (2) the costs of the action.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Limitations**(1) Requirement that administrative remedies be exhausted**

A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

(2) Mitigation of damages

The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

(3) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues.

(e) Notice of failure to release lien

The Secretary shall by regulation prescribe reasonable procedures for a taxpayer to notify the Secretary of the failure to release a lien under section 6325 on property of the taxpayer.

(Added Pub. L. 100-647, title VI, § 6240(a), Nov. 10, 1988, 102 Stat. 3746.)

PRIOR PROVISIONS

A prior section 7432 was renumbered 7437 of this title.

EFFECTIVE DATE

Pub. L. 100-647, title VI, § 6240(c), Nov. 10, 1988, 102 Stat. 3747, provided that: "The amendments made by this section [enacting this section] shall apply to notices provided by the taxpayer of the failure to release a lien, and damages arising, after December 31, 1988."

§ 7433. Civil damages for certain unauthorized collection actions**(a) In general**

If, in connection with any collection of Federal tax with respect to a taxpayer, any officer

or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

(b) Damages

In any action brought under subsection (a) or petition filed under subsection (e), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of \$1,000,000 (\$100,000, in the case of negligence) or the sum of—

- (1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee, and
- (2) the costs of the action.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Limitations**(1) Requirement that administrative remedies be exhausted**

A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

(2) Mitigation of damages

The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

(3) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues.

(e) Actions for violations of certain bankruptcy procedures**(1) In general**

If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code (or any successor provision), or any regulation promulgated under such provision, such taxpayer may petition the bankruptcy court to recover damages against the United States.

(2) Remedy to be exclusive**(A) In general**

Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

(B) Certain other actions permitted

Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430; and

(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.

(Added Pub. L. 100-647, title VI, § 6241(a), Nov. 10, 1988, 102 Stat. 3747; amended Pub. L. 104-168, title VIII, §§ 801(a), 802(a), July 30, 1996, 110 Stat. 1465; Pub. L. 105-206, title III, § 3102(a), (c), July 22, 1998, 112 Stat. 730.)

PRIOR PROVISIONS

A prior section 7433 was renumbered 7437 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206, § 3102(a)(1)(A), inserted “, or by reason of negligence,” after “recklessly or intentionally”.

Subsec. (b). Pub. L. 105-206, § 3102(a)(1)(B)(i), (c)(2), in introductory provisions, inserted “or petition filed under subsection (e)” after “subsection (a)” and inserted “(\$100,000, in the case of negligence)” after “\$1,000,000”.

Subsec. (b)(1). Pub. L. 105-206, § 3102(a)(1)(B)(ii), inserted “or negligent” after “reckless or intentional”.

Subsec. (d)(1). Pub. L. 105-206, § 3102(a)(2), substituted “Requirement that administrative remedies be exhausted” for “Award for damages may be reduced if administrative remedies not exhausted” in heading and amended text of par. (1) generally. Prior to amendment, text read as follows: “The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.”

Subsec. (e). Pub. L. 105-206, § 3102(c)(1), added subsec. (e).

1996—Subsec. (b). Pub. L. 104-168, § 801(a), substituted “\$1,000,000” for “\$100,000”.

Subsec. (d)(1). Pub. L. 104-168, § 802(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 applicable to actions of officers or employees of Internal Revenue Service after July 22, 1998, see section 3102(d) of Pub. L. 105-206, set out as a note under section 7426 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title VIII, § 801(b), July 30, 1996, 110 Stat. 1465, provided that: “The amendment made by subsection (a) [amending this section] shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title VIII, § 802(b), July 30, 1996, 110 Stat. 1465, provided that: “The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

§ 7433A. Civil damages for certain unauthorized collection actions by persons performing services under qualified tax collection contracts**(a) In general**

Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

(b) Modifications

For purposes of subsection (a):

(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

(3) Such civil action shall not be an exclusive remedy with respect to such person.

(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.

(Added Pub. L. 108-357, title VIII, § 881(b)(1), Oct. 22, 2004, 118 Stat. 1626.)

§ 7434. Civil damages for fraudulent filing of information returns**(a) In general**

If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of \$5,000 or the sum of—

(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

(2) the costs of the action, and

(3) in the court's discretion, reasonable attorneys' fees.

(c) Period for bringing action

Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

(1) 6 years after the date of the filing of the fraudulent information return, or

(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

(d) Copy of complaint filed with IRS

Any person bringing an action under subsection (a) shall provide a copy of the complaint

to the Internal Revenue Service upon the filing of such complaint with the court.

(e) Finding of court to include correct amount of payment

The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

(f) Information return

For purposes of this section, the term “information return” means any statement described in section 6724(d)(1)(A).

(Added Pub. L. 104-168, title VI, § 601(a), July 30, 1996, 110 Stat. 1462; amended Pub. L. 105-206, title VI, § 6023(29), July 22, 1998, 112 Stat. 826.)

PRIOR PROVISIONS

A prior section 7434 was renumbered 7437 of this title.

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105-206 substituted “attorneys’ fees” for “attorneys fees”.

EFFECTIVE DATE

Pub. L. 104-168, title VI, § 601(c), July 30, 1996, 110 Stat. 1462, provided that: “The amendments made by this section [enacting this section and renumbering former section 7434 as 7435 of this title] shall apply to fraudulent information returns filed after the date of the enactment of this Act [July 30, 1996].”

§ 7435. Civil damages for unauthorized enticement of information disclosure

(a) In general

If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer’s tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of \$500,000 or the sum of—

- (1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and
- (2) the costs of the action.

Damages shall not include the taxpayer’s liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this

section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

(e) Mandatory stay

Upon a certification by the Commissioner or the Commissioner’s delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

(f) Crime-fraud exception

Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime.

(Added Pub. L. 104-168, title XII, § 1203(a), July 30, 1996, 110 Stat. 1470.)

PRIOR PROVISIONS

A prior section 7435 was renumbered 7437 of this title.

EFFECTIVE DATE

Pub. L. 104-168, title XII, § 1203(c), July 30, 1996, 110 Stat. 1471, provided that: “The amendments made by this section [enacting this section and renumbering former section 7435 as 7436 of this title] shall apply to actions after the date of the enactment of this Act [July 30, 1996].”

§ 7436. Proceedings for determination of employment status

(a) Creation of remedy

If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

- (1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or
- (2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct and the proper amount of employment tax under such determination. Any such redetermination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the person for whom the services are performed.

(2) Time for filing action

If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

(3) No adverse inference from treatment while action is pending

If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

(c) Small case procedures

(1) In general

At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is \$50,000 or less for each calendar quarter involved.

(2) Finality of decisions

A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

(3) Certain rules to apply

Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

(d) Special rules

(1) Restrictions on assessment and collection pending action, etc.

The principles of subsections (a), (b), (c), (d), and (f) of section 6213, section 6214(a), section 6215, section 6503(a), section 6512, and section 7481 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

(2) Awarding of costs and certain fees

Section 7430 shall apply to proceedings brought under this section.

(e) Employment tax

The term "employment tax" means any tax imposed by subtitle C.

(Added Pub. L. 105-34, title XIV, §1454(a), Aug. 5, 1997, 111 Stat. 1055; amended Pub. L. 105-206, title III, §3103(b)(1), July 22, 1998, 112 Stat. 731; Pub. L. 106-554, §1(a)(7) [title III, §314(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643.)

REFERENCES IN TEXT

Section 530 of the Revenue Act of 1978, referred to in subsec. (a)(2), is section 530 of Pub. L. 95-600, which is set out as a note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 7436 was renumbered section 7437 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-554 inserted "and the proper amount of employment tax under such determination" before period at end of first sentence.

1998—Subsec. (c)(1). Pub. L. 105-206 substituted "\$50,000" for "\$10,000".

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 1(a)(7) [title III, §314(g)] of Pub. L. 106-554, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3103(c), July 22, 1998, 112 Stat. 731, provided that: "The amendments made by this section [amending this section and sections 7443A and 7463 of this title] shall apply to proceedings commenced after the date of the enactment of this Act [July 22, 1998]."

§ 7437. Cross references

(1) For determination of amount of any tax, additions to tax, etc., in title 11 cases, see section 505 of title 11 of the United States Code.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(7) For interest on judgments for overpayments, see section 2411(a) of Title 28 of the United States Code.

(8) For review of a Tax Court decision, see section 7482.

(9) For statute prohibiting suits to replevy property taken under revenue laws, see section 2463 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 878, §7425; renumbered §7427, Pub. L. 89-719, title I, §109, Nov. 2, 1966, 80 Stat. 1141; renumbered §7428, and amended Pub. L. 94-455, title XII, §1203(b)(2)(A), title XIX, §1906(a)(45), Oct. 4, 1976, 90 Stat. 1690, 1830; renumbered §7430, Pub. L. 94-455, title XIII, §1306(a), Oct. 4, 1976, 90 Stat. 1717; Pub. L. 96-589, §6(d)(1), (i)(13), Dec. 24, 1980, 94 Stat. 3408, 3411; renumbered §7431, Pub. L. 97-248, title II, §292(a), Sept. 3, 1982, 96 Stat. 572; renumbered §7432, Pub. L. 97-248, title III, §357(a), Sept. 3, 1982, 96 Stat. 645; Pub. L. 97-258, §3(f)(14), Sept. 13, 1982, 96 Stat. 1065; renumbered §7434, Pub. L. 100-647, title VI, §§6240(a), 6241(a), Nov. 10, 1988, 102 Stat. 3746, 3747; renumbered §7435, Pub. L. 104-168, title VI, §601(a), July 30, 1996, 110 Stat. 1462; renumbered §7436, Pub. L. 104-168, title XII, §1203(a), July 30, 1996, 110 Stat. 1470; renumbered §7437, Pub. L. 105-34, title XIV, §1454(a), Aug. 5, 1997, 111 Stat. 1055.)

AMENDMENTS

1982—Par. (6). Pub. L. 97-258 substituted "section 3713(a) of title 31, United States Code" for "R.S. 3466 (31

U.S.C. 191)". Notwithstanding the directory language that amendment be made to section 7430, the amendment was executed to this section to reflect the probable intent of Congress and the intervening renumbering of section 7430 as 7432 by Pub. L. 97-248.

1980—Par. (1). Pub. L. 96-589, §6(d)(1), added par. (1). Former par. (1), which provided cross reference to former section 35 of title 11 for exclusion of tax liability from discharge in bankruptcy, was struck out.

Par. (2). Pub. L. 96-589, §6(d)(1), (i)(13), added par. (2). Former par. (2), which provided cross reference to former section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (3). Pub. L. 96-589, §6(d)(1), (i)(13), added par. (3). Former par. (3), which provided cross reference to former section 107 of title 11 for recognition of tax liens in proceedings under the Bankruptcy Act, was struck out.

Par. (4). Pub. L. 96-589, §6(d)(1), (i)(13), added par. (4). Former par. (4), which provided for cross reference to former section 1080 of title 11 for collection of taxes in connection with wage earners' plans in bankruptcy courts, was struck out.

1976—Par. (1). Pub. L. 94-455, §1906(a)(45)(A), struck out "52 Stat. 851;" before "11 U.S.C. 35".

Par. (2). Pub. L. 94-455, §1906(a)(45)(B), struck out "52 Stat. 867;" before "11 U.S.C. 93".

Par. (3). Pub. L. 94-455, §1906(a)(45)(C), struck out "52 Stat. 876-877;" before "11 U.S.C. 107".

Par. (4). Pub. L. 94-455, §1906(a)(45)(D), struck out "52 Stat. 938;" before "11 U.S.C. 1080".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Subchapter C—The Tax Court

Part	
I.	Organization and jurisdiction.
II.	Procedure.
III.	Miscellaneous provisions.
IV.	Declaratory judgments.

AMENDMENTS

1976—Pub. L. 94-455, title X, §1042(d)(2)(F), Oct. 4, 1976, 90 Stat. 1639, struck out in item relating to part IV "relating to qualification of certain retirement plans" after "Declaratory judgments".

1974—Pub. L. 93-406, title II, §1041(c), Sept. 2, 1974, 88 Stat. 951, inserted item relating to part IV.

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,

§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. The Tax Court is not an agency of, and shall be independent of, the executive branch of the Government.

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Pub. L. 91-172, title IX, §951, Dec. 30, 1969, 83 Stat. 730; Pub. L. 114-113, div. Q, title IV, §441, Dec. 18, 2015, 129 Stat. 3126.)

AMENDMENTS

2015—Pub. L. 114-113 inserted at end "The Tax Court is not an agency of, and shall be independent of, the executive branch of the Government."

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

Pub. L. 91-172, title IX, §962(a), Dec. 30, 1969, 83 Stat. 736, 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

Pub. L. 91-172, title IX, §961, Dec. 30, 1969, 83 Stat. 735, 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

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

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

Pub. L. 96–439, §1(c), Oct. 13, 1980, 94 Stat. 1878, 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

Pub. L. 91–172, title IX, §962(b), (c), Dec. 30, 1969, 83 Stat. 736, 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, title V, Aug. 14, 1964, 78 Stat. 435.

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 4501 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, formerly 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

Pub. L. 99-514, title XV, § 1556(c), Oct. 22, 1986, 100 Stat. 2755, 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 little inconvenience and expense to taxpayers as is practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 880.)

§ 7447. Retirement

(a) Definitions

For purposes of this section—

(1) The term “Tax Court” means the United States Tax Court.

(2) The term “judge” means the chief judge or a judge of the Tax Court; but such term does not include any individual performing judicial duties pursuant to subsection (c).

(3) In any determination of length of service as judge there shall be included all periods (whether or not consecutive) during which an individual served as judge, as judge of the Tax Court of the United States, or as a member of the Board of Tax Appeals.

(b) Retirement

(1) Any judge shall retire upon attaining the age of 70.

(2) Any judge who meets the age and service requirements set forth in the following table may retire:

The judge has attained age:	And the years of service as a judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10.

(3) Any judge who is not reappointed following the expiration of the term of his office may retire upon the completion of such term, if (A) he has served as a judge of the Tax Court for 15 years or more and (B) not earlier than 9 months preceding the date of the expiration of the term of his office and not later than 6 months preceding such date, he advised the President in writing that he was willing to accept reappointment to the Tax Court.

(4) Any judge who becomes permanently disabled from performing his duties shall retire.

Section 8335(a) of title 5 of the United States Code (relating to automatic separation from the service) shall not apply in respect of judges. Any judge who retires shall be designated “senior judge”.

(c) Recalling of retired judges

At or after his retirement, any individual who has elected to receive retired pay under subsection (d) may be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of him for any period or periods specified by the chief

judge; except that in the case of any such individual—

(1) the aggregate of such periods in any one calendar year shall not (without his consent) exceed 90 calendar days; and

(2) he shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a judge of the Tax Court; but any such individual shall not be counted as a judge of the Tax Court for purposes of section 7443(a). Any individual who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a judge.

(d) Retired pay

Any individual who—

(1) retires under paragraph (1), (2), or (3) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate which bears the same ratio to the rate of the salary payable to a judge during such period as the number of years he has served as judge bears to 10; except that the rate of such retired pay shall not be more than the rate of such salary for such period; or

(2) retires under paragraph (4) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate—

(A) equal to the rate of the salary payable to a judge during such period if before he retired he had served as a judge not less than 10 years; or

(B) one-half of the rate of the salary payable to a judge during such period if before he retired he had served as a judge less than 10 years.

Such retired pay shall begin to accrue on the day following the day on which his salary as judge ceases to accrue, and shall continue to accrue during the remainder of his life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge. In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, that portion of the aggregate number of years he has served as a judge which is a fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if it is 6 months or more. In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge.

(e) Election to receive retired pay

Any judge may elect to receive retired pay under subsection (d). Such an election—

(1) may be made only while an individual is a judge (except that in the case of an individ-

ual 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 en-

titled 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 3 percent per annum, 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; Pub. L. 113-295, div. A, title II, §221(a)(115), Dec. 19, 2014, 128 Stat. 4054.)

AMENDMENTS

2014—Subsec. (i)(3)(B)(ii). Pub. L. 113-295 substituted “at 3 percent per annum” for “at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter”.

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 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

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

Pub. L. 100-647, title I, §1015(k)(2), Nov. 10, 1988, 102 Stat. 3571, 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

Pub. L. 99-514, title XV, §1557(e), Oct. 22, 1986, 100 Stat. 2757, 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

Pub. L. 95-472, §2(a), Oct. 17, 1978, 92 Stat. 1332, 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

Pub. L. 92-41, §4(c)(1), July 1, 1971, 85 Stat. 99, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by subsection (a) [amending this section] shall be effective as if included in the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on the date of its enactment [July 1, 1971]. Provisions having the same effect as such amendment shall be treated as having been included in the Internal Revenue Code of 1939 [section 1106(c)] effective on and after August 7, 1953.”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by sections 954(c), (e) and 960(c), (d) of Pub. L. 91-172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91-172, set out as a note under section 7441 of this title.

Pub. L. 91-172, title IX, §962(d), Dec. 30, 1969, 83 Stat. 736, 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

Pub. L. 89-354, §2, Feb. 2, 1966, 80 Stat. 5, 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

Pub. L. 95-472, §2(b), Oct. 17, 1978, 92 Stat. 1333, 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 whether or not performing judicial duties pursuant to section 7447(c).

(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.

¹ See References in Text note below.

(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
- (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 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 3 percent per annum, 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,

² So in original.

the total amount credited to the individual account of such judge or special trial judge, with interest at 3 percent per annum, 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 3 percent per annum, 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 payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(l) Method of payment of annuities

Annuities granted under the terms of this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. None of the moneys mentioned in this section shall be assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(m) Computation of annuities

The annuity of the surviving spouse of a judge 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

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

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 annuities 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; Pub. L. 113-295, div. A, title II, §221(a)(116), Dec. 19, 2014, 128 Stat. 4054.)

REFERENCES IN TEXT

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

2014—Subsec. (a)(2). Pub. L. 113-295, §221(a)(116)(A), struck out “or under section 1106 of the Internal Revenue Code of 1939” after “under section 7447” and “or pursuant to section 1106(d) of the Internal Revenue Code of 1939” after “pursuant to section 7447(c)”.

Subsec. (g). Pub. L. 113-295, §221(a)(116)(B), (C), struck out “or other than pursuant to section 1106 of the Internal Revenue Code of 1939” after “other than pursuant to the provisions of section 7447” and substituted “at 3 percent per annum” for “at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter”.

Subsec. (j)(1), (2). Pub. L. 113-295, §221(a)(116)(C), substituted “at 3 percent per annum” for “at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter”.

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 spouses" for "widows", "surviving spouse" for "surviving widow or widower", "such spouse" for "she" and "surviving such spouse" for "surviving her".

Subsecs. (j), (m), (n). Pub. L. 94-455, § 1906(a)(46)(E), substituted "surviving spouse" for "widow" wherever appearing.

Subsec. (o). Pub. L. 94-455, § 1906(a)(46)(C), (D), (E), substituted "surviving spouse" for "widow", "such spouse" for "she" and "such spouse's" for "her".

Subsec. (q). Pub. L. 94-455, § 1906(a)(46)(E), substituted "surviving spouse" for "widow".

1971—Subsec. (m). Pub. L. 92-41 inserted "(whether judge's salary or compensation for other allowable service)" and "(including periods in which he received retired pay under section 7447(d))" after "average annual salary" and "judicial service", respectively, and substituted "or for any other prior allowable service during the period of 5 consecutive years in which he received the largest such average annual salary, multiplied by the sum of his years of such judicial service" for "and any other prior allowable service during the last 5 years of such service prior to his death, or prior to his receiving retired pay under section 7447(d), whichever first occurs, multiplied by the sum of his years of judicial service".

1969—Subsec. (a)(1). Pub. L. 91-172, § 960(c), substituted "United States Tax Court" for "Tax Court of the United States".

Subsec. (b). Pub. L. 91-172, §955(a), substituted provisions authorizing a judge to file notice of election to take benefits relating to survivor annuities while a judge, and if not reappointed, authorizing such election at any time before the day after the day on which his successor takes office, for provisions authorizing a judge to file within 6 months after he takes office or is reappointed, or within 6 months after he becomes eligible for retirement under former section 7447(b) of this title, or within 6 months after Oct. 4, 1961.

Subsec. (d). Pub. L. 91-172, §955(d)(1), (2), substituted “civil service retirement laws” for “Civil Service Retirement Act” and “section 8332 of title 5 of the United States Code” for “section 3 of the Civil Service Retirement Act (5 U.S.C. 2253)”.

Subsec. (h). Pub. L. 91-172, §955(b)(1), substituted “civil service retirement laws” for “Civil Service Retirement Act”.

Subsec. (m). Pub. L. 91-172, §955(b)(3), substituted “section 2107 of title 5 of the United States Code” for “section 1(c) of the Civil Service Retirement Act (5 U.S.C. 2251(c))”.

Subsec. (n). Pub. L. 91-172, §§955(b)(2), 960(e), substituted “section 8332 of title 5 of the United States Code” for “section 3 of the Civil Service Retirement Act (5 U.S.C. 2253)” and inserted reference to service as a judge of the Tax Court of the United States.

Subsec. (r). Pub. L. 91-172, §955(b)(1), (4), substituted “civil service retirement laws” for “Civil Service Retirement Act” and substituted “an election filed under section 7447(e)” for “a waiver filed under section 7447(g)(3)”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

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 last 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.

Pub. L. 99-514, title XV, §1559(d), Oct. 22, 1986, 100 Stat. 2760, 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 revoca-

tion 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

Pub. L. 98-369, div. A, title IV, §462(b), July 18, 1984, 98 Stat. 824, 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

Pub. L. 97-362, title I, §105(d), Oct. 25, 1982, 96 Stat. 1730, 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

Pub. L. 92-41, §4(c)(2), July 1, 1971, 85 Stat. 99, 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

Pub. L. 97-362, title I, §105(c), Oct. 25, 1982, 96 Stat. 1729, 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 pay-

able 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.
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 transfer- ees.
7466.	Judicial conduct and disability procedures.

AMENDMENTS

2015—Pub. L. 114-113, div. Q, title IV, §431(b), Dec. 18, 2015, 129 Stat. 3125, added item 7466.

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.)

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

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 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 a note under section 702 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §751(b), Aug. 13, 1981, 95 Stat. 349, 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 Federal Rules of Evidence.

(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; Pub. L. 114-113, div. Q, title IV, § 425(a), Dec. 18, 2015, 129 Stat. 3125.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2015—Pub. L. 114-113 substituted “the Federal Rules of Evidence” for “the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia”.

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 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 425(b), Dec. 18, 2015, 129 Stat. 3125, provided that: “The amendment made by this section [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Dec. 18, 2015] and, to the extent that it is just and practicable, to all proceedings pending on such date.”

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. 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.

¹ So in original.

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

Pub. L. 99-514, title XV, §1555(b), Oct. 22, 1986, 100 Stat. 2754, 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

Pub. L. 98-369, div. A, title IV, §463(b), July 18, 1984, 98 Stat. 824, 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].”

Pub. L. 98-369, div. A, title IV, §464(e)(1), July 18, 1984, 98 Stat. 825, 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 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 a note under section 702 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

Pub. L. 96-222, title I, §105(b)(1), Apr. 1, 1980, 94 Stat. 221, 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

Pub. L. 98-369, div. A, title IV, §464(e)(2), July 18, 1984, 98 Stat. 825, 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

Pub. L. 97-164, title I, §153(b), Apr. 2, 1982, 96 Stat. 47, 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 pre-

scribed 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 6234, the date of the court's order entering the decision. If the Tax Court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary, or if the Tax Court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the Tax Court, and the decision of the Tax Court shall be held to be rendered upon the date of such entry.

(d) Effect of decision dismissing petition

If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Tax Court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary. An order specifying such amount shall be entered in the records of the Tax Court unless the Tax Court cannot determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

(e) Effect of decision that tax is barred by limitation

If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Tax Court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

(f) Findings of fact as evidence

The findings of the Board of Tax Appeals made in connection with any decision prior to February 26, 1926, shall, notwithstanding the enactment of the Revenue Act of 1926 (44 Stat. 9), continue to be prima facie evidence of the facts therein stated.

(g) Penalty

For penalty for taxpayer instituting proceedings before Tax Court merely for delay, see section 6673.

(Aug. 16, 1954, ch. 736, 68A Stat. 886; Pub. L. 93-406, title II, §1041(b)(2), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94-455, title XIII, §1306(b)(2), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1719, 1834; Pub. L. 97-248, title IV, §402(c)(14), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97-362, title I, §106(b), Oct. 25, 1982, 96 Stat. 1730; Pub. L. 105-34, title XII, §§1222(b)(2), 1239(e)(1), Aug. 5, 1997, 111 Stat. 1019, 1028; Pub. L. 114-74, title XI, §1101(f)(12), Nov. 2, 2015, 129 Stat. 638.)

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

2015—Subsec. (c). Pub. L. 114-74 substituted “section 6234” for “section 6226, 6228(a), 6247, or 6252”.

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 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

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 6501 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 a note under section 702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1306(b)(2) of Pub. L. 94-455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94-455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93-406, set out as an Effective Date note under section 7476 of this title.

§ 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

Pub. L. 98-369, div. A, title IV, § 465(b), July 18, 1984, 98 Stat. 825, 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 Publishing

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; Pub. L. 113-235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537.)

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in text on authority of section 1301(b) of Pub. L. 113-235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

§ 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,
- (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, and
- (3) a petition to the Tax Court under section 6404(h) in which the amount of the abatement sought 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; Pub. L. 114-113, div. Q, title IV, §422(a), Dec. 18, 2015, 129 Stat. 3123.)

PRIOR PROVISIONS

A prior section 7463 was renumbered section 7465 of this title.

AMENDMENTS

2015—Subsec. (f)(3). Pub. L. 114-113 added par. (3).
 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 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §422(b), Dec. 18, 2015, 129 Stat. 3123, provided that: “The amendments made by this section [amending this section] shall apply to cases pending as of the day after the date of the enactment of this Act [Dec. 18, 2015], and cases commenced after such date of enactment.”

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

Pub. L. 98-369, div. A, title IV, §461(b), July 18, 1984, 98 Stat. 823, 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

Pub. L. 97-362, title I, §106(a)(2), Oct. 25, 1982, 96 Stat. 1730, 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

Pub. L. 95-600, title V, §502(d), Nov. 6, 1978, 92 Stat. 2879, 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

Pub. L. 92-512, title II, §204, Oct. 20, 1972, 86 Stat. 945, as amended by Pub. L. 94-455, title XXI, §2116(a), Oct.

4, 1976, 90 Stat. 1910; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—Except as provided in subsections (b) and (c), the provisions of this title (and the amendments made thereby) [enacting this section and sections 6362 and 6363 of this title and amending this section and section 6405 of this title] shall take effect on the date of the enactment of this Act [Oct. 20, 1972].

“(b) COLLECTION AND ADMINISTRATION OF STATE TAXES BY THE UNITED STATES MAY NOT BEGIN BEFORE JANUARY 1, 1974.—Section 6361 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by section 202(a) of this Act) shall take effect on whichever of the following is the later:

“(1) January 1, 1974, or

“(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code.

“(c) JURISDICTION OF TAX COURT IN DISPUTES INVOLVING \$1,500 OR LESS.—The amendments made by paragraphs (2) and (3) of section 203(b) of this Act [amending this section] shall take effect on January 1, 1974.”

EFFECTIVE DATE

Pub. L. 91-172, title IX, §962(e), Dec. 30, 1969, 83 Stat. 736, 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.)

§ 7466. Judicial conduct and disability procedures

(a) In general

The Tax Court shall prescribe rules, consistent with the provisions of chapter 16 of title 28, United States Code, establishing procedures for the filing of complaints with respect to the conduct of any judge or special trial judge of the Tax Court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, the Tax Court shall have the powers granted to a judicial council under such chapter.

(b) Judicial council

The provisions of sections 354(b) through 360 of title 28, United States Code, regarding referral or certification to, and petition for review in the Judicial Conference of the United States, and action thereon, shall apply to the exercise by the Tax Court of the powers of a judicial council under subsection (a). The determination pursuant to section 354(b) or 355 of title 28, United States Code, shall be made based on the grounds for removal of a judge from office under section 7443(f), and certification and transmittal by the Conference of any complaint shall be made to the President for consideration under section 7443(f).

(c) Hearings

(1) In general

In conducting hearings pursuant to subsection (a), the Tax Court may exercise the authority provided under section 1821 of title 28, United States Code, to pay the fees and allowances described in that section.

(2) Reimbursement for expenses

The Tax Court shall have the power provided under section 361 of such title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this paragraph shall be made out of any funds appropriated for purposes of the Tax Court.

(Added Pub. L. 114-113, div. Q, title IV, §431(a), Dec. 18, 2015, 129 Stat. 3125.)

EFFECTIVE DATE

Pub. L. 114-113, div. Q, title IV, §431(c), Dec. 18, 2015, 129 Stat. 3125, provided that: “The amendments made by this section [enacting this section] shall apply to proceedings commenced after the date which is 180 days after the date of the enactment of this Act [Dec. 18, 2015] and, to the extent just and practicable, all proceedings pending on such date.”

PART III—MISCELLANEOUS PROVISIONS

Sec.	
7470.	Administration.
7470A.	Judicial conference.
7471.	Employees.
7472.	Expenditures.
7473.	Disposition of fees.
7474.	Fee for transcript of record.
7475.	Practice fee.

AMENDMENTS

2015—Pub. L. 114-113, div. Q, title IV, §432(c), Dec. 18, 2015, 129 Stat. 3126, added items 7470 and 7470A.

1988—Pub. L. 100-647, title I, §1018(u)(45), Nov. 10, 1988, 102 Stat. 3592, added item 7475.

§ 7470. Administration

Notwithstanding any other provision of law, the Tax Court may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28, United States Code), except to the extent that such provision of law is inconsistent with a provision of this subchapter.

(Added Pub. L. 114–113, div. Q, title IV, §432(a), Dec. 18, 2015, 129 Stat. 3126.)

§ 7470A. Judicial conference**(a) Judicial conference**

The chief judge may summon the judges and special trial judges of the Tax Court to an annual judicial conference, at such time and place as the chief judge shall designate, for the purpose of considering the business of the Tax Court and recommending means of improving the administration of justice within the jurisdiction of the Tax Court. The Tax Court shall provide by its rules for representation and active participation at such conferences by persons admitted to practice before the Tax Court and by other persons active in the legal profession.

(b) Registration fee

The Tax Court may impose a reasonable registration fee on persons (other than judges and special trial judges of the Tax Court) participating at judicial conferences convened pursuant to subsection (a). Amounts so received by the Tax Court shall be available to the Tax Court to defray the expenses of such conferences.

(Added Pub. L. 114–113, div. Q, title IV, §432(a), Dec. 18, 2015, 129 Stat. 3126.)

§ 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 sub-

section 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 origin, 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 sections 7470A and 7475, all fees received by the Tax Court pursuant to this title shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 888; Pub. L. 99-514, title XV, §1553(b)(2), Oct. 22, 1986, 100 Stat. 2754; Pub. L. 114-113, div. Q, title IV, §432(b), Dec. 18, 2015, 129 Stat. 3126.)

AMENDMENTS

2015—Pub. L. 114-113 amended section generally. Prior to amendment, text read as follows: “Except as provided in section 7475, all fees received by the Tax Court shall be covered into the Treasury as miscellaneous receipts.”

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

Pub. L. 99-514, title XV, §1553(c), Oct. 22, 1986, 100 Stat. 2754, 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.

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.

Pub. L. 95-600, title VII, §701(dd)(3), Nov. 6, 1978, 92 Stat. 2924, 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

Pub. L. 93-406, title X, §1041(d), Sept. 2, 1974, 88 Stat. 951, 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 de-

scribed 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

Pub. L. 95-600, title III, §336(d), Nov. 6, 1978, 92 Stat. 2842, 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 administra-

tive 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

Pub. L. 105-34, title V, §505(c), Aug. 5, 1997, 111 Stat. 855, provided that: “The amendments made by this section [enacting this section] shall apply to the estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

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

(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

(3) Special rules

If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.

(d) Decisions relating to estate tax extended under section 6166

If with respect to a decedent's estate subject to a decision of the Tax Court—

(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

(2) there is treated as an administrative expense under section 2053 either—

(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(Aug. 16, 1954, ch. 736, 68A Stat. 889; Pub. L. 91-172, title IX, §960(h)(1), Dec. 30, 1969, 83 Stat. 734; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title VI, §§6246(a), (b)(2), 6247(a), (b)(2), Nov. 10, 1988, 102 Stat. 3751, 3752; Pub. L. 105-34, title XIV, §§1452(a), 1454(b)(3), Aug. 5, 1997, 111 Stat. 1054, 1057.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, §1454(b)(3), substituted “section 7436(c) or 7463” for “section 7463”.

Subsec. (c). Pub. L. 105-34, §1452(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Notwithstanding subsection (a), if—

“(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

“(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

“(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.”

1988—Subsec. (a). Pub. L. 100-647, §6247(b)(2), substituted “subsections (b), (c), and (d)” for “subsections (b) and (c)”.

Pub. L. 100-647, §6246(b)(2), substituted “subsections (b) and (c)” for “subsection (b)”.

Subsec. (c). Pub. L. 100-647, §6246(a), added subsec. (c). Subsec. (d). Pub. L. 100-647, §6247(a), added subsec. (d). 1976—Subsecs. (a)(3)(A), (B)(iii). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Pub. L. 91-172 designated existing provisions as subsec. (a), inserted reference to the exception provided for in subsec. (b), substituted “notice of appeal” for “petition for review” in par. (1), and substituted references to dismissal of appeal for references to dismissal of petition for review in par. (2), and added subsec. (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1452(b), Aug. 5, 1997, 111 Stat. 1055, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1454(b)(3) of Pub. L. 105-34 effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105-34, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6246(a), (b)(2) of Pub. L. 100-647 applicable to assessments of deficiencies redetermined by the Tax Court made after Nov. 10, 1988, see section 6246(c) of Pub. L. 100-647, set out as a note under section 6512 of this title.

Amendment by section 6247(a), (b)(2) of Pub. L. 100-647 effective with respect to Tax Court cases for which the decision is not final on Nov. 10, 1988, see section 6247(c) of Pub. L. 100-647, set out as a note under section 6512 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91-172, set out as a note under section 7483 of this title.

§ 7482. Courts of review

(a) Jurisdiction

(1) In general

The United States Courts of Appeals (other than the United States Court of Appeals for the Federal Circuit) shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of Title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of Title 28 of the United States Code.

(2) Interlocutory orders

(A) In general

When any judge of the Tax Court includes in an interlocutory order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals may, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of such order. Neither the application for nor the granting of an appeal under this paragraph shall stay proceedings in the Tax Court, unless a stay is ordered by a judge of

the Tax Court or by the United States Court of Appeals which has jurisdiction of the appeal or a judge of that court.

(B) Order treated as Tax Court decision

For purposes of subsections (b) and (c), an order described in this paragraph shall be treated as a decision of the Tax Court.

(C) Venue for review of subsequent proceedings

If a United States Court of Appeals permits an appeal to be taken from an order described in subparagraph (A), except as provided in subsection (b)(2), any subsequent review of the decision of the Tax Court in the proceeding shall be made by such Court of Appeals.

(3) Certain orders entered under section 6213(a)

An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court.

(b) Venue

(1) In general

Except as otherwise provided in paragraphs (2) and (3), such decisions may be reviewed by the United States court of appeals for the circuit in which is located—

(A) in the case of a petitioner seeking redetermination of tax liability other than a corporation, the legal residence of the petitioner,

(B) in the case of a corporation seeking redetermination of tax liability, the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any judicial circuit, then the office to which was made the return of the tax in respect of which the liability arises,

(C) in the case of a person seeking a declaratory decision under section 7476, the principal place of business, or principal office or agency of the employer,

(D) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization,

(E) in the case of a petition under section 6234, the principal place of business of the partnership,

(F) in the case of a petition under section 6015(e), the legal residence of the petitioner, or

(G) in the case of a petition under section 6320 or 6330—

(i) the legal residence of the petitioner if the petitioner is an individual, and

(ii) the principal place of business or principal office or agency if the petitioner is an entity other than an individual.

If for any reason no subparagraph of the preceding sentence applies, then such decisions may be reviewed by the Court of Appeals for

the District of Columbia. For purposes of this paragraph, the legal residence, principal place of business, or principal office or agency referred to herein shall be determined as of the time the petition seeking redetermination of tax liability was filed with the Tax Court or as of the time the petition seeking a declaratory decision under section 7428 or 7476, or the petition under section 6234, was filed with the Tax Court.

(2) By agreement

Notwithstanding the provisions of paragraph (1), such decisions may be reviewed by any United States Court of Appeals which may be designated by the Secretary and the taxpayer by stipulation in writing.

(3) Declaratory judgment actions relating to status of certain governmental obligations

In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia.

(c) Powers

(1) To affirm, modify, or reverse

Upon such review, such courts shall have power to affirm or, if the decision of the Tax Court is not in accordance with law, to modify or to reverse the decision of the Tax Court, with or without remanding the case for a rehearing, as justice may require.

(2) To make rules

Rules for review of decisions of the Tax Court shall be those prescribed by the Supreme Court under section 2072 of title 28 of the United States Code.

(3) To require additional security

Nothing in section 7483 shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

(4) To impose penalties

The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless.

(Aug. 16, 1954, ch. 736, 68A Stat. 890; Pub. L. 89-713, §3(c), Nov. 2, 1966, 80 Stat. 1109; Pub. L. 91-172, title IX, §960(h)(2), Dec. 30, 1969, 83 Stat. 735; Pub. L. 93-406, title II, §1041(b)(3), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94-455, title X, §1042(d)(2)(A), (B), title XIII, §1306(b)(4), (5), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1638, 1639, 1719, 1834; Pub. L. 95-600, title III, §336(c)(1), Nov. 6, 1978, 92 Stat. 2842; Pub. L. 97-164, title I, §154, Apr. 2, 1982, 96 Stat. 47; Pub. L. 97-248, title IV, §402(c)(15), Sept. 3, 1982, 96 Stat. 668; Pub. L. 98-369, div. A, title I, §131(e)(2)(A), July 18, 1984, 98 Stat. 665; Pub. L. 99-514, title XV, §1558(a), (b), title XVIII, §§1810(g)(2), 1899A(60), Oct. 22, 1986, 100 Stat. 2757, 2758, 2828, 2962; Pub. L. 100-647, title VI, §6243(b), Nov. 10, 1988, 102 Stat. 3750;

Pub. L. 101-239, title VII, § 7731(b), Dec. 19, 1989, 103 Stat. 2401; Pub. L. 105-34, title XII, §§ 1222(b)(3), 1239(d), Aug. 5, 1997, 111 Stat. 1019, 1028; Pub. L. 114-74, title XI, § 1101(f)(13), Nov. 2, 2015, 129 Stat. 638; Pub. L. 114-113, div. Q, title IV, § 423(a), Dec. 18, 2015, 129 Stat. 3123.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114-74, § 1101(f)(13)(C), substituted “section 6234” for “section 6226, 6228(a), or 6234(c)” in concluding provisions.

Subsec. (b)(1)(E). Pub. L. 114-74, § 1101(f)(13)(A), which directed amendment of subpar. (E) by substituting “section 6234” for “section 6226, 6228, 6247, or 6252”, was executed by making the substitution for “section 6226, 6228(a), 6247, or 6252” to reflect the probable intent of Congress.

Subsec. (b)(1)(F). Pub. L. 114-113, § 423(a), added subpar. (F).

Pub. L. 114-74, § 1101(f)(13)(B), struck out subpar. (F) which read as follows: “in the case of a petition under section 6234(c)—

“(i) the legal residence of the petitioner if the petitioner is not a corporation, and

“(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.”

Subsec. (b)(1)(G). Pub. L. 114-113, § 423(a), added subpar. (G).

1997—Subsec. (b)(1). Pub. L. 105-34, § 1239(d)(2), substituted “, 6228(a), or 6234(c)” for “or 6228(a)” in concluding provisions.

Subsec. (b)(1)(E). Pub. L. 105-34, § 1222(b)(3), substituted “, 6228(a), 6247, or 6252” for “or 6228(a)”.

Subsec. (b)(1)(F). Pub. L. 105-34, § 1239(d)(1), added subpar. (F).

1989—Subsec. (c)(4). Pub. L. 101-239 substituted “penalties” for “damages” in heading and amended text generally. Prior to amendment, text read as follows: “The United States Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the Tax Court is affirmed and it appears that the notice of appeal was filed merely for delay.”

1988—Subsec. (a)(3). Pub. L. 100-647 added par. (3).

1986—Subsec. (a). Pub. L. 99-514, § 1558(a), (b), inserted par. (1) designation and heading “In general” before existing text and realigned its margin, and added par. (2).

Subsec. (b)(1). Pub. L. 99-514, § 1810(g)(2), substituted “section 7428 or 7476” for “section 7428, 7476, or 7477” in last sentence.

Subsec. (b)(1)(E). Pub. L. 99-514, § 1899A(60), substituted “partnership.” for “partnership.”

1984—Subsec. (b)(1)(D) to (F). Pub. L. 98-369 struck out subpar. (D) which provided that venue in the case of a person seeking declaratory judgment under section 7477 be the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation, and redesignated subpars. (E) and (F) as (D) and (E), respectively.

1982—Subsec. (a). Pub. L. 97-164 inserted “(other than the United States Court of Appeals for the Federal Circuit)” after “The United States Courts of Appeals”.

Subsec. (b)(1). Pub. L. 97-248 added subpar. (F), and in provisions following subpar. (F) inserted “, or the petition under section 6226 or 6228(a),” after “or 7477”.

1978—Subsec. (b)(1). Pub. L. 95-600, § 336(c)(1)(A), substituted “provided in paragraphs (2) and (3)” for “provided in paragraph (2)”.

Subsec. (b)(3). Pub. L. 95-600, § 336(c)(1)(B), added par. (3).

1976—Subsec. (b)(1)(D). Pub. L. 94-455, § 1042(d)(2)(A), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 94-455, § 1306(b)(4), added subpar. (E).

Subsec. (b)(1). Pub. L. 94-455, §§ 1042(d)(2)(B), 1306(b)(5), in provisions following subpar. (E), substituted “no subparagraph of the preceding sentence applies” for “subparagraph (A), (B), and (C) do not apply” and “section 7428, 7476, or 7477” for “section 7476”.

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

1974—Subsec. (b)(1). Pub. L. 93-406 added subpar. (C) and, in provisions following subpar. (C), substituted “If for any reason subparagraph (A), (B), and (C) do not apply” for “If for any reason neither subparagraph (A) nor (B) applies”, and inserted provisions referring to the time the petition seeking a declaratory decision under section 7476 was filed with the Tax Court.

1969—Subsec. (c). Pub. L. 91-172 substituted “section 2072 of title 28” for “section 2074 of title 28” in par. (2) and struck out provision for the applicability of rules adopted under authority of section 1141(c)(2) of the Internal Revenue Act of 1939 until such time as rules prescribed by the Supreme Court under section 2072 of title 28 become effective and, in par. (4), substituted “notice of appeal” for “petition”.

1966—Subsec. (b)(1). Pub. L. 89-713 substituted provisions requiring that appeals from Tax Court decisions be made to the Court of Appeals for the circuit in which the taxpayer resides, in the case of a taxpayer other than a corporation, and, in the case of appeals by corporations, to the Court of Appeals for the circuit in which the corporation has its principal place of business or principal office or agency for provisions prescribing review by the Court of Appeals for the circuit in which was located the office to which was made the return of the tax in respect of which the liability arose, and inserted provision for the time of determining legal residence, place of business, or principal office or agency.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 423(b), Dec. 18, 2015, 129 Stat. 3124, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to petitions filed after the date of enactment of this Act [Dec. 18, 2015].

“(2) EFFECT ON EXISTING PROCEEDINGS.—Nothing in this section shall be construed to create any inference with respect to the application of section 7482 of the Internal Revenue Code of 1986 with respect to court proceedings filed on or before the date of the enactment of this Act.”

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(3) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(d) of Pub. L. 105-34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105-34, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to positions taken after Dec. 31, 1989, in proceedings which are pending on, or commenced after such date, see section 7731(d) of Pub. L. 101-239, set out as a note under section 6673 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to orders entered after Nov. 10, 1988, see section 6243(c) of Pub. L. 100-647, set out as a note under section 6213 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, § 1558(c), Oct. 22, 1986, 100 Stat. 2758, provided that: “The amendments made by this section [amending this section] shall apply to any order of the Tax Court entered after the date of the enactment of this Act [Oct. 22, 1986].”

Amendment by section 1810(g)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984. Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98-369, set out as a note under section 367 of this title.

EFFECTIVE DATE OF 1982 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 a note under section 702 of this title.

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95-600, set out as an Effective Date note under section 7478 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1042(d)(2)(A), (B) of Pub. L. 94-455 applicable with respect to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94-455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(4), (5) of Pub. L. 94-455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94-455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93-406, set out as an Effective Date note under section 7476 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91-172, set out as a note under section 7483 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 applicable to all decisions of the Tax Court entered after Nov. 2, 1966, see section 3(d) of Pub. L. 89-713, set out as a note under section 7422 of this title.

§ 7483. Notice of appeal

Review of a decision of the Tax Court shall be obtained by filing a notice of appeal with the clerk of the Tax Court within 90 days after the decision of the Tax Court is entered. If a timely notice of appeal is filed by one party, any other party may take an appeal by filing a notice of

appeal within 120 days after the decision of the Tax Court is entered.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91-172, title IX, § 959(a), Dec. 30, 1969, 83 Stat. 734.)

AMENDMENTS

1969—Pub. L. 91-172 substituted references to notice of appeal for references to petition for review, and otherwise generally altered the section as to time for appeal and terminology in order to conform section to the form of the Federal Rules of Appellate Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, § 962(f), Dec. 30, 1969, 83 Stat. 736, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by sections 959 and 960(h) [amending this section and sections 7481, 7482, and 7485 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 30, 1969]. In the case of any decision of the Tax Court entered before the 30th day after the date of the enactment of this Act [Dec. 30, 1969], the United States Courts of Appeals shall have jurisdiction to hear an appeal from such decision, if such appeal was filed within the time prescribed by Rule 13(a) of the Federal Rules of Appellate Procedure or by section 7483 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as in effect at the time the decision of the Tax Court was entered."

§ 7484. Change of incumbent in office

When the incumbent of the office of Secretary changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7485. Bond to stay assessment and collection

(a) Upon notice of appeal

Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the review under section 7483 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Tax Court unless a notice of appeal in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

(1) on or before the time his notice of appeal is filed has filed with the Tax Court a bond in a sum fixed by the Tax Court not exceeding double the amount of the portion of the deficiency in respect of which the notice of appeal is filed, and with surety approved by the Tax Court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

(2) has filed a jeopardy bond under the income or estate tax laws.

If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the Tax

Court is paid after the filing of the appeal bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Bond in case of appeal of certain partnership-related decisions

The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6234 and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, penalties, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate liability of the parties to the action.

(c) Cross references

(1) For requirement of additional security notwithstanding this section, see section 7482(c)(3).

(2) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91-172, title IX, §960(h)(3), Dec. 30, 1969, 83 Stat. 735; Pub. L. 97-248, title IV, §402(c)(16), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97-258, §3(f)(15), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105-34, title XII, §§1222(b)(4), 1241(a), Aug. 5, 1997, 111 Stat. 1019, 1029; Pub. L. 114-74, title XI, §1101(f)(14), Nov. 2, 2015, 129 Stat. 638.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-74 substituted “section 6234” for “section 6226, 6228(a), 6247, or 6252”.

1997—Subsec. (b). Pub. L. 105-34, §1222(b)(4)(B), amended heading generally. Prior to amendment, heading read as follows: “Bond in case of appeal of decision under section 6226 or section 6228(a)”.

Pub. L. 105-34, §1222(b)(4)(A), substituted “, 6228(a), 6247, or 6252” for “or 6228(a)”.

Pub. L. 105-34, §1241(a), inserted “penalties,” after “any interest,” and substituted “aggregate liability of the parties to the action” for “aggregate of such deficiencies”.

1982—Subsecs. (b), (c). Pub. L. 97-248 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(2). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”. Notwithstanding the directory language that amendment be made to subsec. (b)(2), the amendment was executed to subsec. (c)(2) to reflect the probable intent of Congress and the intervening redesignation of subsec. (b) as (c) by Pub. L. 97-248.

1969—Subsec. (a). Pub. L. 91-172 substituted “notice of appeal” for “petition for review” and “appeal bond” for “review bond”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(4) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Pub. L. 105-34, title XII, §1241(b), Aug. 5, 1997, 111 Stat. 1029, provided that: “The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91-172, set out as a note under section 7483 of this title.

§ 7486. Refund, credit, or abatement of amounts disallowed

In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Tax Court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

(Aug. 16, 1954, ch. 736, 68A Stat. 891.)

§ 7487. Cross references

(1) Nonreviewability.—For nonreviewability of Tax Court decisions in small claims cases, see section 7463(b).

(2) Transcripts.—For authority of the Tax Court to fix fees for transcript of records, see section 7474.

(Aug. 16, 1954, ch. 736, 68A Stat. 892; Pub. L. 91-172, title IX, §960(i)(1), Dec. 30, 1969, 83 Stat. 735.)

AMENDMENTS

1969—Pub. L. 91-172 inserted reference to section 7463(b) for nonreviewability of Tax Court decisions in small claims cases.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

Subchapter E—Burden of Proof

Sec.

7491. Burden of proof.

§ 7491. Burden of proof

(a) Burden shifts where taxpayer produces credible evidence

(1) General rule

If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

(2) Limitations

Paragraph (1) shall apply with respect to an issue only if—

(A) the taxpayer has complied with the requirements under this title to substantiate any item;

(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and

(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).

(3) Coordination

Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

(b) Use of statistical information on unrelated taxpayers

In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

(c) Penalties

Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.

(Added Pub. L. 105-206, title III, § 3001(a), July 22, 1998, 112 Stat. 726; amended Pub. L. 105-277, div. J, title IV, § 4002(b), Oct. 21, 1998, 112 Stat. 2681-906.)

PRIOR PROVISIONS

A prior section 7491, act Aug. 16, 1954, ch. 736, 68A Stat. 893, placed the burden of proof in establishing the applicability of an exemption upon the defendant in the case of marijuana offenses, prior to repeal by Pub. L. 91-513, title III, §§ 1101(b)(5)(A), 1103, 1105(a), Oct. 27, 1970, 84 Stat. 1292, 1294, 1295, effective on first day of seventh calendar month that begins after Oct. 26, 1970, with prosecutions commenced prior to such date not to be affected or abated by reason thereof.

A prior section 7492, act Aug. 16, 1954, ch. 736, 68A Stat. 893, related to the enforceability of cotton futures contracts, prior to repeal by Pub. L. 94-455, title XIX, § 1952(n)(4)(A), (o), Oct. 4, 1976, 90 Stat. 1846, effective on the 90th day after Oct. 4, 1976.

A prior section 7493, act Aug. 16, 1954, ch. 736, 68A Stat. 893, provided that no person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 of this title withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39 of this title or of any regulation made pursuant to such chapter, but that such person called by such officer who testifies in the case be exempt from prosecution for any offense to which his testimony relates, prior to repeal by Pub. L. 91-452, title II, §§ 232, 260, Oct. 15, 1970, 84 Stat. 930, 931, effective on 60th day following Oct. 15, 1970, and not to affect any immunity to which any individual was enti-

tled under by reason of any testimony given before 60th day following Oct. 15, 1970. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-277 inserted concluding provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 105-206, title III, § 3001(c), July 22, 1998, 112 Stat. 727, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this subchapter] shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act [July 22, 1998].

“(2) TAXABLE PERIODS OR EVENTS AFTER DATE OF ENACTMENT.—In any case in which there is no examination, such amendments shall apply to court proceedings arising in connection with taxable periods or events beginning or occurring after such date of enactment.”

CHAPTER 77—MISCELLANEOUS PROVISIONS

Sec.	
7501.	Liability for taxes withheld or collected.
7502.	Timely mailing treated as timely filing and paying.
7503.	Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
7504.	Fractional parts of a dollar.
7505.	Sale of personal property acquired by the United States.
7506.	Administration of real estate acquired by the United States.
7507.	Exemption of insolvent banks from tax.
7508.	Time for performing certain acts postponed by reason of service in combat zone or contingency operation.
7508A.	Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.
7509.	Expenditures incurred by the United States Postal Service.
7510.	Exemption from tax of domestic goods purchased for the United States.
[7511.	Repealed.]
7512.	Separate accounting for certain collected taxes, etc.
7513.	Reproduction of returns and other documents.
7514.	Authority to prescribe or modify seals.
7515.	Special statistical studies and compilations and other services on request. ¹
7516.	Supplying training and training aids on request.
7517.	Furnishing on request of statement explaining estate or gift valuation.
7518.	Tax incentives relating to merchant marine capital construction funds.
7519.	Required payments for entities electing not to have required taxable year.
7520.	Valuation tables.
7521.	Procedures involving taxpayer interviews.
7522.	Content of tax due, deficiency, and other notices.
7523.	Graphic presentation of major categories of Federal outlays and income.

¹ Section repealed by Pub. L. 94-455 without corresponding amendment of analysis.

- 7524. Annual notice of tax delinquency.
- 7525. Confidentiality privileges relating to taxpayer communications.
- 7526. Low-income taxpayer clinics.
- 7527. Advance payment of credit for health insurance costs of eligible individuals.
- 7528. Internal Revenue Service user fees.

AMENDMENTS

2003—Pub. L. 108-121, title I, §104(b)(3), Nov. 11, 2003, 117 Stat. 1338, inserted “or contingency operation” after “combat zone” in item 7508.

Pub. L. 108-89, title II, §202(b)(1), Oct. 1, 2003, 117 Stat. 1133, added item 7528.

2002—Pub. L. 107-210, div. A, title II, §202(d)(1), Aug. 6, 2002, 116 Stat. 963, added item 7527.

Pub. L. 107-134, title I, §112(e)(1), Jan. 23, 2002, 115 Stat. 2435, substituted “Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions” for “Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster” in item 7508A.

1998—Pub. L. 105-206, title III, §§3411(b), 3601(b), July 22, 1998, 112 Stat. 751, 776, added items 7525 and 7526.

1997—Pub. L. 105-34, title IX, §911(b), Aug. 5, 1997, 111 Stat. 878, added item 7508A.

1996—Pub. L. 104-168, title XII, §1204(b), July 30, 1996, 110 Stat. 1471, added item 7524.

1990—Pub. L. 101-508, title XI, §§11622(b), 11704(a)(31), Nov. 5, 1990, 104 Stat. 1388-505, 1388-519, substituted “7522. Content of tax due, deficiency, and other notices.” for “7521. Content of tax due, deficiency, and other notices.” and added item 7523.

1989—Pub. L. 101-239, title VII, §7816(u)(2), Dec. 19, 1989, 103 Stat. 2423, redesignated item 7520, relating to procedures involving taxpayer interviews, as 7521.

1988—Pub. L. 100-647, title VI, §6233(b), Nov. 10, 1988, 102 Stat. 3735, added item 7521.

Pub. L. 100-647, title VI, §6228(c), Nov. 10, 1988, 102 Stat. 3732, added item 7520 relating to procedures involving taxpayer interviews.

Pub. L. 100-647, title V, §5031(b), Nov. 10, 1988, 102 Stat. 3669, added item 7520 relating to valuation tables.

1987—Pub. L. 100-203, title X, §10206(b)(2), Dec. 22, 1987, 101 Stat. 1330-401, added item 7519.

1986—Pub. L. 99-514, title II, §261(f), Oct. 22, 1986, 100 Stat. 2216, added item 7518.

1976—Pub. L. 94-455, title XIX, §1906(b)(11), (12), Oct. 4, 1976, 90 Stat. 1834, substituted “Time for performing certain acts postponed by reason of service in combat zone” for “Time for performing certain acts postponed by reason of war” in item 7508, and “Expenditures incurred by the United States Postal Service” for “Expenditures incurred by the Post Office Department” in item 7509.

Pub. L. 94-455, title XX, §2008(a)(2)(C), Oct. 4, 1976, 90 Stat. 1891, added item 7517 relating to statement explaining estate or gift valuation.

1966—Pub. L. 89-719, title I, §111(c)(2), Nov. 2, 1966, 80 Stat. 1145, substituted “acquired” for “purchased” in item 7505.

Pub. L. 89-713, §5(b), Nov. 2, 1966, 80 Stat. 1111, inserted “and paying” in item 7502.

1962—Pub. L. 87-870, §3(a)(2), Oct. 23, 1962, 76 Stat. 1161, added items 7515 and 7516.

Pub. L. 87-456, title III, §302(d), May 24, 1962, 76 Stat. 77, struck out item 7511 “Exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles”.

1958—Pub. L. 85-866, title I, §§90(b), 91(b), Sept. 2, 1958, 72 Stat. 1666, 1667, added items 7513 and 7514.

Pub. L. 85-321, §3(a), Feb. 11, 1958, 72 Stat. 6, added item 7512.

§ 7501. Liability for taxes withheld or collected

(a) General rule

Whenever any person is required to collect or withhold any internal revenue tax from any

other person and to pay over such tax to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(b) Penalties

For penalties applicable to violations of this section, see sections 6672 and 7202.

(Aug. 16, 1954, ch. 736, 68A Stat. 895.)

§ 7502. Timely mailing treated as timely filing and paying

(a) General rule

(1) Date of delivery

If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

(2) Mailing requirements

This subsection shall apply only if—

(A) the postmark date falls within the prescribed period or on or before the prescribed date—

(i) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document, or

(ii) for making the payment (including any extension granted for making such payment), and

(B) the return, claim, statement, or other document, or payment was, within the time prescribed in subparagraph (A), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.

(b) Postmarks

This section shall apply in the case of postmarks not made by the United States Postal Service only if and to the extent provided by regulations prescribed by the Secretary.

(c) Registered and certified mailing; electronic filing

(1) Registered mail

For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and

(B) the date of registration shall be deemed the postmark date.

(2) Certified mail; electronic filing

The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.

(d) Exceptions

This section shall not apply with respect to—

(1) the filing of a document in, or the making of a payment to, any court other than the Tax Court,

(2) currency or other medium of payment unless actually received and accounted for, or

(3) returns, claims, statements, or other documents, or payments, which are required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than by mailing.

(e) Mailing of deposits

(1) Date of deposit

If any deposit required to be made (pursuant to regulations prescribed by the Secretary under section 6302(c)) on or before a prescribed date is, after such date, delivered by the United States mail to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit, such deposit shall be deemed received by such bank, trust company, domestic building and loan association, or credit union on the date the deposit was mailed.

(2) Mailing requirements

Paragraph (1) shall apply only if the person required to make the deposit establishes that—

(A) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making such deposit), and

(B) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit.

In applying subsection (c) for purposes of this subsection, the term “payment” includes “deposit”, and the reference to the postmark date refers to the date of mailing.

(3) No application to certain deposits

Paragraph (1) shall not apply with respect to any deposit of \$20,000 or more by any person who is required to deposit any tax more than once a month.

(f) Treatment of private delivery services

(1) In general

Any reference in this section to the United States mail shall be treated as including a ref-

erence to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

(2) Designated delivery service

For purposes of this subsection, the term “designated delivery service” means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service—

(A) is available to the general public,

(B) is at least as timely and reliable on a regular basis as the United States mail,

(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

(D) meets such other criteria as the Secretary may prescribe.

(3) Equivalents of registered and certified mail

The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail.

(Aug. 16, 1954, ch. 736, 68A Stat. 895; Pub. L. 85-866, title I, §89(a), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 89-713, §5(a), Nov. 2, 1966, 80 Stat. 1110; Pub. L. 90-364, title I, §106(a), June 28, 1968, 82 Stat. 266; Pub. L. 94-455, title XIX, §§1906(a)(49), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834; Pub. L. 95-147, §3(b), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 98-369, div. A, title I, §157(a), July 18, 1984, 98 Stat. 695; Pub. L. 99-514, title XVIII, §1811(e), Oct. 22, 1986, 100 Stat. 2833; Pub. L. 104-168, title XII, §1210, July 30, 1996, 110 Stat. 1474; Pub. L. 105-206, title II, §2003(b), July 22, 1998, 112 Stat. 725.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-206 inserted “; electronic filing” after “mailing” in heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows:

“(1) REGISTERED MAIL.—For purposes of this section, if any such return, claim, statement, or other document, or payment, is sent by United States registered mail—

“(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

“(B) the date of registration shall be deemed the postmark date.

“(2) CERTIFIED MAIL.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.”

1996—Subsec. (f). Pub. L. 104-168 added subsec. (f).

1986—Subsec. (e)(3). Pub. L. 99-514 substituted “any tax” for “the tax”.

1984—Subsec. (e)(3). Pub. L. 98-369 added par. (3).

1977—Subsec. (e). Pub. L. 95-147 substituted “, trust company, domestic building and loan association, or credit union” for “or trust company” in three places.

1976—Subsec. (b). Pub. L. 94-455, §1906(a)(49), (b)(13)(A), substituted “United States Postal Service” for “United States Post Office” after “made by the”, and struck out “or his delegate” after “Secretary”.

Subsecs. (c)(2), (e)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1968—Subsec. (e). Pub. L. 90-364 added subsec. (e).

1966—Subsec. (a). Pub. L. 89-713 inserted filing of tax returns and the payments of tax to the list of operations to which the timely-mailing-timely-filing provisions of the subsec. apply and altered the subsec. structurally by dividing its provisions into pars. (1) and (2).

Subsec. (b). Pub. L. 89-713 substituted “Postmarks” for “Stamp machine” in heading.

Subsec. (c). Pub. L. 89-713 inserted returns and payments to the list of operations to which the timely-mailing-timely-filing provisions apply and altered par. (1) structurally by dividing its provisions into subpars. (A) and (B).

Subsec. (d). Pub. L. 89-713 designated existing provisions as par. (1) and added pars. (2) and (3).

1958—Subsec. (c). Pub. L. 85-866 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §157(b), July 18, 1984, 98 Stat. 695, provided that: “The amendment made by this section [amending this section] shall apply to deposits required to be made after July 31, 1984.”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-147 applicable to amounts deposited after Oct. 28, 1977, see section 3(c) of Pub. L. 95-147, set out as a note under section 6302 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-364, title I, §106(b), June 28, 1968, 82 Stat. 266, provided that: “The amendment made by subsec. (a) [amending this section] shall apply only as to mailing occurring after the date of the enactment of this Act [June 28, 1968].”

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-713, §5(c), Nov. 2, 1966, 80 Stat. 1111, provided that: “The amendments made by this section [amending this section] shall apply only if the mailing occurs after the date of the enactment of this Act [Nov. 2, 1966].”

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §89(d), Sept. 2, 1958, 72 Stat. 1666, provided that: “This section [amending this section and sections 167, 6164, 6212, 6532, and 7455 of this title] shall apply only if the mailing occurs after the date of the enactment of this Act [Sept. 2, 1958].”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

PROVISIONS OF INTERNAL REVENUE CODE OF 1939

Pub. L. 85-866, title I, §89(c), Sept. 2, 1958, 72 Stat. 1666, provided that: “In applying any provision of the Internal Revenue Code of 1939 which requires, or provides for, the use of registered mail, the reference to registered mail shall be treated as including a reference to certified mail.”

§ 7503. Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday

When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; the term “legal holiday” means a legal holiday in the District of Columbia; and in the case of any return, statement, or other document required to be filed, or any other act required under authority of the internal revenue laws to be performed, at any office of the Secretary or at any other office of the United States or any agency thereof, located outside the District of Columbia but within an internal revenue district, the term “legal holiday” also means a Statewide legal holiday in the State where such office is located.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

APPLICABILITY OF THIS SECTION FOR PURPOSES OF SECTION 10222(b) OF PUB. L. 100-203

Pub. L. 100-647, title VI, §6278, Nov. 10, 1988, 102 Stat. 3754, provided that: “Section 7503 of the 1986 Code shall apply for purposes of determining whether any disposition meets the requirements of section 10222(b)(2)(B) of the Revenue Act of 1987 [Pub. L. 100-203, set out as a note under section 301 of this title]. If any disposition meets the requirements of such section by reason of the preceding sentence, for all purposes of the 1986 Code, such disposition shall be deemed to have occurred on December 31, 1988.”

§ 7504. Fractional parts of a dollar

The Secretary may by regulations provide that in the allowance of any amount as a credit or refund, or in the collection of any amount as a deficiency or underpayment, of any tax imposed by this title, a fractional part of a dollar shall be disregarded, unless it amounts to 50 cents or more, in which case it shall be increased to 1 dollar.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7505. Sale of personal property acquired by the United States

(a) Sale

Any personal property acquired by the United States in payment of or as security for debts arising under the internal revenue laws may be sold by the Secretary in accordance with such regulations as may be prescribed by the Secretary.

(b) Accounting

In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered a distinct account of all charges incurred in such sales.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 89-719, title I, §111(a), (c)(1), Nov. 2, 1966, 80 Stat. 1145; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1966—Pub. L. 89-719 substituted “acquired by the United States in payment of or as security for debts arising under the internal revenue laws” for “purchased by the United States under the authority of section 6335(e) (relating to purchase for the account of the United States of property sold under levy)” in subsec. (a), and substituted “acquired” for “purchased” in section catchline.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7506. Administration of real estate acquired by the United States

(a) Person charged with

The Secretary shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, or which has been redeemed by the United States, and of all trusts created for the use of the United States in payment of such debts due them.

(b) Sale

The Secretary, may, at public sale, and upon not less than 20 days' notice, sell and dispose of any real estate owned or held by the United States as aforesaid.

(c) Lease

Until such sale, the Secretary may lease such real estate owned as aforesaid on such terms and for such period as the Secretary shall deem proper.

(d) Release to debtor

In cases where real estate has or may become the property of the United States by conveyance

or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of 1 percent per month, to the United States, within 2 years from the date of the acquisition of such real estate, it shall be lawful for the Secretary to release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 89-719, title I, §111(b), Nov. 2, 1966, 80 Stat. 1145; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (a). Pub. L. 89-719 inserted reference to real estate which has been redeemed by the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7507. Exemption of insolvent banks from tax

(a) Assets in general

Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Secretary, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.

(b) Segregated assets; earnings

Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which are available for the payment of such depositor claims and which are necessary for the full pay-

ment thereof. The term “agent”, as used in this subsection, shall be deemed to include a corporation acting as a liquidating agent.

(c) Refund; reassessment; statutes of limitation

(1) Any such tax collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes.

(2) Any tax, the assessment, collection, or payment of which is barred under subsection (a), or any such tax which has been abated or remitted shall be assessed or reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid.

(3) Any tax, the assessment, collection, or payment of which is barred under subsection (b), or any such tax which has been refunded shall be assessed or reassessed after full payment of such claims of depositors to the extent of the remaining assets segregated or transferred as described in subsection (b).

(4) The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for 90 days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax may be reassessed as provided in paragraphs (2) and (3) of this subsection and collected, during the time within which, had there been no abatement, collection might have been made.

(d) Exception of employment taxes

This section shall not apply to any tax imposed by chapter 21 or chapter 23.

(Aug. 16, 1954, ch. 736, 68A Stat. 897; Pub. L. 94-455, title XIX, §1906(a)(50), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834.)

AMENDMENTS

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

Subsec. (c). Pub. L. 94-455, §1906(a)(50), struck out “after May 28, 1938” in par. (2) after “or remitted” and in par. (3) after “been refunded”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 7508. Time for performing certain acts postponed by reason of service in combat zone or contingency operation

(a) Time to be disregarded

In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a “combat zone” for purposes of section 112, or when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law, at any time during the period designated by the President by Executive order

as the period of combatant activities in such zone for purposes of such section or at any time during the period of such contingency operation, or hospitalized as a result of injury received while serving in such an area or operation during such time, the period of service in such area or operation, plus the period of continuous qualified hospitalization attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income, estate, gift, employment, or excise tax;

(B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under the internal revenue laws specified by the Secretary;

(2) The amount of any credit or refund; and

(3) Any certification of a seriously delinquent tax debt under section 7345.

(b) Special rule for overpayments

(1) In general

Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) Special rules

If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section 6611 shall not apply.

(c) Application to spouse

The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for

any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone.

(d) Missing status

The period of service in the area or contingency operation referred to in subsection (a) shall include the period during which an individual entitled to benefits under subsection (a) is in a missing status, within the meaning of section 6013(f)(3).

(e) Exceptions

(1) Tax in jeopardy; cases under title 11 of the United States Code and receiverships; and transferred assets

Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) Action taken before ascertainment of right to benefits

The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(3) Collection period after assessment not extended as a result of hospitalization

With respect to any period of continuous qualified hospitalization described in subsection (a) and the next 180 days thereafter, subsection (a) shall not apply in the application of section 6502.

(f) Treatment of individuals performing Desert Shield services

(1) In general

Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

(2) Desert Shield services

For purposes of this subsection, the term “Desert Shield services” means any services in the Armed Forces of the United States or in support of such Armed Forces if—

(A) such services are performed in the area designated by the President pursuant to this subparagraph as the “Persian Gulf Desert Shield area”, and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112.

(g) Qualified hospitalization

For purposes of subsection (a), the term “qualified hospitalization” means—

(1) any hospitalization outside the United States, and

(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 898; Pub. L. 93-597, §5(a), Jan. 2, 1975, 88 Stat. 1952; Pub. L. 94-455, title XIX, §1906(a)(51), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834; Pub. L. 94-569, §3(e), Oct. 20, 1976, 90 Stat. 2700; Pub. L. 96-589, §6(i)(14), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-448, title III, §307(d), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 99-514, title XVII, §1708(a)(4), Oct. 22, 1986, 100 Stat. 2782; Pub. L. 102-2, §1(a)-(c), Jan. 30, 1991, 105 Stat. 5; Pub. L. 107-134, title I, §112(b), Jan. 23, 2002, 115 Stat. 2434; Pub. L. 108-121, title I, §104(a)-(b)(2), Nov. 11, 2003, 117 Stat. 1338; Pub. L. 109-73, title IV, §403(a), Sept. 23, 2005, 119 Stat. 2597; Pub. L. 114-94, div. C, title XXXII, §32101(d), Dec. 4, 2015, 129 Stat. 1732; Pub. L. 114-113, div. Q, title III, §309(a), Dec. 18, 2015, 129 Stat. 3089.)

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-94 added par. (3).

Subsec. (e)(3). Pub. L. 114-113 added par. (3).

2005—Subsec. (a)(1)(A), (B). Pub. L. 109-73 amended subpars. (A) and (B) generally. Prior to amendment, text read as follows:

“(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

“(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;”.

2003—Pub. L. 108-121, §104(b)(2), inserted “or contingency operation” after “combat zone” in section catchline.

Subsec. (a). Pub. L. 108-121, §104(a), in introductory provisions, inserted “, or when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law” after “section 112”, “or at any time during the period of such contingency operation” after “for purposes of such section”, “or operation” after “such an area”, and “or operation” after “such area”.

Subsec. (d). Pub. L. 108-121, §104(b)(1), inserted “or contingency operation” after “area”.

2002—Subsec. (a)(1)(K). Pub. L. 107-134 struck out “in regulations prescribed under this section” before “by the Secretary”.

1991—Subsec. (a). Pub. L. 102-2, §1(c)(1), in introductory provisions, struck out “outside the United States” before “as a result of injury” and substituted “the period of continuous qualified hospitalization” for “the period of continuous hospitalization outside the United States”.

Subsec. (a)(2). Pub. L. 102-2, §1(b)(2), struck out “(including interest)” after “refund”.

Subsecs. (b) to (e). Pub. L. 102-2, §1(b)(1), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

Subsecs. (f), (g). Pub. L. 102-2, §1(a), (c)(2), added subsecs. (f) and (g).

1986—Subsec. (b). Pub. L. 99-514 amended last sentence generally. Prior to amendment, last sentence read as follows: “The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—

“(1) after December 31, 1982, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

“(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1).”

1983—Subsec. (b)(1). Pub. L. 97-448 substituted “December 31, 1982” for “January 2, 1978”.

1980—Subsec. (d). Pub. L. 96-589 substituted “cases under title 11 of the United States Code and receiverships” for “bankruptcy and receiverships” in par. (1) heading.

1976—Pub. L. 94-455, §1906(a)(51)(A), substituted “by reason of service in combat zone” for “by reason of war” in section catchline.

Subsec. (a). Pub. L. 94-455, §1906(a)(51)(B), (b)(13)(A), substituted “United States” for “States of the Union and the District of Columbia” in two places after “hospitalized outside the” and “hospitalization outside the”, and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-569 substituted “taxable year beginning” for “taxable year beginning more than 2 years after” in provisions preceding par. (1), substituted “after January 2, 1978” for “the date of the enactment of this subsection” in par. (1), and substituted “more than 2 years after the date designated” for “the date designated” in par. (2).

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

1975—Subsecs. (b) to (d). Pub. L. 93-597 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, §309(b), Dec. 18, 2015, 129 Stat. 3090, provided that: “The amendment made by this section [amending this section] shall apply to taxes assessed before, on, or after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-73, title IV, §403(c), Sept. 23, 2005, 119 Stat. 2027, provided that: “The amendment made by sub-

section (a) [amending this section] shall apply for any period for performing an act which has not expired before August 25, 2005.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-121, title I, §104(c), Nov. 11, 2003, 117 Stat. 1338, provided that: “The amendments made by this section [amending this section] shall apply to any period for performing an act which has not expired before the date of the enactment of this Act [Nov. 11, 2003].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as a note under section 6081 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-2, §1(d), Jan. 30, 1991, 105 Stat. 6, provided that: “The amendments made by this section [amending this section] shall take effect on August 2, 1990.”

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-597, §5(b), Jan. 2, 1975, 88 Stat. 1953, provided that: “The amendments made by subsection (a) [amending this section] shall apply to taxable years ending on or after February 28, 1961.”

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

EX. ORD. NO. 12750. DESIGNATION OF ARABIAN PENINSULA AREAS, AIRSPACE, AND ADJACENT WATERS AS PERSIAN GULF DESERT SHIELD AREA

Ex. Ord. No. 12750, Feb. 14, 1991, 56 F.R. 6785, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7508 of the Internal Revenue Code of 1986 (26 U.S.C. 7508), I hereby designate, for purposes of that section, the following locations, including the air space above such locations, as the Persian Gulf Desert Shield area in which any individual who performed Desert Shield services (including the spouse of such individual) is entitled to the benefits of section 7508 of the Internal Revenue Code of 1986:

- the Persian Gulf
- the Red Sea
- the Gulf of Oman
- that portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude

—the Gulf of Aden
 —the total land area of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.
 GEORGE BUSH.

§ 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions

(a) In general

In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(h)(3)(C)(i))¹ or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

(3) the amount of any credit or refund.

(b) Special rules regarding pensions, etc.

In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

(c) Special rules for overpayments

The rules of section 7508(b) shall apply for purposes of this section.

(Added Pub. L. 105-34, title IX, §911(a), Aug. 5, 1997, 111 Stat. 877; amended Pub. L. 107-16, title VIII, §802(a), June 7, 2001, 115 Stat. 149; Pub. L. 107-134, title I, §112(a), Jan. 23, 2002, 115 Stat. 2433; Pub. L. 110-343, div. C, title VII, §706(a)(2)(D)(vii), Oct. 3, 2008, 122 Stat. 3922.)

REFERENCES IN TEXT

Par. (3) of section 165(h), referred to in subsec. (a), was repealed by Pub. L. 113-295, div. A, title II, §221(a)(27)(A), Dec. 19, 2014, 128 Stat. 4040. However, the term “federally declared disaster” is defined elsewhere in section 165.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-343 substituted “federally declared disaster (as defined by section 165(h)(3)(C)(i))” for “Presidentially declared disaster (as defined in section 1033(h)(3))” in introductory provisions.

2002—Pub. L. 107-134 amended section catchline and text generally, substituting present provisions for provisions which had: in subsec. (a), authorized Secretary

to postpone certain tax-related deadlines by reason of presidentially declared disaster, and in subsec. (b), provided that subsec. (a) would not apply for the purpose of determining interest on any overpayment or underpayment.

2001—Subsec. (a). Pub. L. 107-16 substituted “120 days” for “90 days” in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to disasters declared in taxable years beginning after Dec. 31, 2007, see section 706(d)(1) of Pub. L. 110-343, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terroristic or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after Jan. 23, 2002, see section 112(f) of Pub. L. 107-134, set out as a note under section 6081 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title VIII, §802(b), June 7, 2001, 115 Stat. 149, provided that: “The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [June 7, 2001].”

EFFECTIVE DATE

Pub. L. 105-34, title IX, §911(c), Aug. 5, 1997, 111 Stat. 878, provided that: “The amendments made by this section [enacting this section] shall apply with respect to any period for performing an act that has not expired before the date of the enactment of this Act [Aug. 5, 1997].”

AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES

Pub. L. 106-170, title V, §522, Dec. 17, 1999, 113 Stat. 1927, provided that:

“(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary’s delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor; and

“(2) the amount of any credit or refund.

“(b) APPLICABILITY OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.”

ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS

Pub. L. 105-34, title IX, §915, Aug. 5, 1997, 111 Stat. 879, as amended by Pub. L. 105-277, div. J, title IV, §4003(e)(1), Oct. 21, 1998, 112 Stat. 2681-909, provided that:

“(a) IN GENERAL.—If the Secretary of the Treasury extends for any period the time for filing income tax returns under section 6081 of the Internal Revenue Code of 1986 and the time for paying income tax with respect to such returns under section 6161 of such Code (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall, notwithstanding section 7508A(b) of such Code, abate for such period the assessment of any interest prescribed under section 6601 of such Code on such income tax.

¹ See References in Text note below.

“(b) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of subsection (a), the term ‘Presidentially declared disaster area’ means, with respect to any individual, any area which the President has determined during 1997 or 1998 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

“(c) INDIVIDUAL.—For purposes of this section, the term ‘individual’ shall not include any estate or trust.

“(d) EFFECTIVE DATE.—This section shall apply to disasters declared after December 31, 1996.”

§ 7509. Expenditures incurred by the United States Postal Service

The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the United States Postal Service in performing the duties, if any, imposed upon such Service with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary shall be authorized and directed to advance from time to time to the credit of the United States Postal Service, from appropriations made for the collection of the taxes imposed by chapter 21, such sums as may be required for such additional expenditures incurred by the United States Postal Service.

(Aug. 16, 1954, ch. 736, 68A Stat. 899; Pub. L. 94-455, title XIX, § 1906(a)(52), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1832, 1834.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in text, is act Aug. 16, 1954, ch. 736, §§ 3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§ 3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

AMENDMENTS

1976—Pub. L. 94-455 substituted “United States Postal Service” for “Post Office Department” in section catchline and wherever appearing in text, “such Service” for “such Department”, and struck out “, together with the receipts required to be deposited under section 6803(a),” after “Treasury of the United States” and “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 7510. Exemption from tax of domestic goods purchased for the United States

The privilege existing by provision of law on December 1, 1873, or thereafter of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, shall be extended, under such regulations as the Secretary may prescribe, to all articles of domestic production which are subject to tax by the provisions of this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 900; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

[§ 7511. Repealed. Pub. L. 87-456, title III, § 302(d), May 24, 1962, 76 Stat. 77]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 900, related to exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, title V, May 24, 1962, 76 Stat. 78.

§ 7512. Separate accounting for certain collected taxes, etc.

(a) General rule

Whenever any person who is required to collect, account for, and pay over any tax imposed by subtitle C or chapter 33—

(1) at the time and in the manner prescribed by law or regulations (A) fails to collect, truthfully account for, or pay over such tax, or (B) fails to make deposits, payments, or returns of such tax, and

(2) is notified, by notice delivered in hand to such person, of any such failure,

then all the requirements of subsection (b) shall be complied with. In the case of a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee, shall, for purposes of this section, be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(b) Requirements

Any person who is required to collect, account for, and pay over any tax imposed by subtitle C or chapter 33, if notice has been delivered to such person in accordance with subsection (a), shall collect the taxes imposed by subtitle C or chapter 33 which become collectible after delivery of such notice, shall (not later than the end of the second banking day after any amount of such taxes is collected) deposit such amount in a separate account in a bank (as defined in section 581), and shall keep the amount of such taxes in such account until payment over to the United States. Any such account shall be designated as a special fund in trust for the United States, payable to the United States by such person as trustee.

(c) Relief from further compliance with subsection (b)

Whenever the Secretary is satisfied, with respect to any notification made under subsection (a), that all requirements of law and regulations with respect to the taxes imposed by subtitle C or chapter 33, as the case may be, will henceforth be complied with, he may cancel such notification. Such cancellation shall take effect at such time as is specified in the notice of such cancellation.

(Added Pub. L. 85-321, § 1, Feb. 11, 1958, 72 Stat. 5; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-223, title I, § 101(c)(3), Apr. 2, 1980, 94 Stat. 251; Pub. L. 100-418, title I, § 1941(b)(2)(O), Aug. 23, 1988, 102 Stat. 1324.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418, §1941(b)(2)(O)(i), substituted “or chapter 33” for “, by chapter 33, or by section 4986” in introductory provisions.

Subsec. (b). Pub. L. 100-418, §1941(b)(2)(O)(i), (ii), substituted “or chapter 33” for “, by chapter 33, or by section 4986” and “or chapter 33” for “, chapter 33, or section 4986”.

Subsec. (c). Pub. L. 100-418, §1941(b)(2)(O)(ii), substituted “or chapter 33” for “, chapter 33, or section 4986”.

1980—Subsecs. (a) to (c). Pub. L. 96-223 inserted references to tax imposed by section 4986.

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

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

NOTIFICATION OF FAILURE TO COLLECT, ACCOUNT FOR, AND PAY OVER TAXES

Pub. L. 85-321, §4, Feb. 11, 1958, 72 Stat. 6, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Notification may be made under section 7512(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by the first section of this Act)—

“(1) in the case of taxes imposed by subtitle C of such Code, only with respect to pay periods beginning after the date of the enactment of this Act [Feb. 11, 1958]; and

“(2) in the case of taxes imposed by chapter 33 of such Code, only with respect to taxes so imposed after the date of the enactment of this Act [Feb. 11, 1958].”

§ 7513. Reproduction of returns and other documents

(a) In general

The Secretary is authorized to have any Federal agency or any person process films or other photoimpressions of any return, document, or other matter, and make reproductions from films or photoimpressions of any return, document, or other matter.

(b) Regulations

The Secretary shall prescribe regulations which shall provide such safeguards as in the opinion of the Secretary are necessary or appropriate to protect the film, photoimpressions, and reproductions made therefrom, against any unauthorized use, and to protect the information contained therein against any unauthorized disclosure.

(c) Penalty

For penalty for violation of regulations for safeguarding against unauthorized use of any film or photoimpression, or reproduction made therefrom, and against unauthorized disclosure of information contained therein, see section 7213.

(Added Pub. L. 85-866, title I, §90(a), Sept. 2, 1958, 72 Stat. 1666; amended Pub. L. 94-455, title XII, §1202(f), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1687, 1834.)

AMENDMENTS

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

Subsecs. (c), (d). Pub. L. 94-455, §1202(f), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to legal status and evidentiary use of reproductions.

EFFECTIVE DATE

Section effective Aug. 17, 1954, see section 1(c) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 165 of this title.

§ 7514. Authority to prescribe or modify seals

The Secretary is authorized to prescribe or modify seals of office for the district directors of internal revenue and other officers or employees of the Treasury Department to whom any of the functions of the Secretary of the Treasury shall have been or may be delegated. Each seal so prescribed shall contain such device as the Secretary may select. Each seal shall remain in the custody of any officer or employee whom the Secretary may designate, and, in accordance with the regulations approved by the Secretary, may be affixed in lieu of the seal of the Treasury Department to any certificate or attestation (except for material to be published in the Federal Register) that may be required of such officer or employee. Judicial notice shall be taken of any seal prescribed in accordance with this authority, a facsimile of which has been published in the Federal Register together with the regulations prescribing such seal and the affixation thereof.

(Added Pub. L. 85-866, title I, §91(a), Sept. 2, 1958, 72 Stat. 1667; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), (M), Oct. 4, 1976, 90 Stat. 1834, 1835.)

AMENDMENTS

1976—Pub. L. 94-455 substituted “functions of the Secretary of the Treasury” for “functions of the Secretary” after “whom any of the” and struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective Aug. 17, 1954, see section 1(c) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 165 of this title.

[§ 7515. Repealed. Pub. L. 94-455, title XII, § 1202(h)(4), Oct. 4, 1976, 90 Stat. 1688]

Section, added Pub. L. 87-870, §3(a)(1), Oct. 23, 1962, 76 Stat. 1160, authorized Secretary, within his discretion and upon written request, to make special statistical studies and compilations from any information received by compliance with this title, such studies were authorized to be made jointly with party or parties requesting them and transcripts to be made available to requesting party for a fee.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6103 of this title.

§ 7516. Supplying training and training aids on request

The Secretary is authorized within his discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, the District of Co-

lumbia, or any foreign government to training courses conducted by the Internal Revenue Service, and to supply them with texts and other training aids. The Secretary may require payment from the party or parties making the request of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to such request.

(Added Pub. L. 87-870, §3(a)(1), Oct. 23, 1962, 76 Stat. 1160; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7517. Furnishing on request of statement explaining estate or gift valuation

(a) General rule

If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination.

(b) Contents of statement

A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

- (1) explain the basis on which the valuation was determined or proposed,
- (2) set forth any computation used in arriving at such value, and
- (3) contain a copy of any expert appraisal made by or for the Secretary.

(c) Effect of statement

Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary.

(Added Pub. L. 94-455, title XX, §2008(a)(1), Oct. 4, 1976, 90 Stat. 1891.)

EFFECTIVE DATE

Pub. L. 94-455, title XX, §2008(d)(1), Oct. 4, 1976, 90 Stat. 1892, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsection (a) [enacting this section and amending sections 2031 and 2512 of this title]—

“(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 2001 et seq. of this title], shall apply to the estates of decedents dying after December 31, 1976, and

“(B) insofar as they relate to the tax imposed under chapter 12 of such Code [section 2501 et seq. of this title], shall apply to gifts made after December 31, 1976.”

§ 7518. Tax incentives relating to merchant marine capital construction funds

(a) Ceiling on deposits

(1) In general

The amount deposited in a fund established under chapter 535 of title 46 of the United States Code (hereinafter in this section referred to as a “capital construction fund”) shall not exceed for any taxable year the sum of:

(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

(B) the amount allowable as a deduction under section 167 for such year with respect to the agreement vessels,

(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from—

- (i) the sale or other disposition of any agreement vessel, or
- (ii) insurance or indemnity attributable to any agreement vessel, and

(D) the receipts from the investment or reinvestment of amounts held in such fund.

(2) Limitations on deposits by lessees

In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under chapter 535 of title 46, United States Code, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

(3) Certain barges and containers included

For purposes of paragraph (1), the term “agreement vessel” includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(b) Requirements as to investments

(1) In general

Amounts in any capital construction fund shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary.

(2) Limitation on fund investments

Amounts in any capital construction fund may be invested only in interest-bearing securities approved by the Secretary; except that, if such Secretary consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities

exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

(3) Investment in certain preferred stock permitted

For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(c) Nontaxability for deposits

(1) In general

For purposes of this title—

(A) taxable income (determined without regard to this section and chapter 535 of title 46, United States Code) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (a)(1)(A),

(B) gain from a transaction referred to in subsection (a)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

(D) the earnings and profits (within the meaning of section 316) of any corporation shall be determined without regard to this section and chapter 535 of title 46, United States Code, and

(E) in applying the tax imposed by section 531 (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Only qualified deposits eligible for treatment

Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(d) Establishment of accounts

For purposes of this section—

(1) In general

Within a capital construction fund 3 accounts shall be maintained:

- (A) the capital account,
- (B) the capital gain account, and
- (C) the ordinary income account.

(2) Capital account

The capital account shall consist of—

(A) amounts referred to in subsection (a)(1)(B),

(B) amounts referred to in subsection (a)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (c)(1)(B),

(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (c)(1)(C)) be allowed a deduction under section 243, and

(D) interest income exempt from taxation under section 103.

(3) Capital gain account

The capital gain account shall consist of—

(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

(B) amounts representing capital losses on assets held in the fund for more than 6 months.

(4) Ordinary income account

The ordinary income account shall consist of—

(A) amounts referred to in subsection (a)(1)(A),

(B)(i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

(D) ordinary income from a transaction described in subsection (a)(1)(C), and

(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

(5) Capital losses only allowed to offset certain gains

Except on termination of a capital construction fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(e) Purposes of qualified withdrawals

(1) In general

A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

(A) the acquisition, construction, or reconstruction of a qualified vessel,

(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

(2) Penalty for failing to fulfill any substantial obligation

Under joint regulations, if the Secretary determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(f) Tax treatment of qualified withdrawals

(1) Ordering rule

Any qualified withdrawal from a fund shall be treated—

- (A) first as made out of the capital account,
- (B) second as made out of the capital gain account, and
- (C) third as made out of the ordinary income account.

(2) Adjustment to basis of vessel, etc., where withdrawal from ordinary income account

If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(3) Adjustment to basis of vessel, etc., where withdrawal from capital gain account

If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(4) Adjustment to basis of vessels, etc., where withdrawals pay principal on debt

If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

(5) Ordinary income recapture of basis reduction

If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (g)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and re-

quirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

(g) Tax treatment of nonqualified withdrawals

(1) In general

Except as provided in subsection (h), any withdrawal from a capital construction fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(2) Ordering rule

Any nonqualified withdrawal from a fund shall be treated—

- (A) first as made out of the ordinary income account,
- (B) second as made out of the capital gain account, and
- (C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (f)(4), shall be treated as withdrawn on a last-in-first-out basis.

(3) Operating rules

For purposes of this title—

(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act, 1936, as in effect on December 31, 1969.

(4) Interest rate

For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified

withdrawal shall be determined and published jointly by the Secretary of the Treasury or his delegate and the applicable Secretary and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(5) Amount not withdrawn from fund after 25 years from deposit taxed as nonqualified withdrawal

(A) In general

The applicable percentage of any amount which remains in a capital construction fund at the close of the 26th, 27th, 28th, 29th, or 30th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the—	The applicable percentage is—
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent
29th taxable year	80 percent
30th taxable year	100 percent.

(B) Earnings treated as deposits

The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

(C) Amounts committed treated as withdrawn

For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

(D) Authority to treat excess funds as withdrawn

If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

(E) Amounts in fund on January 1, 1987

For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1987, shall be treated as deposited in such fund on such date.

(6) Nonqualified withdrawals taxed at highest marginal rate

(A) In general

In the case of any taxable year for which there is a nonqualified withdrawal (includ-

ing any amount so treated under paragraph (5)), the tax imposed by chapter 1 shall be determined—

(i) by excluding such withdrawal from gross income, and

(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation).

In the case of a taxpayer other than a corporation, with respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1(h) applies, the rate of tax taken into account under the preceding sentence shall not exceed 20 percent.

(B) Tax benefit rule

If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

(i) such portion shall not be taken into account under subparagraph (A), and

(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

(C) Coordination with deduction for net operating losses

Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2).

(h) Certain corporate reorganizations and changes in partnerships

Under joint regulations—

(1) a transfer of a fund from one person to another person in a transaction to which section 381 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

(2) a similar rule shall be applied in the case of a continuation of a partnership.

(i) Definitions

For purposes of this section, any term defined in section 607(k) of the Merchant Marine Act, 1936 which is also used in this section (including the definition of "Secretary") shall have the meaning given such term by such section 607(k) as in effect on the date of the enactment of this section.

(Added Pub. L. 99-514, title II, §261(b), Oct. 22, 1986, 100 Stat. 2208; amended Pub. L. 100-647, title I, §§1002(m)(1), 1018(u)(23), Nov. 10, 1988, 102 Stat. 3382, 3591; Pub. L. 101-508, title XI, §11101(d)(7)(A), Nov. 5, 1990, 104 Stat. 1388-405; Pub. L. 105-34, title III, §311(c)(2), Aug. 5, 1997, 111 Stat. 835; Pub. L. 108-27, title III, §301(a)(2)(D), May 28, 2003, 117 Stat. 758; Pub. L. 109-304, §17(e)(6), Oct. 6, 2006, 120 Stat. 1708; Pub. L. 112-240, title I, §102(c)(1)(D), Jan. 2, 2013, 126 Stat. 2319; Pub. L. 113-295, div. A, title II,

§ 221(a)(117), Dec. 19, 2014, 128 Stat. 4054; Pub. L. 115-97, title I, § 13001(b)(2)(Q), (7), Dec. 22, 2017, 131 Stat. 2097, 2098.)

REFERENCES IN TEXT

Section 606(5) of the Merchant Marine Act, 1936, as in effect on December 31, 1969, referred to in subsec. (g)(3)(C)(iii), was section 606(5) of act June 29, 1936, ch. 858, title VI, 49 Stat. 2004, as amended by acts June 23, 1938, ch. 600, § 22, 52 Stat. 960; July 17, 1952, ch. 939, § 16, 66 Stat. 764; and May 10, 1956, ch. 247, § 1, 70 Stat. 148, which was classified to section 1176(5) of former Title 46, Shipping, and was repealed by Pub. L. 91-469, § 20(4), Oct. 21, 1970, 84 Stat. 1026. Section 606 of the Merchant Marine Act, 1936 was subsequently transferred to section 1176 of the former Appendix to Title 46 and is now set out as a note under section 53101 of Title 46, Shipping.

Section 607(k) of the Merchant Marine Act, 1936, referred to in subsec. (i), was classified to section 1177(k) of the former Appendix to Title 46, Shipping, and was repealed and partially restated in section 53501 of Title 46, Shipping, by Pub. L. 109-304, §§ 8(c), 19, Oct. 6, 2006, 120 Stat. 1586, 1710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

The date of the enactment of this section, referred to in subsec. (i), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

AMENDMENTS

2017—Subsec. (g)(6)(A). Pub. L. 115-97, § 13001(b)(7), in concluding provisions, substituted “In the case of a taxpayer other than a corporation, with respect to the portion” for “With respect to the portion” and struck out “(34 percent in the case of a corporation)” after “shall not exceed 20 percent”.

Pub. L. 115-97, § 13001(b)(2)(Q), struck out “or 1201(a)” after “section 1(h)” in concluding provisions.

2014—Subsec. (g)(4). Pub. L. 113-295, which directed substitution of “any nonqualified withdrawal shall be determined” for “any nonqualified withdrawal” and all that followed through “shall be determined”, was executed by substituting “any nonqualified withdrawal shall be determined” for “any nonqualified withdrawal—

“(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

“(B) made in a taxable year beginning after 1971, shall be determined”

to reflect the probable intent of Congress.

2013—Subsec. (g)(6)(A). Pub. L. 112-240 substituted “20 percent” for “15 percent” in concluding provisions.

2006—Subsec. (a)(1). Pub. L. 109-304, § 17(e)(6)(A), substituted “chapter 535 of title 46 of the United States Code” for “section 607 of the Merchant Marine Act, 1936”.

Subsecs. (a)(2), (c)(1)(A), (D). Pub. L. 109-304, § 17(e)(6)(B), substituted “chapter 535 of title 46, United States Code” for “section 607 of the Merchant Marine Act, 1936”.

Subsec. (g)(3)(C)(iii). Pub. L. 109-304, § 17(e)(6)(C), substituted “Merchant Marine Act, 1936,” for “Merchant Marine Act of 1936”.

2003—Subsec. (g)(6)(A). Pub. L. 108-27 substituted “15 percent” for “20 percent” in concluding provisions.

1997—Subsec. (g)(6)(A). Pub. L. 105-34 substituted “20 percent” for “28 percent” in concluding provisions.

1990—Subsec. (g)(6)(A). Pub. L. 101-508 substituted “section 1(h)” for “section 1(j)” in last sentence.

1988—Subsec. (g)(1). Pub. L. 100-647, § 1018(u)(23), substituted “not a qualified withdrawal” for “not qualified withdrawal”.

Subsec. (g)(6)(A). Pub. L. 100-647, § 1002(m)(1), substituted “section 1(j)” for “section 1(i)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section

13001(c)(1) of Pub. L. 115-97, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2012, see section 102(d)(1) of Pub. L. 112-240, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable to taxable years ending on or after May 6, 2003, see section 301(d) of Pub. L. 108-27, set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years ending after May 6, 1997, see section 311(d) of Pub. L. 105-34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 99-514, title II, § 261(g), Oct. 22, 1986, 100 Stat. 2216, provided that: “The amendments made by this section [enacting this section and amending section 26 of this title and section 1177 of Title 46, Appendix, Shipping] shall apply to taxable years beginning after December 31, 1986.”

MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS

Pub. L. 99-514, title II, § 261(a), Oct. 22, 1986, 100 Stat. 2208, provided that: “The purpose of this section [enacting this section, amending section 26 of this title and section 1177 of Title 46, Appendix, and enacting provisions set out as a note above] is to coordinate the application of the Internal Revenue Code of 1986 with the capital construction program under the Merchant Marine Act, 1936 [see 46 U.S.C. 53501 et seq.]”

§ 7519. Required payments for entities electing not to have required taxable year

(a) General rule

This section applies to a partnership or S corporation for any taxable year, if—

(1) an election under section 444 is in effect for the taxable year, and

(2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds \$500.

(b) Required payment

For purposes of this section, the term “required payment” means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

(1) the excess of the product of—

(A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

(B) the net base year income of the entity, over

(2) the net required payment balance.

For purposes of paragraph (1)(A), the term “adjusted highest section 1 rate” means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

(c) Refund of payments

(1) In general

If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

(2) Termination of elections, etc.

If—

(A) an election under section 444 is terminated effective with respect to any year, or

(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

(3) Date on which refund payable

Any refund under this subsection shall be payable on the later of—

(A) April 15 of the calendar year following—

(i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

(ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or

(B) the day 90 days after the day on which claim therefor is filed with the Secretary.

(d) Net base year income

For purposes of this section—

(1) In general

An entity’s net base year income shall be equal to the sum of—

(A) the deferral ratio multiplied by the entity’s net income for the base year, plus

(B) the excess (if any) of—

(i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

(ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term “deferral ratio” means the ratio which the number of months in the deferral period of the base year bears to the number of months in the partnership’s or S corporation’s taxable year.

(2) Net income

Net income is determined by taking into account the aggregate amount of the following items—

(A) Partnerships

In the case of a partnership, net income shall be the amount (not below zero) deter-

mined by taking into account the aggregate amount of the partnership’s items described in section 702(a) (other than credits and tax-exempt income).

(B) S corporations

In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation’s items described in section 1366(a) (other than credits and tax-exempt income). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year (and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3)).

(C) Certain limitations disregarded

For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

(3) Applicable payments

(A) In general

The term “applicable payment” means amounts paid by a partnership or S corporation which are includible in gross income of a partner or shareholder.

(B) Exceptions

The term “applicable payment” shall not include any—

(i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and

(ii) dividend paid by the S corporation.

(4) Applicable percentage

The applicable percentage is the percentage determined in accordance with the following table:

If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

Notwithstanding the preceding provisions of this paragraph, the applicable percentage for any partnership or S corporation shall be 100 percent unless more than 50 percent of such entity’s net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.

(5) Treatment of guaranteed payments

(A) In general

Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of

the partnership shall be determined by not taking such guaranteed payment into account.

(B) Guaranteed payment

For purposes of subparagraph (A), the term “guaranteed payment” means any payment referred to in section 707(c).

(e) Other definitions and special rules

For purposes of this section—

(1) Deferral period

The term “deferral period” has the meaning given to such term by section 444(b)(4).

(2) Years

(A) Base year

The term “base year” means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

(B) Applicable election year

The term “applicable election year” means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

(3) Requirement of reporting

Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

(4) Net required payment balance

The term “net required payment balance” means the excess (if any) of—

(A) the aggregate of the required payments under this section for all preceding applicable election years, over

(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years.

(f) Administrative provisions

(1) In general

Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

(2) Due date

The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

(3) Interest

For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall be allowed with respect to any refund of a payment made under this section.

(4) Penalties

(A) In general

In the case of any failure by any person to pay on the date prescribed therefor any

amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term “underpayment” means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor. No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.

(B) Negligence and fraud penalties made applicable

For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

(C) Willful failure

If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

(1) 2 or more applicable election years begin in the same calendar year, or

(2) the base year is a taxable year of less than 12 months.

(Added Pub. L. 100-203, title X, §10206(b)(1), Dec. 22, 1987, 101 Stat. 1330-398; amended Pub. L. 100-647, title II, §2004(e)(4)-(10), (14)(B), Nov. 10, 1988, 102 Stat. 3601, 3602; Pub. L. 101-239, title VII, §§7721(c)(12), 7821(b), Dec. 19, 1989, 103 Stat. 2400, 2424; Pub. L. 101-508, title XI, §11704(a)(29), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 105-34, title XII, §1281(d), Aug. 5, 1997, 111 Stat. 1037.)

REFERENCES IN TEXT

Section 806(e)(2)(C) of the Tax Reform Act of 1986, referred to in subsec. (d)(4), is section 806(e)(2)(C) of Pub. L. 99-514, which is set out as a note under section 1378 of this title.

AMENDMENTS

1997—Subsec. (f)(4)(A). Pub. L. 105-34 inserted at end “No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.”

1990—Subsec. (c)(3). Pub. L. 101-508 substituted “payable on the later of” for “payable on later of”.

1989—Subsec. (d)(4). Pub. L. 101-239, §7821(b), struck out “for taxable years beginning after 1987,” before “the applicable percentage” and substituted “unless more than 50 percent” for “if more than 50 percent” and “who would have been entitled” for “who would not have been entitled”.

Subsec. (f)(4)(B). Pub. L. 101-239, §7721(c)(12), substituted “part II of subchapter A of chapter 68” for “section 6653”.

1988—Subsec. (b)(2). Pub. L. 100-647, §2004(e)(4)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the amount of the required payment for the preceding applicable election year.”

Subsec. (c). Pub. L. 100-647, §2004(e)(5), amended subsec. (c) generally. Prior to amendment, subsec. (c) read

as follows: “If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.”

Subsec. (d)(2)(A). Pub. L. 100-647, §2004(e)(10), substituted “(other than credits and tax-exempt income)” for “(other than credits)”.

Subsec. (d)(2)(B). Pub. L. 100-647, §2004(e)(7), (10), substituted “(other than credits and tax-exempt income)” for “(other than credits)” and inserted before period at end “(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))”.

Subsec. (d)(3)(A). Pub. L. 100-647, §2004(e)(14)(B), struck out “or incurred” after “amounts paid”.

Subsec. (d)(4). Pub. L. 100-647, §2004(e)(9), inserted at end “Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity’s net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.”

Subsec. (d)(5). Pub. L. 100-647, §2004(e)(8), added par. (5).

Subsec. (e)(4). Pub. L. 100-647, §2004(e)(4)(B), added par. (4).

Subsec. (g). Pub. L. 100-647, §2004(e)(6), substituted “including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

“(1) 2 or more applicable election years begin in the same calendar year, or

“(2) the base year is a taxable year of less than 12 months” for “including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Aug. 5, 1997, see section 1281(e) of Pub. L. 105-34, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(12) of Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

Pub. L. 101-239, title VII, §7821(b), Dec. 19, 1989, 103 Stat. 2424, provided that the amendment made by that section is effective with respect to taxable years beginning after 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Section applicable to applicable election years beginning after Dec. 31, 1986, see section 10206(d)(2) of Pub. L. 100-203, set out as a note under section 444 of this title.

§ 7520. Valuation tables

(a) General rule

For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

(1) under tables prescribed by the Secretary, and

(2) by using an interest rate (rounded to the nearest 2/10ths of 1 percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

If an income, estate, or gift tax charitable contribution is allowable for any part of the property transferred, the taxpayer may elect to use such Federal midterm rate for either of the 2 months preceding the month in which the valuation date falls for purposes of paragraph (2). In the case of transfers of more than 1 interest in the same property with respect to which the taxpayer may use the same rate under paragraph (2), the taxpayer shall use the same rate with respect to each such interest.

(b) Section not to apply for certain purposes

This section shall not apply for purposes of part I of subchapter D of chapter 1 or any other provision specified in regulations.

(c) Tables

(1) In general

The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

(2) Revision for recent mortality charges

The Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

(d) Valuation date

For purposes of this section, the term “valuation date” means the date as of which the valuation is made.

(e) Tables to include formulas

For purposes of this section, the term “tables” includes formulas.

(Added Pub. L. 100-647, title V, §5031(a), Nov. 10, 1988, 102 Stat. 3668; amended Pub. L. 113-295, div. A, title II, §221(a)(118), Dec. 19, 2014, 128 Stat. 4054.)

CODIFICATION

Another section 7520 was renumbered section 7521 of this title.

AMENDMENTS

2014—Subsec. (c)(2), (3). Pub. L. 113-295 redesignated par. (3) as (2), substituted “The Secretary” for “Not later than December 31, 1989, the Secretary” and struck out “thereafter” after “once each 10 years”, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 100-647, title V, §5031(c), Nov. 10, 1988, 102 Stat. 3669, provided that: “The amendments made by this section [enacting this section] shall apply in cases where the date as of which the valuation is to be made occurs on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act [Nov. 10, 1988].”

§ 7521. Procedures involving taxpayer interviews**(a) Recording of interviews****(1) Recording by taxpayer**

Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

(2) Recording by IRS officer or employee

An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

(A) informs the taxpayer of such recording prior to the interview, and

(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

(b) Safeguards**(1) Explanations of processes**

An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

(A) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

(B) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process.

(2) Right of consultation

If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

(c) Representatives holding power of attorney

Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not dis-

barred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

(d) Section not to apply to certain investigations

This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service.

(Added Pub. L. 100-647, title VI, §6228(a), Nov. 10, 1988, 102 Stat. 3731, §7520; renumbered §7521, Pub. L. 101-239, title VII, §7816(u)(1), Dec. 19, 1989, 103 Stat. 2423.)

CODIFICATION

Another section 7521 was renumbered section 7522 of this title.

EFFECTIVE DATE

Pub. L. 100-647, title VI, §6228(d), Nov. 10, 1988, 102 Stat. 3732, provided that: “The amendments made by subsections (a) and (c) [enacting this section] shall apply to interviews conducted on or after the date which is 90 days after the date of the enactment of this Act [Nov. 10, 1988].”

§ 7522. Content of tax due, deficiency, and other notices**(a) General rule**

Any notice to which this section applies shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice.

(b) Notices to which section applies

This section shall apply to—

(1) any tax due notice or deficiency notice described in section 6155, 6212, or 6303,

(2) any notice generated out of any information return matching program, and

(3) the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

(Added Pub. L. 100-647, title VI, §6233(a), Nov. 10, 1988, 102 Stat. 3735, §7521; renumbered §7522, Pub. L. 101-508, title XI, §11704(a)(30), Nov. 5, 1990, 104 Stat. 1388-519.)

EFFECTIVE DATE

Pub. L. 100-647, title VI, §6233(c), Nov. 10, 1988, 102 Stat. 3735, provided that: “The amendments made by this section [enacting this section] shall apply to mailings made on or after January 1, 1990.”

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

(a) General rule

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

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

(b) Definitions and special rules

For purposes of subsection (a)—

(1) Major outlay categories

The term “major outlay categories” means the following:

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

(2) Major income categories

The term “major income categories” means the following:

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

(3) Required footnotes

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

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

(4) Data on which graphs are based

The graphs required under subsection (a) shall be based on data for the most recent fiscal year for which complete data is available

as of the completion of the preparation of the instructions by the Secretary.

(Added Pub. L. 101-508, title XI, §11622(a), Nov. 5, 1990, 104 Stat. 1388-504; amended Pub. L. 104-193, title I, §110(l)(4), formerly §110(l)(8), Aug. 22, 1996, 110 Stat. 2173, renumbered Pub. L. 105-33, title V, §5514(a)(2), Aug. 5, 1997, 111 Stat. 620; Pub. L. 110-234, title IV, §4002(b)(1)(E), (2)(O), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(E), (2)(O), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

REFERENCES IN TEXT

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

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b)(3)(C). Pub. L. 110-246, §4002(b)(1)(E), (2)(O), substituted “supplemental nutrition assistance program benefits” for “food stamps”.

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

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(E), (2)(O) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 101-508, title XI, §11622(c), Nov. 5, 1990, 104 Stat. 1388-505, provided that: “The amendments made by this section [enacting this section] shall apply to instructions prepared for taxable years beginning after 1990.”

§ 7524. Annual notice of tax delinquency

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

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

EFFECTIVE DATE

Pub. L. 104-168, title XII, §1204(c), July 30, 1996, 110 Stat. 1471, provided that: “The amendments made by this section [enacting this section] shall apply to calendar years after 1996.”

§ 7525. Confidentiality privileges relating to taxpayer communications

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

(1) General rule

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

(2) Limitations

Paragraph (1) may only be asserted in—

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

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

(3) Definitions

For purposes of this subsection—

(A) Federally authorized tax practitioner

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

(B) Tax advice

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

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

The privilege under subsection (a) shall not apply to any written communication which is—

(1) between a federally authorized tax practitioner and—

(A) any person,

(B) any director, officer, employee, agent, or representative of the person, or

(C) any other person holding a capital or profits interest in the person, and

(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 6662(d)(2)(C)(ii)).

(Added Pub. L. 105-206, title III, §3411(a), July 22, 1998, 112 Stat. 750; amended Pub. L. 108-357, title VIII, §813(a), Oct. 22, 2004, 118 Stat. 1581.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-357 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The privilege under subsection (a) shall not apply to any written communication be-

tween a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)).”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §813(b), Oct. 22, 2004, 118 Stat. 1581, provided that: “The amendment made by this section [amending this section] shall apply to communications made on or after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE

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

§ 7526. Low-income taxpayer clinics

(a) In general

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

(b) Definitions

For purposes of this section—

(1) Qualified low-income taxpayer clinic

(A) In general

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

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

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

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

(B) Representation of low-income taxpayers

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

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

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

(2) Clinic

The term “clinic” includes—

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

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

(3) Qualified representative

The term “qualified representative” means any individual (whether or not an attorney)

who is authorized to practice before the Internal Revenue Service or the applicable court.

(c) Special rules and limitations

(1) Aggregate limitation

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

(2) Limitation on annual grants to a clinic

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

(3) Multi-year grants

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

(4) Criteria for awards

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

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

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

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

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

(5) Requirement of matching funds

A low-income taxpayer clinic must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

(A) the salary (including fringe benefits) of individuals performing services for the clinic; and

(B) the cost of equipment used in the clinic.

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

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

EFFECTIVE DATE

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

§ 7527. Advance payment of credit for health insurance costs of eligible individuals

(a) General rule

Not later than the date that is 1 year after the date of the enactment of the Trade Adjustment

Assistance Reauthorization Act of 2015, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 35(e)) for such individuals.

(b) Limitation on advance payments during any taxable year

The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made on behalf of any individual during the taxable year does not exceed 72.5 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

(c) Certified individual

For purposes of this section, the term “certified individual” means any individual for whom a qualified health insurance costs credit eligibility certificate is in effect.

(d) Qualified health insurance costs eligibility certificate

(1) In general

For purposes of this section, the term “qualified health insurance costs eligibility certificate” means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

(A) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

(B) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).

(2) Inclusion of certain information

In the case of any statement described in paragraph (1), such statement shall not be treated as a qualified health insurance costs credit eligibility certificate unless such statement includes—

(A) the name, address, and telephone number of the State office or offices responsible for providing the individual with assistance with enrollment in qualified health insurance (as defined in section 35(e)),

(B) a list of the coverage options that are treated as qualified health insurance (as so defined) by the State in which the individual resides, and

(C) in the case of a TAA-eligible individual (as defined in section 4980B(f)(5)(C)(iv)(II)), a statement informing the individual that the individual has 63 days from the date that is 7 days after the date of the issuance of such certificate to enroll in such insurance without a lapse in creditable coverage (as defined in section 9801(c)).

(e) Payment for premiums due prior to commencement of advance payments

(1) In general

The program established under subsection (a) shall provide that the Secretary shall make 1 or more retroactive payments on behalf of a certified individual in an aggregate amount equal to 72.5 percent of the premiums for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring—

(A) after the date that is 1 year after the date of the enactment of the Trade Adjustment Assistance Reauthorization Act of 2015; and

(B) prior to the first month for which an advance payment is made on behalf of such individual under subsection (a).

(2) Reduction of payment for amounts received under national emergency grants

The amount of any payment determined under paragraph (1) shall be reduced by the amount of any payment made to the taxpayer for the purchase of qualified health insurance under a national emergency grant pursuant to section 173(f) of the Workforce Investment Act of 1998 (as in effect on the day before the date of enactment of the Workforce Innovation and Opportunity Act) for a taxable year including the eligible coverage months described in paragraph (1).

(Added Pub. L. 107–210, div. A, title II, § 202(a), Aug. 6, 2002, 116 Stat. 960; amended Pub. L. 111–5, div. B, title I, §§ 1899A(a)(2), 1899B(a), 1899H(a), Feb. 17, 2009, 123 Stat. 424, 430; Pub. L. 111–344, title I, §§ 111(b), 112(a), 118(a), Dec. 29, 2010, 124 Stat. 3615, 3616; Pub. L. 112–40, title II, § 241(b)(2), Oct. 21, 2011, 125 Stat. 418; Pub. L. 113–128, title V, § 512(r), July 22, 2014, 128 Stat. 1712; Pub. L. 114–27, title IV, § 407(c), June 29, 2015, 129 Stat. 382.)

REFERENCES IN TEXT

The date of the enactment of the Trade Adjustment Assistance Reauthorization Act of 2015, referred to in subsecs. (a) and (e)(1)(A), is the date of enactment of title IV of Pub. L. 114–27, which was approved June 29, 2015.

Section 173(f) of the Workforce Investment Act of 1998, referred to in subsec. (e)(2), was classified to former section 2918(f) of Title 29, Labor, prior to repeal by Pub. L. 113–128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015.

The date of enactment of the Workforce Innovation and Opportunity Act, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 113–128, which was approved July 22, 2014.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–27, § 407(c)(1), substituted “the date that is 1 year after the date of the enactment of the Trade Adjustment Assistance Reauthorization Act of 2015” for “August 1, 2003”.

Subsec. (e)(1). Pub. L. 114–27, § 407(c)(2), substituted “occurring—” for “occurring prior to the first month for which an advance payment is made on behalf of such individual under subsection (a).” and added subpars. (A) and (B).

2014—Subsec. (e)(2). Pub. L. 113–128 inserted “(as in effect on the day before the date of enactment of the Workforce Innovation and Opportunity Act)” after “of 1998”.

2011—Subsec. (b). Pub. L. 112–40, § 241(b)(2)(A), substituted “72.5 percent” for “65 percent (80 percent in the case of eligible coverage months beginning before February 13, 2011)”.

Subsec. (d)(2). Pub. L. 112–40, § 241(b)(2)(B), struck out “which is issued before February 13, 2011” after “in paragraph (1)” in introductory provisions.

Subsec. (e). Pub. L. 112–40, § 241(b)(2)(D), struck out introductory provisions which read as follows: “In the case of eligible coverage months beginning before February 13, 2011—”.

Subsec. (e)(1). Pub. L. 112–40, § 241(b)(2)(C), substituted “72.5 percent” for “80 percent”.

2010—Subsec. (b). Pub. L. 111–344, § 111(b), substituted “February 13, 2011” for “January 1, 2011”.

Subsec. (d)(2). Pub. L. 111–344, § 118(a), substituted “February 13, 2011” for “January 1, 2011” in introductory provisions.

Subsec. (e). Pub. L. 111–344, § 112(a), substituted “February 13, 2011” for “January 1, 2011” in introductory provisions.

2009—Subsec. (b). Pub. L. 111–5, § 1899A(a)(2), inserted “(80 percent in the case of eligible coverage months beginning before January 1, 2011)” after “65 percent”.

Subsec. (d). Pub. L. 111–5, § 1899H(a), amended subsec. (d) generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘qualified health insurance costs credit eligibility certificate’ means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

“(1) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

“(2) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).”

Subsec. (e). Pub. L. 111–5, § 1899B(a), added subsec. (e).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–27 applicable to coverage months in taxable years beginning after Dec. 31, 2013, see section 407(f) of Pub. L. 114–27, set out as a note under section 35 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–40 applicable to coverage months beginning after Feb. 12, 2011, except that amendment by section 241(b)(2)(B) of Pub. L. 112–40 applicable to certificates issued after the date which is 30 days after Oct. 21, 2011, and amendment by section 241(b)(2)(D) of Pub. L. 112–40 applicable to coverage months beginning after the date which is 30 days after Oct. 21, 2011, see section 241(c) of Pub. L. 112–40, set out as a note under section 35 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 111(b) of Pub. L. 111–344 applicable to coverage months beginning after Dec. 31, 2010, see section 111(c) of Pub. L. 111–344, set out as a note under section 35 of this title.

Pub. L. 111–344, title I, § 112(b), Dec. 29, 2010, 124 Stat. 3615, provided that: “The amendment made by this section [amending this section] shall apply to coverage months beginning after December 31, 2010.”

Pub. L. 111–344, title I, § 118(b), Dec. 29, 2010, 124 Stat. 3616, provided that: “The amendment made by this section [amending this section] shall apply to certificates issued after December 31, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

Amendment by section 1899A(a)(2) of Pub. L. 111-5 applicable to coverage months beginning on or after the first day of the first month beginning 60 days after Feb. 17, 2009, see section 1899A(b) of Pub. L. 111-5, set out as a note under section 35 of this title.

Pub. L. 111-5, div. B, title I, §1899B(b), Feb. 17, 2009, 123 Stat. 424, provided that: “The amendments made by this section [amending this section] shall apply to coverage months beginning after December 31, 2008.”

Pub. L. 111-5, div. B, title I, §1899H(b), Feb. 17, 2009, 123 Stat. 431, provided that: “The amendment made by this section [amending this section] shall apply to certificates issued after the date that is 6 months after the date of the enactment of this Act [Feb. 17, 2009].”

CONSTRUCTION

Nothing in the amendments made by title II of Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating a new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a note under section 35 of this title.

TRANSITIONAL RULE

Pub. L. 111-5, div. B, title I, §1899B(c), Feb. 17, 2009, 123 Stat. 424, provided that: “The Secretary of the Treasury shall not be required to make any payments under section 7527(e) of the Internal Revenue Code of 1986, as added by this section, until after the date that is 6 months after the date of the enactment of this Act [Feb. 17, 2009].”

§ 7528. Internal Revenue Service user fees

(a) General rule

The Secretary shall establish a program requiring the payment of user fees for—

- (1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and
- (2) other similar requests.

(b) Program criteria

(1) In general

The fees charged under the program required by subsection (a)—

- (A) shall vary according to categories (or subcategories) established by the Secretary,
- (B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and
- (C) shall be payable in advance.

(2) Exemptions, etc.

(A) In general

The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

(B) Exemption for certain requests regarding pension plans

The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the

qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

- (i) made after the later of—

(I) the fifth plan year the pension benefit plan is in existence, or

(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

- (ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(C) Definitions and special rules

For purposes of subparagraph (B)—

(i) Pension benefit plan

The term “pension benefit plan” means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(ii) Eligible employer

The term “eligible employer” means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

(iii) Determination of average fees charged

For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

(3) Average fee requirement

The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion ...	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

(4) Certified professional employer organizations

The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall be an annual fee not to exceed \$1,000 per year.

(Added Pub. L. 108-89, title II, §202(a), Oct. 1, 2003, 117 Stat. 1132; amended Pub. L. 108-357, title VIII, §891(a), Oct. 22, 2004, 118 Stat. 1644; Pub. L. 110-28, title VIII, §8244, May 25, 2007, 121 Stat. 200; Pub. L. 113-295, div. B, title II, §206(f), Dec. 19, 2014, 128 Stat. 4071.)

AMENDMENTS

2014—Subsec. (b)(4). Pub. L. 113-295 added par. (4).

2007—Subsec. (c). Pub. L. 110-28 struck out heading and text of subsec. (c). Text read as follows: “No fee shall be imposed under this section with respect to requests made after September 30, 2014.”

2004—Subsec. (c). Pub. L. 108-357 substituted “September 30, 2014” for “December 31, 2004”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after Dec. 19, 2014, see section 206(g)(1) of Pub. L. 113-295, set out as a note under section 3302 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 891(b), Oct. 22, 2004, 118 Stat. 1644, provided that: “The amendment made by this section [amending this section] shall apply to requests after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-89, title II, § 202(d), Oct. 1, 2003, 117 Stat. 1133, provided that: “The amendments made by this section [enacting this section, enacting provisions set out as a note under this section, and repealing provisions set out as notes under section 7801 of this title] shall apply to requests made after the date of the enactment of this Act [Oct. 1, 2003].”

LIMITATIONS

Pub. L. 108-89, title II, § 202(c), Oct. 1, 2003, 117 Stat. 1133, provided that: “Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.”

CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter	Sec. ¹
A. Examination and inspection	7601
B. General powers and duties	7621
[C. Repealed.]	
D. Possessions	7651

AMENDMENTS

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

Subchapter A—Examination and Inspection

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

AMENDMENTS

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

¹ Section numbers editorially supplied.

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

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

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

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

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

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

§ 7601. Canvass of districts for taxable persons and objects

(a) General rule

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

(b) Penalties

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

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

AMENDMENTS

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

§ 7602. Examination of books and witnesses

(a) Authority to summon, etc.

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

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

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

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

(b) Purpose may include inquiry into offense

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

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

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

(2) Notice of specific contacts

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

(3) Exceptions

This subsection shall not apply—

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

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

(C) with respect to any pending criminal investigation.

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

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

(2) Justice Department referral in effect

For purposes of this subsection—

(A) In general

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

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

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

(B) Termination

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

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

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

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

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

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

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

(3) Taxable years, etc., treated separately

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

(e) Limitation on examination on unreported income

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

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

AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, § 333(b), Sept. 3, 1982, 96 Stat. 623, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 7603. Service of summons**(a) In general**

A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by the

Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) Service by mail to third-party recordkeepers

(1) In general

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

(2) Third-party recordkeeper

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

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

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

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

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

(E) any attorney,

(F) any accountant,

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

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

(I) any enrolled agent, and

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

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX,

§911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577; Pub. L. 105-206, title III, §§3413(c), 3416(a), July 22, 1998, 112 Stat. 754, 756; Pub. L. 106-554, §1(a)(7) [title III, §319(26)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648.)

AMENDMENTS

2000—Subsec. (b)(2)(A) to (G). Pub. L. 106-554 substituted a comma for semicolon at end.

1998—Subsec. (a). Pub. L. 105-206, §3416(a), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 105-206, §3416(a), added subsec. (b).

Subsec. (b)(2). Pub. L. 105-206, §3413(c), added subpar. (J) and concluding provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of

Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

§ 7604. Enforcement of summons

(a) Jurisdiction of district court

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

(b) Enforcement

Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States magistrate judge for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or magistrate judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States magistrate judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(c) Cross references

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

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

(2) Penalties

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

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), (6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted for “United States magistrate” and “magistrate”, respectively, wherever appearing in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “United States magistrate” and “magistrate” substituted for “United States commissioner” and “commissioner”, respectively, pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

§ 7605. Time and place of examination

(a) Time and place

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

(b) Restrictions on examination of taxpayer

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

(c) Cross reference

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

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462,

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1956 AMENDMENT

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

REGULATIONS

Pub. L. 100-647, title VI, §6228(b), Nov. 10, 1988, 102 Stat. 3732, provided that: "The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the 1986 Code (relating to time and place of examination) within 1 year after the date of the enactment of this Act [Nov. 10, 1988]."

§ 7606. Entry of premises for examination of taxable objects

(a) Entry during day

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

(b) Entry at night

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

(c) Penalties

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

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

AMENDMENTS

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

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

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

Another section 7607 was renumbered section 7613 of this title.

EFFECTIVE DATE OF REPEAL

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

§ 7608. Authority of internal revenue enforcement officers

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

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

(1) carry firearms;

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

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

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

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

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

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

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

(B) to make arrests without warrant for any offense against the United States relating to

the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and (C) to make seizures of property subject to forfeiture under the internal revenue laws.

(c) Rules relating to undercover operations

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

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

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

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

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

(II) sections 6301(a) and (b)(1)–(3) and 6306 of title 41, United States Code,

(III) chapter 45 of title 41, United States Code,

(IV) section 8141 of title 40, United States Code, and

(V) section 3901 of title 41, United States Code, and

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

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

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

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

(2) Liquidation of corporations and business entities

If a corporation or business entity established or acquired as part of an undercover op-

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

(3) Deposit of proceeds

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

(4) Audits

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

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

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

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

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

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

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

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

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

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

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

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

(5) Definitions

For purposes of paragraph (4)—

(A) Closed

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

- (i) all criminal proceedings (other than appeals) are concluded, or
- (ii) covert activities are concluded, whichever occurs later.

(B) Employees

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

(C) Undercover investigative operation

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

(Added Pub. L. 85-859, title II, §204(14), Sept. 2, 1958, 72 Stat. 1429; amended Pub. L. 87-863, §6(a), Oct. 23, 1962, 76 Stat. 1143; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-690, title VII, §7601(c)(1), (2), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101-508, title XI, §11704(a)(32), (33), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 104-168, title XII, §1205(b)-(c)(2), July 30, 1996, 110 Stat. 1471, 1472; Pub. L. 104-316, title I, §113, Oct. 19, 1996, 110 Stat. 3833; Pub. L. 105-206, title I, §1103(e)(4), July 22, 1998, 112 Stat. 710; Pub. L. 106-554, §1(a)(7) [title III, §303], Dec. 21, 2000, 114 Stat. 2763, 2763A-632; Pub. L. 107-217, §3(f), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 108-178, §4(e), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109-135, title III, §304, Dec. 21, 2005, 119 Stat. 2609; Pub. L. 109-432, div. A, title I, §121, Dec. 20, 2006, 120 Stat. 2944; Pub. L. 110-343, div. C, title IV, §401(a), Oct. 3, 2008, 122 Stat. 3875; Pub. L. 111-350, §5(f), Jan. 4, 2011, 124 Stat. 3848.)

PRIOR PROVISIONS

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

AMENDMENTS

2011—Subsec. (c)(1)(A)(i)(II). Pub. L. 111-350, §5(f)(1), substituted “sections 6301(a) and (b)(1)-(3) and 6306” for “sections 11(a) and 22”.

Subsec. (c)(1)(A)(i)(III). Pub. L. 111-350, §5(f)(2), substituted “chapter 45” for “section 255”.

Subsec. (c)(1)(A)(i)(V). Pub. L. 111-350, §5(f)(3), substituted “section 3901” for “section 254(a) and (c)”.

2008—Subsec. (c)(6). Pub. L. 110-343 struck out par. (6). Text read as follows: “The provisions of this subsection—

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

“(B) shall apply after the date of the enactment of this paragraph and before January 1, 2008.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2008.”

2006—Subsec. (c)(6). Pub. L. 109-432 substituted “2008” for “2007” in subpar. (B) and concluding provisions.

2005—Subsec. (c)(6). Pub. L. 109-135 substituted “January 1, 2007” for “January 1, 2006” in subpar. (B) and concluding provisions.

2003—Subsec. (c)(1)(A)(i)(IV). Pub. L. 108-178 substituted “title 40, United States Code” for “title 40”.

2002—Subsec. (c)(1)(A)(i)(IV). Pub. L. 107-217 substituted “section 8141 of title 40” for “section 34 of title 40, United States Code”.

2000—Subsec. (c)(6). Pub. L. 106-554 substituted “January 1, 2006” for “January 1, 2001” in subpar. (B) and concluding provisions.

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

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

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

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

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

“(i) in which—

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

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

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

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

Subsec. (c)(6). Pub. L. 104-168, §1205(b), added par. (6).

1990—Subsec. (c)(1)(B). Pub. L. 101-508, §11704(a)(32), struck out comma after “operations”.

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

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

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

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title IV, §401(b), Oct. 3, 2008, 122 Stat. 3875, provided that: “The amendment made by this section [amending this section] shall apply to operations conducted after the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XII, §1205(c)(3), July 30, 1996, 110 Stat. 1472, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-690, title VII, §7601(c)(3), Nov. 18, 1988, 102 Stat. 4507, as amended by Pub. L. 101-647, title XXXIII, §3301(a), Nov. 29, 1990, 104 Stat. 4917; Pub. L. 104-168, title XII, §1205(a), July 30, 1996, 110 Stat. 1471, provided

that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 18, 1988].”

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-863, §6(b), Oct. 23, 1962, 76 Stat. 1143, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of enactment of this Act [Oct. 23, 1962].”

EFFECTIVE DATE

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

§ 7609. Special procedures for third-party summonses

(a) Notice

(1) In general

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

(2) Sufficiency of notice

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

(3) Nature of summons

Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

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

(1) Intervention

Notwithstanding any other law or rule of law, any person who is entitled to notice of a

summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) Proceeding to quash

(A) In general

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

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

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

(C) Intervention; etc.

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

(c) Summons to which section applies

(1) In general

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

(2) Exceptions

This section shall not apply to any summons—

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

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

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

(D) issued in aid of the collection of—

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

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

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

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

(3) John Doe and certain other summonses

Subsection (a) shall not apply to any summons described in subsection (f) or (g).

(4) Records

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

(d) Restriction on examination of records

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

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

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

(e) Suspension of statute of limitations**(1) Subsection (b) action**

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

(2) Suspension after 6 months of service of summons

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

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

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

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

Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

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

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

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

(g) Special exception for certain summonses

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

(h) Jurisdiction of district court; etc.**(1) Jurisdiction**

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

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

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

(i) Duty of summoned party**(1) Recordkeeper must assemble records and be prepared to produce records**

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

(2) Secretary may give summoned party certificate

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

(3) Protection for summoned party who discloses

Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.

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

In the case of a summons described in subsection (f) with respect to which any period of

limitations has been suspended under subsection (e)(2), the summoned party shall provide notice of such suspension to any person described in subsection (f).

(j) Use of summons not required

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

(Added Pub. L. 94-455, title XII, §1205(a), Oct. 4, 1976, 90 Stat. 1699; amended Pub. L. 95-599, title V, §505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 95-600, title VII, §703(l)(4), Nov. 6, 1978, 92 Stat. 2943; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-248, title III, §311(b), 331(a)-(d), 332(a), Sept. 3, 1982, 96 Stat. 601, 620, 621; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title VII, §714(i), title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 962, 1007; Pub. L. 98-620, title IV, §402(28)(D), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 99-514, title VI, §656(a), title XV, §1561(a), (b), title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2299, 2761, 2778; Pub. L. 100-647, title I, §§1015(l)(1), (2), 1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3571, 3572, 3576, 3577; Pub. L. 104-168, title X, §1001(a), July 30, 1996, 110 Stat. 1467; Pub. L. 105-206, title III, §3415(a)-(c), July 22, 1998, 112 Stat. 755; Pub. L. 109-135, title IV, §408(a), Dec. 21, 2005, 119 Stat. 2635.)

PRIOR PROVISIONS

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

AMENDMENTS

2005—Subsec. (c)(2)(D) to (F). Pub. L. 109-135, §408(a)(1), inserted “or” at end of subpar. (D), substituted period for “; or” at end of subpar. (E), and struck out subpar. (F) which read as follows: “described in subsection (f) or (g).”

Subsec. (c)(3), (4). Pub. L. 109-135, §408(a)(2), added par. (3) and redesignated former par. (3) as (4).

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

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

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

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

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

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

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

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

“(E) any attorney;

“(F) any accountant;

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

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

“(I) any enrolled agent.”

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

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

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

“(C) described in subsection (f).”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (i)(4). Pub. L. 99-514, § 1561(b), added par. (4).

1984—Subsec. (c)(1). Pub. L. 98-369, § 714(i), substituted “7602(a)” for “7602”.

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

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

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

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

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

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

Subsec. (d). Pub. L. 97-248, § 331(b), substituted in par. (1) provision that, no examination of records be made before the close of the 23rd day after the notice of summons, for provision that the examination may not be made before the end of the former 14-day period allowed for notice to be given to the person summoned not to comply, and in par. (2) substituted “where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met,” for “when the requirements of subsection (b)(2) have been met,” and “of the court having jurisdiction of such proceeding or with the consent of the person beginning the

proceeding to quash” for “issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance”.

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

Subsec. (i). Pub. L. 97-248, § 332(a), added subsec. (i).

1980—Subsec. (c)(1). Pub. L. 96-223 substituted “6427(h)(2)” for “6427(g)(2)”.

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

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

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title IV, § 408(b), Dec. 21, 2005, 119 Stat. 2635, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 3415 of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105-206].”

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title X, § 1001(b), July 30, 1996, 110 Stat. 1468, provided that: “The amendment made by subsection (a) [amending this section] shall apply to summonses issued after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, § 1015(l)(3), Nov. 10, 1988, 102 Stat. 3572, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

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

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title VI, § 656(b), Oct. 22, 1986, 100 Stat. 2299, provided that: “The amendment made by subsection (a) [amending this section] shall apply to summonses served after the date of the enactment of this Act [Oct. 22, 1986].”

Pub. L. 99-514, title XV, § 1561(c), Oct. 22, 1986, 100 Stat. 2761, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

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

EFFECTIVE DATE OF 1984 AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §311(c)(2), Sept. 3, 1982, 96 Stat. 601, provided that: "The amendments made by subsection (b) [amending this section] shall apply to summonses served after December 31, 1982."

Pub. L. 97-248, title III, §331(e), Sept. 3, 1982, 96 Stat. 621, provided that: "The amendments made by this section [amending this section] shall apply to summonses served after December 31, 1982."

Pub. L. 97-248, title III, §332(b), Sept. 3, 1982, 96 Stat. 622, provided that: "The amendment made by subsection (a) [amending this section] shall apply to summonses served after December 31, 1982."

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENTS

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

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

EFFECTIVE DATE

Pub. L. 94-455, title XII, §1205(c), Oct. 4, 1976, 90 Stat. 1703, as amended by Pub. L. 94-528, §2(b), Oct. 17, 1976, 90 Stat. 2483, provided that: "The amendments made by this section [enacting this section and section 7610 of this title] shall apply with respect to any summons issued after February 28, 1977."

§ 7610. Fees and costs for witnesses

(a) In general

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

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

(b) Exceptions

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

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

(c) Summons to which section applies

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

(Added Pub. L. 94-455, title XII, §1205(a), Oct. 4, 1976, 90 Stat. 1699; amended Pub. L. 95-599, title V, §505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

AMENDMENTS

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

§ 7611. Restrictions on church tax inquiries and examinations

(a) Restrictions on inquiries

(1) In general

The Secretary may begin a church tax inquiry only if—

(A) the reasonable belief requirements of paragraph (2), and

(B) the notice requirements of paragraph (3), have been met.

(2) Reasonable belief requirements

The requirements of this paragraph are met with respect to any church tax inquiry if an appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

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

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

(3) Inquiry notice requirements

(A) In general

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

(B) Contents of inquiry notice

The notice required by this paragraph shall include—

(i) an explanation of—

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

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

(ii) a general explanation of the applicable—

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

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

(b) Restrictions on examinations

(1) In general

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

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

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

(2) Notice of examination; opportunity for conference

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

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

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

(3) Contents of examination notice, et cetera

(A) In general

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

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

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

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

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

(B) Earliest day examination notice may be provided

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

(C) Opinion of regional counsel with respect to examination

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

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

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

(c) Limitation on period of inquiries and examinations

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

(A) In general

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

(B) Inquiries not followed by examinations

In the case of a church tax inquiry with respect to which there is no examination notice under subsection (b), the Secretary shall

complete such inquiry (and make a final determination with respect thereto) not later than the date which is 90 days after the inquiry notice date.

(2) Suspension of 2-year period

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

(A) for any period during which—

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

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

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

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

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

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

(1) In general

The Secretary may—

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

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

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

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

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

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

(2) Limitations on period of assessment

(A) Revocation of tax-exempt status

(i) 3-year statute of limitations generally

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

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

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

(B) Unrelated business tax

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

(C) Exception where shorter statute of limitations otherwise applicable

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

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

(1) In general

If there has not been substantial compliance with—

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

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

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

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

(2) Remedy to be exclusive

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

(f) Limitations on additional inquiries and examinations

(1) In general

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

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

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

no other church tax inquiry or examination may begin with respect to such church during

the applicable 5-year period unless such inquiry or examination is approved in writing by the Secretary or does not involve the same or similar issues involved in the preceding inquiry or examination. For purposes of the preceding sentence, an inquiry or examination shall be treated as completed not later than the expiration of the applicable period under paragraph (1) of subsection (c).

(2) Applicable 5-year period

For purposes of paragraph (1), the term “applicable 5-year period” means the 5-year period beginning on the date the notice taken into account for purposes of subsection (c)(1) was provided. For purposes of the preceding sentence, the rules of subsection (c)(2) shall apply.

(g) Treatment of final report of revenue agent

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

(h) Definitions

For purposes of this section—

(1) Church

The term “church” includes—

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

(2) Church tax inquiry

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

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

(3) Church tax examination

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

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

(4) Church records

(A) In general

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

(B) Exception

Such term shall not include records acquired—

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

(5) Inquiry notice date

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

(6) Examination notice date

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

(7) Appropriate high-level Treasury official

The term “appropriate high-level Treasury official” means the Secretary of the Treasury or any delegate of the Secretary whose rank is no lower than that of a principal Internal Revenue officer for an internal revenue region.

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

This section shall not apply to—

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

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

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L.

100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 98-369, div. A, title X, §1033(d), July 18, 1984, 98 Stat. 1039, provided that: "The amendments made by this section [enacting this section and amending sections 7428 and 7605 of this title] shall apply with respect to inquiries and examinations beginning after December 31, 1984."

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 7612. Special procedures for summonses for computer software

(a) General rule

For purposes of this title—

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

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

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

(1) In general

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

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

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

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

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

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

(2) Exceptions

Subsection (a)(1) shall not apply to—

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

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

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

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

(3) Cooperation required

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

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

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

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

(4) Right to contest summons

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

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

(1) Entry of protective order

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

(2) Protection of software

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

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

(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all in-

individuals who will analyze or otherwise have access to the software;

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

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

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

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

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

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

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

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

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

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

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

(d) Definitions

For purposes of this section—

(1) Software

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

(2) Computer software source code

The term “computer software source code” means—

(A) the code written by a programmer using a programming language which is

comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer;

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

(C) related customer communications.

(3) Computer software executable code

The term “computer software executable code” means—

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

(B) any related user manuals.

(4) Owner

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

(5) Related person

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

(6) Tax-related computer software source code

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

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

PRIOR PROVISIONS

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

EFFECTIVE DATE

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

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

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

§ 7613. Cross references

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

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

(1) Wagering, see section 4423.

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

(b) Search warrants

For provisions relating to—

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

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

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

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

AMENDMENTS

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

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

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

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

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

SAVINGS PROVISION

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

Subchapter B—General Powers and Duties

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

AMENDMENTS

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

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

§ 7621. Internal revenue districts

(a) Establishment and alteration

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

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

(b) Boundaries

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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1959 AMENDMENT

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

DELEGATION OF FUNCTIONS

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

§ 7622. Authority to administer oaths and certify

(a) Internal revenue personnel

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

(b) Others

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

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

AMENDMENTS

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

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

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

(a) In general

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

- (1) detecting underpayments of tax, or

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

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

(b) Awards to whistleblowers

(1) In general

If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

(2) Award in case of less substantial contribution

(A) In general

In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

(B) Nonapplication of paragraph where individual is original source of information

Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

(3) Reduction in or denial of award

If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preced-

ing sentence, the Whistleblower Office shall deny any award.

(4) Appeal of award determination

Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

(5) Application of this subsection

This subsection shall apply with respect to any action—

(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds \$200,000 for any taxable year subject to such action, and

(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$2,000,000.

(6) Additional rules

(A) No contract necessary

No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

(B) Representation

Any individual described in paragraph (1) or (2) may be represented by counsel.

(C) Submission of information

No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.

(Aug. 16, 1954, ch. 736, 68A Stat. 904; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 104-168, title XII, §1209(a), July 30, 1996, 110 Stat. 1473; Pub. L. 109-432, div. A, title IV, §406(a)(1), Dec. 20, 2006, 120 Stat. 2958.)

AMENDMENTS

2006—Pub. L. 109-432 designated existing provisions as subsec. (a), inserted heading, in par. (1), substituted “or” for “and” at end, in concluding provisions, struck out “(other than interest)” after “amounts”, and added subsec. (b).

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

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

EFFECTIVE DATE OF 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.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XII, §1209(c), July 30, 1996, 110 Stat. 1474, provided that: “The amendments made by this section [amending this section] shall take effect on the date which is 6 months after the date of the enactment of this Act [July 30, 1996].”

WHISTLEBLOWER OFFICE

Pub. L. 109-432, div. A, title IV, § 406(b), Dec. 20, 2006, 120 Stat. 2959, provided that:

“(1) IN GENERAL.—Not later than the date which is 12 months after the date of the enactment of this Act [Dec. 20, 2006], the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the ‘Whistleblower Office’ which—

“(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,

“(B) shall analyze information received from any individual described in section 7623(b) of the Internal Revenue Code of 1986 and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office, and

“(C) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.

“(2) REQUEST FOR ASSISTANCE.—The guidance issued under paragraph (1) shall specify that any assistance requested under paragraph (1)(C) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under paragraph (1)(A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.”

REPORT BY SECRETARY

Pub. L. 109-432, div. A, title IV, § 406(c), Dec. 20, 2006, 120 Stat. 2960, provided that: “The Secretary of the Treasury shall each year conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986, including—

“(1) an analysis of the use of such section during the preceding year and the results of such use, and

“(2) any legislative or administrative recommendations regarding the provisions of such section and its application.”

STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENTS AND FRAUD

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

“(1) an analysis of the present use of such section and the results of such use; and

“(2) any legislative or administrative recommendations regarding the provisions of such section and its application.”

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

Pub. L. 104-168, title XII, § 1209(d), July 30, 1996, 110 Stat. 1474, provided that: “The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.”

§ 7624. Reimbursement to State and local law enforcement agencies**(a) Authorization of reimbursement**

Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes

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

(b) Records; 10 percent limitation

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

(c) No reimbursement where duplicative

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

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

EFFECTIVE DATE

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

REGULATIONS

Pub. L. 100-690, title VII, § 7602(g), Nov. 18, 1988, 102 Stat. 4508, provided that: “The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this Act [Nov. 18, 1988], prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section [enacting section 7624 of this title, amending sections 6103 and 7809 of this title, and enacting provisions set out as notes under sections 6103 and 7809 of this title], including regulations relating to the definition of information which substantially contributes to the recovery of Federal taxes and the substantiation of expenses required in order to receive a reimbursement.”

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

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

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

Subchapter D—Possessions

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

AMENDMENTS

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

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

§ 7651. Administration and collection of taxes in possessions

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

(1) Applicability of administrative provisions

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

(2) Tax imposed in possession

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

(A) Internal revenue collections

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

(B) Applicable laws

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

(3) Other laws relating to possessions

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

(4) Virgin Islands

(A) For purposes of this section, the reference in section 28(a) of the Revised Organic

Act of the Virgin Islands to “any tax specified in section 3811 of the Internal Revenue Code” shall be deemed to refer to any tax imposed by chapter 2 or by chapter 21.

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

(Aug. 16, 1954, ch. 736, 68A Stat. 906; Pub. L. 91-513, title III, §1102(j), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §130(c), title VIII, §801(d)(9), July 18, 1984, 98 Stat. 661, 997; Pub. L. 99-514, title XII, §1275(b), Oct. 22, 1986, 100 Stat. 2598; Pub. L. 110-172, §11(a)(34)(B), Dec. 29, 2007, 121 Stat. 2487.)

REFERENCES IN TEXT

Section 28(a) of the Revised Organic Act of the Virgin Islands, referred to in introductory provisions and par. (4), is classified to section 1642 of Title 48, Territories and Insular Possessions.

Section 30 of the Organic Act of Guam, referred to in introductory provisions, is classified to section 1421h of Title 48.

AMENDMENTS

2007—Pars. (4), (5). Pub. L. 110-172 redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: “For purposes of this section, the term ‘possession of the United States’ includes the Canal Zone.”

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

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

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

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

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

Amendment by section 801(d)(9) of Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effect-

tive Date note under section 951 of Title 21, Food and Drugs.

SAVINGS PROVISION

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

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

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

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

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

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

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

§ 7652. Shipments to the United States

(a) Puerto Rico

(1) Rate of tax

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

(2) Payment of tax

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

(3) Deposit of internal revenue collections

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

(b) Virgin Islands

(1) Taxes imposed in the United States

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

(2) Exemption from tax imposed in the Virgin Islands

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

(3) Disposition of internal revenue collections

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

(A) The payment of an estimated amount shall be made to the government of the Virgin Islands before the commencement of each fiscal year as set forth in section 4(c)(2) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (48 U.S.C. 1645), as in effect on the date of the enactment of the Trade and Development Act of 2000. The payment so made shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine.

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

If at the end of any fiscal year the total of the Federal contribution made under subparagraph (A) with respect to the four calendar quarters immediately preceding the beginning of that fiscal year has not been obligated or expended for an approved purpose, the balance shall continue available for expenditure during any succeeding fiscal year, but only for emergency relief purposes and essential public projects. The aggregate amount of moneys available for expenditure for emergency relief purposes and essential public projects only shall not exceed the sum of \$5,000,000 at the end of any fiscal year. Any unobligated or unexpended balance of the Federal contribution remaining at the end of a fiscal year which would cause the moneys available for emergency relief purposes and essential public projects only to exceed the sum of \$5,000,000 shall thereupon be transferred and paid over to

the Treasury of the United States as miscellaneous receipts.

(c) Articles containing distilled spirits

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

(d) Articles other than articles containing distilled spirits

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

(1) Value added requirement for Puerto Rico

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

(A) the cost or value of the materials produced in Puerto Rico, plus

(B) the direct costs of processing operations performed in Puerto Rico,

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

(2) Prohibition of Federal excise tax subsidies

(A) In general

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

(B) Federal excise tax subsidy

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

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

(3) Direct costs of processing operations

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

(e) Shipments of rum to the United States

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

All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

(2) Secretary prescribes formula

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

(3) Rum defined

For purposes of this subsection, the term “rum” means any article classified under sub-

heading 2208.40.00 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

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

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

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

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

(1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2017), or

(2) the tax imposed under subsection (a)(1) of section 5001, determined as if subsection (c)(1) of such section did not apply, on each proof gallon.

(g) Drawback for medicinal alcohol, etc.

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

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

(A) the use and tax determination described in section 5111 had occurred in the United States by a United States person at the time the article is brought into the United States, and

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

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

(h) Manner of cover over of tax must be derived from this title

No amount shall be covered into the treasury of Puerto Rico or the Virgin Islands with respect to taxes for which cover over is provided under this section unless made in the manner specified in this section without regard to—

(1) any provision of law which is not contained in this title or in a revenue Act; and

(2) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

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

1994, 108 Stat. 4841; Pub. L. 106-170, title V, §512(a), Dec. 17, 1999, 113 Stat. 1924; Pub. L. 106-200, title VI, §602(b), (c), May 18, 2000, 114 Stat. 305, 306; Pub. L. 107-147, title VI, §609(a), Mar. 9, 2002, 116 Stat. 60; Pub. L. 108-311, title III, §305(a), Oct. 4, 2004, 118 Stat. 1179; Pub. L. 109-59, title XI, §11125(b)(22), Aug. 10, 2005, 119 Stat. 1957; Pub. L. 109-432, div. A, title I, §114(a), Dec. 20, 2006, 120 Stat. 2940; Pub. L. 110-343, div. C, title III, §308(a), Oct. 3, 2008, 122 Stat. 3869; Pub. L. 111-312, title VII, §755(a), Dec. 17, 2010, 124 Stat. 3322; Pub. L. 112-240, title III, §329(a), Jan. 2, 2013, 126 Stat. 2335; Pub. L. 113-295, div. A, title I, §140(a), Dec. 19, 2014, 128 Stat. 4020; Pub. L. 114-113, div. Q, title I, §172(a), Dec. 18, 2015, 129 Stat. 3071; Pub. L. 115-97, title I, §13807(b), Dec. 22, 2017, 131 Stat. 2176.)

REFERENCES IN TEXT

The date of the enactment of the Trade and Development Act of 2000, referred to in subsec. (b)(3)(A), is the date of enactment of Pub. L. 106-200, which was approved May 18, 2000.

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

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

AMENDMENTS

2017—Subsec. (f)(2). Pub. L. 115-97 substituted “subsection (a)(1) of section 5001, determined as if subsection (c)(1) of such section did not apply” for “section 5001(a)(1)”.

2015—Subsec. (f)(1). Pub. L. 114-113 substituted “January 1, 2017” for “January 1, 2015”.

2014—Subsec. (f)(1). Pub. L. 113-295 substituted “January 1, 2015” for “January 1, 2014”.

2013—Subsec. (f)(1). Pub. L. 112-240 substituted “January 1, 2014” for “January 1, 2012”.

2010—Subsec. (f)(1). Pub. L. 111-312 substituted “January 1, 2012” for “January 1, 2010”.

2008—Subsec. (f)(1). Pub. L. 110-343 substituted “January 1, 2010” for “January 1, 2008”.

2006—Subsec. (f)(1). Pub. L. 109-432 substituted “2008” for “2006”.

2005—Subsec. (g)(1). Pub. L. 109-59, §11125(b)(22)(A), substituted “subpart B” for “subpart F” in introductory provisions.

Subsec. (g)(1)(A). Pub. L. 109-59, §11125(b)(22)(B), substituted “section 5111” for “section 5131(a)”.

2004—Subsec. (f)(1). Pub. L. 108-311 substituted “January 1, 2006” for “January 1, 2004”.

2002—Subsec. (f)(1). Pub. L. 107-147 substituted “January 1, 2004” for “January 1, 2002”.

2000—Subsec. (b)(3). Pub. L. 106-200, §602(b), amended generally par. (3) heading and text of par. (3) introductory provisions and subpar. (A). Prior to amendment, text of par. (3) introductory provisions and subpar. (A) read as follows: “Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States. The amount so determined less 1 percent and less the estimated amount of refunds or credits shall be subject to disposition as follows:

“(A) There shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands.

The moneys so transferred and paid over shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine.”

Subsec. (h). Pub. L. 106-200, §602(c), added subsec. (h). 1999—Subsec. (f)(1). Pub. L. 106-170 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “\$10.50 (\$11.30 in the case of distilled spirits brought into the United States during the 5-year period beginning on October 1, 1993), or.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to distilled spirits removed after Dec. 31, 2017, see section 13807(d) of Pub. L. 115-97, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title I, § 172(b), Dec. 18, 2015, 129 Stat. 3071, provided that: “The amendment made by this section [amending this section] shall apply to distilled spirits brought into the United States after December 31, 2014.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title I, § 140(b), Dec. 19, 2014, 128 Stat. 4020, provided that: “The amendment made by this section [amending this section] shall apply to distilled spirits brought into the United States after December 31, 2013.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title III, § 329(b), Jan. 2, 2013, 126 Stat. 2335, provided that: “The amendment made by this section [amending this section] shall apply to distilled spirits brought into the United States after December 31, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, § 755(b), Dec. 17, 2010, 124 Stat. 3322, provided that: “The amendment made by this section [amending this section] shall apply to distilled spirits brought into the United States after December 31, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title III, § 308(b), Oct. 3, 2008, 122 Stat. 3869, provided that: “The amendment made by this section [amending this section] shall apply to distilled spirits brought into the United States after December 31, 2007.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, § 114(b), Dec. 20, 2006, 120 Stat. 2940, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles brought into the United States after December 31, 2005.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109-59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, § 305(b), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendment made by this section [amending this section] shall apply to articles brought into the United States after December 31, 2003.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title VI, § 609(b), Mar. 9, 2002, 116 Stat. 60, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles brought into the United States after December 31, 2001.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-200, title VI, § 602(d), May 18, 2000, 114 Stat. 306, provided that: “The amendments made by this section [amending this section and provisions set out as a note under this section] shall apply with respect to transfers or payments made after the date of the enactment of this Act [May 18, 2000].”

EFFECTIVE DATE OF 1999 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XVIII, § 1879(i)(2), Oct. 22, 1986, 100 Stat. 2907, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to articles brought into the United States after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title VI, § 2681(b), July 18, 1984, 98 Stat. 1173, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall apply with respect to articles brought into the United States on or after March 1, 1984.

“(2) EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JANUARY 1, 1985.—

“(A) IN GENERAL.—Subject to the limitations of subparagraphs (B) and (C), the amendments made by subsection (a) [amending this section] shall not apply with respect to articles containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

“(B) \$130,000,000 LIMITATION.—In the case of such articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

“(i) \$130,000,000, over

“(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to such articles which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c) of such Code.

“(C) \$75,000,000 LIMITATION.—The aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed \$75,000,000 in the case of articles—

“(i) brought into the United States after June 30, 1984, and before January 1, 1985,

“(ii) which would not meet the requirements of section 7652(c) of such Code,

“(iii) which have been redistilled in Puerto Rico, and

“(iv) which do not contain distilled spirits derived from cane.

“(3) LIMITATION ON INCENTIVE PAYMENTS TO UNITED STATES DISTILLERS.—

“(A) IN GENERAL.—In the case of articles to which this paragraph applies, the aggregate amount of incentive payments paid to any United States distiller with respect to such articles shall not exceed the limitation described in subparagraph (C).

“(B) ARTICLES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any article containing distilled spirits described in clauses (i) through (iv) of paragraph (2)(C).

“(C) LIMITATION.—

“(i) IN GENERAL.—The limitation described in this subparagraph is \$1,500,000.

“(ii) SPECIAL RULE.—The limitation described in this subparagraph shall be zero with respect to any distiller who was not entitled to or receiving incentive payments as of March 1, 1984.

“(D) PAYMENTS IN EXCESS OF LIMITATION.—If any United States distiller receives any incentive pay-

ment with respect to articles to which this paragraph applies in excess of the limitation described in subparagraph (C), such distiller shall pay to the United States the total amount of such incentive payments with respect to such articles in the same manner, and subject to the same penalties, as if such amount were tax due and payable under section 5001 of such Code on the date such payments were received.

“(E) INCENTIVE PAYMENTS.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘incentive payment’ means any payment made directly or indirectly by the commonwealth of Puerto Rico to any United States distiller as an incentive to engage in redistillation operations.

“(ii) TRANSPORTATION PAYMENTS EXCLUDED.—Such term shall not include any payment of a direct cost of transportation to or from Puerto Rico with respect to any article to which this paragraph applies.”

Pub. L. 98-369, div. B, title VI, §2682(b), July 18, 1984, 98 Stat. 1175, provided that “The amendment made by this section [amending this section] shall apply to articles containing distilled spirits brought into the United States after September 30, 1985.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-67, title II, §221(b), Aug. 5, 1983, 97 Stat. 395, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles imported into the United States after June 30, 1983.”

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-202, §10(b), Jan. 2, 1976, 89 Stat. 1141, provided that: “The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 808(d)(1) of Pub. L. 89-44, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

SPECIAL COVER OVER TRANSFER RULES

Pub. L. 106-170, title V, §512(b), Dec. 17, 1999, 113 Stat. 1924, as amended by Pub. L. 106-200, §602(a), May 18, 2000, 114 Stat. 305, provided that: “Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before the first day of the month within which the date of the enactment of the Trade and Development Act of 2000 [May 18, 2000] occurs, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a) [amending this section]:

“(1) INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.—The Secretary of the Treasury shall, within 15 days after the date of the enactment of this Act [Dec. 17, 1999], transfer an amount equal to the lesser of—

“(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the date of the enactment of this Act; or

“(B) \$20,000,000.

“(2) SECOND TRANSFER OF INCREMENTAL INCREASE IN COVER OVER ATTRIBUTABLE TO PERIODS BEFORE RESUMPTION OF REGULAR PAYMENTS.—The Secretary of the Treasury shall transfer on the first payment date

after the date of the enactment of the Trade and Development Act of 2000 [May 18, 2000] an amount equal to the excess of—

“(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the first day of the month within which such date of enactment occurs, over

“(B) the amount of the transfer described in paragraph (1).”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

PAYMENT TO PUERTO RICO OR VIRGIN ISLANDS OF AMOUNTS WITH RESPECT TO MEDICINES, ETC. UNFIT FOR BEVERAGE PURPOSES

Pub. L. 99-514, title XVIII, §1879(i)(3), Oct. 22, 1986, 100 Stat. 2907, provided that:

“(A) Section 7652 of the Internal Revenue Code of 1954 [now 1986] (other than subsection (f) thereof) shall not prevent the payment to Puerto Rico or the Virgin Islands of amounts with respect to medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands on or before the date of the enactment of this Act [Oct. 22, 1986].

“(B) With respect to articles brought into the United States after September 27, 1985, subparagraph (A) shall apply only if the Secretary of the Treasury or his delegate is satisfied that the amounts paid to Puerto Rico or the Virgin Islands under subparagraph (A) are being repaid to the proper persons who used the distilled spirits in such articles.”

EX. ORD. NO. 10602. SECRETARY OF THE INTERIOR AS REPRESENTATIVE OF PRESIDENT

Ex. Ord. No. 10602, Mar. 24, 1955, 20 F.R. 1795, provided: “By virtue of the authority vested in me by section 7652(b)(3) of the Internal Revenue Code of 1954 [now I.R.C. 1986] (Public Law 591, 83rd Congress, 68A Stat. 907), I hereby designate the Secretary of the Interior as the representative of the President to approve the obligation and expenditure by the government of the Virgin Islands of the moneys referred to in the said section 7652(b)(3).”

§ 7653. Shipments from the United States

(a) Tax imposed

(1) Puerto Rico

All articles of merchandise of United States manufacture coming into Puerto Rico shall be entered at the port of entry upon payment of a tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon the like articles of Puerto Rican manufacture.

(2) Virgin Islands

There shall be imposed in the Virgin Islands upon articles imported from the United States a tax equal to the internal revenue tax imposed in such islands upon like articles there manufactured.

(b) Exemption from tax imposed in the United States

Articles, goods, wares, or merchandise going into Puerto Rico, the Virgin Islands, Guam, and

American Samoa from the United States shall be exempted from the payment of any tax imposed by the internal revenue laws of the United States.

(c) Drawback of tax paid in the United States

All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(d) Cross reference

For the disposition of the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported into the United States or its possessions, or consumed in Guam, see the Act of August 1, 1950 (48 U.S.C. 1421h).

(Aug. 16, 1954, ch. 736 68A Stat. 908; Pub. L. 86-70, § 22(f), June 25, 1959, 73 Stat. 146; Pub. L. 86-624, § 18(h), July 12, 1960, 74 Stat. 416; Pub. L. 94-455, title XIX, § 1906(a)(56), Oct. 4, 1976, 90 Stat. 1832.)

REFERENCES IN TEXT

Act of August 1, 1950, referred to in subsec. (d), is act Aug. 1, 1950, ch. 512, 64 Stat. 384, as amended, known as the Organic Act of Guam, which is classified principally to chapter 8A (§ 1421 et seq.) of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 48 and Tables.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-455 struck out “ch. 512, 64 Stat. 392, section 30” after “August 1, 1950”.

1960—Subsec. (d). Pub. L. 86-624 substituted “or its possessions” for “, its possessions or the Territory of Hawaii”.

1959—Subsec. (d). Pub. L. 86-70 substituted “its possessions or the Territory of Hawaii” for “its Territories or possessions”.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-624 effective Aug. 21, 1959, see section 18(k) of Pub. L. 86-624, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

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

§ 7654. Coordination of United States and certain possession individual income taxes

(a) General rule

The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to whom section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

(b) Definition and special rule

For purposes of this section—

(1) Net collections

In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

(2) Specified possession

The term “specified possession” means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(c) Transfers

The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

(d) Federal personnel

In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.),¹ and

(2) the amount of the taxes deducted and withheld under chapter 24 with respect to amounts paid for services performed as an employee of the United States (or any agency thereof) in a specified possession with respect to an individual unless section 931 or 932(c) applies.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prohibiting the rebate of taxes covered over which are allocable to United States source income and prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 909; Pub. L. 92-606, § 1(b), Oct. 31, 1972, 86 Stat. 1495; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§ 307(a)(16), 308(a), Sept. 3, 1982, 96 Stat. 590, 591; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99-514, title XII, § 1276(a), Oct. 22, 1986, 100 Stat. 2599; Pub. L. 100-647, title I, § 1012(y), Nov. 10, 1988, 102 Stat. 3530; Pub. L. 108-189, § 2(d), Dec. 19, 2003, 117 Stat. 2866.)

REFERENCES IN TEXT

The Servicemembers Civil Relief Act, referred to in subsec. (d)(1), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, was classified to sections 501 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification, and is now classified principally to chapter 50 (§ 3901 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2003—Subsec. (d)(1). Pub. L. 108-189 substituted “Servicemembers Civil Relief Act” for “Soldiers’ and Sailors’ Civil Relief Act”.

1988—Subsec. (a). Pub. L. 100-647 substituted “an individual to whom” for “an individual to which”.

1986—Pub. L. 99-514 amended section generally, substituting provisions relating to coordination of United States and certain possession individual income taxes

¹ See References in Text note below.

for provisions relating to coordination of United States and Guam individual income taxes.

1983—Subsec. (d). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (d). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (d) is amended by inserting “subchapter A of” before “chapter 24”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsecs. (d), (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1972—Pub. L. 92-606 substituted provisions relating to individual income taxes in Guam and their sharing by the United States and Guam, for provisions relating to payment to Guam and American Samoa of proceeds of tax on coconut and other vegetable oils.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-606 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92-606, set out in part as an Effective Date note under section 931 of this title.

§ 7655. Cross references

(a) Imposition of tax in possessions

For provisions imposing tax in possessions, see—

- (1) **Chapter 2, relating to self-employment tax;**
- (2) **Chapter 21, relating to the tax under the Federal Insurance Contributions Act.**

(b) Other provisions

For other provisions relating to possessions of the United States, see—

- (1) **Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;**
- (2) **Section 933, relating to income tax on residents of Puerto Rico.**

(Aug. 16, 1954, ch. 736, 68A Stat. 909; Pub. L. 85-859, title II, §204(19), Sept. 2, 1958, 72 Stat. 1430; Pub. L. 91-513, title III, §1102(k), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 94-455, title XIX, §1904(b)(6)(B), Oct. 4, 1976, 90 Stat. 1815; Pub. L. 99-514, title XII, §1272(d)(11), Oct. 22, 1986, 100 Stat. 2594; Pub. L. 101-508, title XI, §11801(c)(22)(E), Nov. 5, 1990, 104 Stat. 1388-528.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in subsec. (a)(2), is act Aug. 16, 1954, ch. 736, §§3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

AMENDMENTS

1990—Subsec. (a)(2), (3). Pub. L. 101-508, §11801(c)(22)(E)(i), substituted period for semicolon at

end of par. (2) and struck out par. (3) which cross-referenced former chapter 37 relating to tax on sugar.

Subsec. (b)(2), (3). Pub. L. 101-508, §11801(c)(22)(E)(ii), substituted period for semicolon at end of par. (2) and struck out par. (3) which cross-referenced former section 6418(b) relating to the exportation of sugar to Puerto Rico.

1986—Subsec. (b). Pub. L. 99-514 added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

1976—Subsec. (a)(3), (5). Pub. L. 94-455 substituted “Chapter 37” for “Subchapter A of chapter 37” in par. (5) and redesignated par. (5) as (3).

1970—Subsec. (a)(3), (4). Pub. L. 91-513 struck out pars. (3) and (4) relating to taxes in respect of narcotic drugs and taxes in respect of marihuana, respectively, and making references to parts I and III of subchapter A of chapter 39 and to parts II and III of subchapter A of chapter 39, respectively.

1958—Subsec. (a)(5), (6). Pub. L. 85-859 redesignated par. (6) as (5) and struck out former par. (5) which contained a cross reference to chapter 51 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

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

CHAPTER 79—DEFINITIONS

Sec.	Definitions.
7701.	Life insurance contract defined.
7702.	Modified endowment contract defined.
7702A.	Treatment of qualified long-term care insurance.
7702B.	
7703.	Determination of marital status.
7704.	Certain publicly traded partnerships treated as corporations.
7705.	Certified professional employer organizations.

AMENDMENTS

2014—Pub. L. 113-295, div. B, title II, §206(d)(2), Dec. 19, 2014, 128 Stat. 4071, added item 7705.

1996—Pub. L. 104-191, title III, §321(e), Aug. 21, 1996, 110 Stat. 2059, added item 7702B.

1988—Pub. L. 100-647, title V, §5012(c)(2), Nov. 10, 1988, 102 Stat. 3664, added item 7702A.

1987—Pub. L. 100-203, title X, § 10211(b), Dec. 22, 1987, 101 Stat. 1330-405, added item 7704.

1986—Pub. L. 99-514, title XIII, § 1301(j)(2)(B), Oct. 22, 1986, 100 Stat. 2657, added item 7703.

1984—Pub. L. 98-369, div. A, title II, § 221(c), July 18, 1984, 98 Stat. 772, added item 7702.

§ 7701. Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) Person

The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner

The term “partnership” includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term “partner” includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation

The term “corporation” includes associations, joint-stock companies, and insurance companies.

(4) Domestic

The term “domestic” when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term “foreign” when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary

The term “fiduciary” means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock

The term “stock” includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder

The term “shareholder” includes a member in an association, joint-stock company, or insurance company.

(9) United States

The term “United States” when used in a geographical sense includes only the States and the District of Columbia.

(10) State

The term “State” shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary

(A) Secretary of the Treasury

The term “Secretary of the Treasury” means the Secretary of the Treasury, per-

sonally, and shall not include any delegate of his.

(B) Secretary

The term “Secretary” means the Secretary of the Treasury or his delegate.

(12) Delegate

(A) In general

The term “or his delegate”—

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa

The term “delegate,” in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) Commissioner

The term “Commissioner” means the Commissioner of Internal Revenue.

(14) Taxpayer

The term “taxpayer” means any person subject to any internal revenue tax.

(15) Military or naval forces and armed forces of the United States

The term “military or naval forces of the United States” and the term “Armed Forces of the United States” each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) Withholding agent

The term “withholding agent” means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.

(17)¹ Husband and wife

As used in sections 682 and 2516, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term “wife” shall be read “former wife” and the term “husband” shall be read “former husband”; and, if the pay-

¹ See Amendment of Subsection (a)(17) note below.

ments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term “husband” shall be read “wife” and the term “wife” shall be read “husband.”

(18) International organization

The term “international organization” means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f).

(19) Domestic building and loan association

The term “domestic building and loan association” means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

(A) which either (i) is an insured institution within the meaning of section 401(a)² of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) the business of which consists principally of acquiring the savings of the public and investing in loans; and

(C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of—

(i) cash,

(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

(iii) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv) loans secured by a deposit or share of a member,

(v) loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly

residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B), and

(xi) any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

² See References in Text note below.

(20) Employee

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term “employee” shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21.

(21) Levy

The term “levy” includes the power of distraint and seizure by any means.

(22) Attorney General

The term “Attorney General” means the Attorney General of the United States.

(23) Taxable year

The term “taxable year” means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. “Taxable year” means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year

The term “fiscal year” means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued

The terms “paid or incurred” and “paid or accrued” shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business

The term “trade or business” includes the performance of the functions of a public office.

(27) Tax Court

The term “Tax Court” means the United States Tax Court.

(28) Other terms

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code

The term “Internal Revenue Code of 1986” means this title, and the term “Internal Revenue Code of 1939” means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person

The term “United States person” means—

(A) a citizen or resident of the United States,

(B) a domestic partnership,

(C) a domestic corporation,

(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E) any trust if—

(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

(ii) one or more United States persons have the authority to control all substantial decisions of the trust.

(31) Foreign estate or trust**(A) Foreign estate**

The term “foreign estate” means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust

The term “foreign trust” means any trust other than a trust described in subparagraph (E) of paragraph (30).

(32) Cooperative bank

The term “cooperative bank” means an institution without capital stock organized and operated for mutual purposes and without profit, which—

(A) either—

(i) is an insured institution within the meaning of section 401(a)² of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii) is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and

(B) meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

(33) Regulated public utility

The term “regulated public utility” means—

(A) A corporation engaged in the furnishing or sale of—

(i) electric energy, gas, water, or sewerage disposal services, or

(ii) transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any

State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Surface Transportation Board, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Secretary of Transportation.

(F) A corporation engaged in the furnishing or sale of transportation by a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49.

(G) A rail carrier subject to part A of subtitle IV of title 49, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part A of subtitle IV of title 49 if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504)

which includes the common parent corporation.

The term “regulated public utility” does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary that (i) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (ii) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

[§(34) Repealed. Pub. L. 98-369, div. A, title IV, § 4112(b)(11), July 18, 1984, 98 Stat. 792]

(35) Enrolled actuary

The term “enrolled actuary” means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

(36) Tax return preparer

(A) In general

The term “tax return preparer” means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions

A person shall not be an³ “tax return preparer” merely because such person—

(i) furnishes typing, reproducing, or other mechanical assistance,

(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

(iii) prepares as a fiduciary a return or claim for refund for any person, or

(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

³ So in original. Probably should be “a”.

(37) Individual retirement plan

The term “individual retirement plan” means—

- (A) an individual retirement account described in section 408(a), and
- (B) an individual retirement annuity described in section 408(b).

(38) Joint return

The term “joint return” means a single return made jointly under section 6013 by a husband and wife.

(39) Persons residing outside United States

If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

- (A) jurisdiction of courts, or
- (B) enforcement of summons.

(40) Indian tribal government**(A) In general**

The term “Indian tribal government” means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

(B) Special rule for Alaska Natives

No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

(41) TIN

The term “TIN” means the identifying number assigned to a person under section 6109.

(42) Substituted basis property

The term “substituted basis property” means property which is—

- (A) transferred basis property, or
- (B) exchanged basis property.

(43) Transferred basis property

The term “transferred basis property” means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

(44) Exchanged basis property

The term “exchanged basis property” means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

(45) Nonrecognition transaction

The term “nonrecognition transaction” means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(46) Determination of whether there is a collective bargaining agreement

In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term “employee representatives” shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer. An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers.

[(47) Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]

(48) Off-highway vehicles**(A) Off-highway transportation vehicles****(i) In general**

A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

(ii) Determination of vehicle's design

For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

(iii) Determination of substantial limitation or impairment

For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

(B) Nontransportation trailers and semi-trailers

A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.

(49) Qualified blood collector organization

The term “qualified blood collector organization” means an organization which is—

- (A) described in section 501(c)(3) and exempt from tax under section 501(a),
- (B) primarily engaged in the activity of the collection of human blood,

(C) registered with the Secretary for purposes of excise tax exemptions, and

(D) registered by the Food and Drug Administration to collect blood.

(50) Termination of United States citizenship

(A) In general

An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(g)(4).

(B) Dual citizens

Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.

(b) Definition of resident alien and nonresident alien

(1) In general

For purposes of this title (other than subtitle B)—

(A) Resident alien

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

(B) Nonresident alien

An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

(2) Special rules for first and last year of residency

(A) First year of residency

(i) In general

If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of such calendar year which begins on the residency starting date.

(ii) Residency starting date for individuals lawfully admitted for permanent residence

In the case of an individual who is a lawfully permanent resident of the United States at any time during the calendar year, but does not meet the substantial

presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

(iii) Residency starting date for individuals meeting substantial presence test

In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

(iv) Residency starting date for individuals making first year election

In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph.

(B) Last year of residency

An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if—

(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

(iii) the individual is not a resident of the United States at any time during the next calendar year.

(C) Certain nominal presence disregarded

(i) In general

For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

(ii) Not more than 10 days disregarded

Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

(3) Substantial presence test

(A) In general

Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the “current year”) if—

(i) such individual was present in the United States on at least 31 days during the calendar year, and

(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when mul-

multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	$\frac{1}{3}$
2nd preceding year	$\frac{1}{6}$

(B) Exception where individual is present in the United States during less than one-half of current year and closer connection to foreign country is established

An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if—

(i) such individual is present in the United States on fewer than 183 days during the current year, and

(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

(C) Subparagraph (B) not to apply in certain cases

Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year—

(i) such individual had an application for adjustment of status pending, or

(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

(D) Exception for exempt individuals or for certain medical conditions

An individual shall not be treated as being present in the United States on any day if—

(i) such individual is an exempt individual for such day, or

(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

(4) First-year election

(A) An alien individual shall be deemed to meet the requirements of this subparagraph if such individual—

(i) is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the “election year”),

(ii) was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

(iii) is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

(iv) is both—

(I) present in the United States for a period of at least 31 consecutive days in the election year, and

(II) present in the United States during the period beginning with the first day of

such 31-day period and ending with the last day of the election year (hereinafter referred to as the “testing period”) for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

(B) An alien individual who meets the requirements of subparagraph (A) shall, if he so elects, be treated as a resident of the United States with respect to the election year.

(C) An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

(D) The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

(E) An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

(F) An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary.

(5) Exempt individual defined

For purposes of this subsection—

(A) In general

An individual is an exempt individual for any day if, for such day, such individual is—

(i) a foreign government-related individual,

(ii) a teacher or trainee,

(iii) a student, or

(iv) a professional athlete who is temporarily in the United States to compete in a sports event—

(I) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

(II) all of the net proceeds of which are contributed to such organization, and,⁴

(III) which utilizes volunteers for substantially all of the work performed in carrying out such event.

(B) Foreign government-related individual

The term “foreign government-related individual” means any individual temporarily present in the United States by reason of—

(i) diplomatic status, or a visa which the Secretary (after consultation with the

⁴ So in original. The comma probably should not appear.

Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

(ii) being a full-time employee of an international organization, or

(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

(C) Teacher or trainee

The term “teacher or trainee” means any individual—

(i) who is temporarily present in the United States under subparagraph (J) or (Q) of section 101(15) of the Immigration and Nationality Act (other than as a student), and

(ii) who substantially complies with the requirements for being so present.

(D) Student

The term “student” means any individual—

(i) who is temporarily present in the United States—

(I) under subparagraph (F) or (M) of section 101(15) of the Immigration and Nationality Act, or

(II) as a student under subparagraph (J) or (Q) of such section 101(15), and

(ii) who substantially complies with the requirements for being so present.

(E) Special rules for teachers, trainees, and students

(i) Limitation on teachers and trainees

An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A). In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting “4 calendar years” for “2 calendar years”.

(ii) Limitation on students

For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

(6) Lawful permanent resident

For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if—

(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

An individual shall cease to be treated as a lawful permanent resident of the United States if such individual commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country, does not waive the benefits of such treaty applicable to residents of the foreign country, and notifies the Secretary of the commencement of such treatment.

(7) Presence in the United States

For purposes of this subsection—

(A) In general

Except as provided in subparagraph (B), (C), or (D), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

(B) Commuters from Canada or Mexico

If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

(C) Transit between 2 foreign points

If an individual, who is in transit between 2 points outside the United States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

(D) Crew members temporarily present

An individual who is temporarily present in the United States on any day as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States shall not be treated as present in the United States on such day unless such individual otherwise engages in any trade or business in the United States on such day.

(8) Annual statements

The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

(9) Taxable year

(A) In general

For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(B) Fiscal year taxpayer

If—

(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

- (ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

(10) Coordination with section 877

If—

(A) an alien individual was treated as a resident of the United States during any period which includes at least 3 consecutive calendar years (hereinafter referred to as the “initial residency period”), and

(B) such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period,

such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

(11) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(c) Includes and including

The terms “includes” and “including” when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) Commonwealth of Puerto Rico

Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(e) Treatment of certain contracts for providing services, etc.

For purposes of chapter 1—

(1) In general

A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not—

(A) the service recipient is in physical possession of the property,

(B) the service recipient controls the property,

(C) the service recipient has a significant economic or possessory interest in the property,

(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

(E) the service provider does not use the property concurrently to provide significant

services to entities unrelated to the service recipient, and

(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

(2) Other arrangements

An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

(3) Special rules for contracts or arrangements involving solid waste disposal, energy, and clean water facilities

(A) In general

Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

(i) with respect to—

(I) the operation of a qualified solid waste disposal facility,

(II) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

(III) the operation of a water treatment works facility, and

(ii) which purports to be a service contract,

shall be treated as a service contract.

(B) Qualified solid waste disposal facility

For purposes of subparagraph (A), the term “qualified solid waste disposal facility” means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

(C) Cogeneration facility

For purposes of subparagraph (A), the term “cogeneration facility” means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

(D) Alternative energy facility

For purposes of subparagraph (A), the term “alternative energy facility” means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

(E) Water treatment works facility

For purposes of subparagraph (A), the term “water treatment works facility” means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

(4) Paragraph (3) not to apply in certain cases

(A) In general

Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogenera-

tion facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if—

(i) the service recipient (or a related entity) operates such facility,

(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility at a fixed and determinable price (other than for fair market value).

For purposes of this paragraph, the term “related entity” has the same meaning as when used in section 168(h).

(B) Special rules for application of subparagraph (A) with respect to certain rights and allocations under the contract

For purposes of subparagraph (A), there shall not be taken into account—

(i) any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

(ii) any allocation of any financial burden or benefits in the event of any change in any law.

(C) Special rules for application of subparagraph (A) in the case of certain events

(i) Temporary shut-downs, etc.

For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

(ii) Reduced costs

For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

(5) Exception for certain low-income housing

This subsection shall not apply to any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing) if—

(A) such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

(B) at least 80 percent of the units in such property are leased to low-income tenants (within the meaning of section 167(k)(3)(B))

(as in effect on the day before the date of the enactment of the Revenue Reconciliation⁵ Act of 1990).

(6) Regulations

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection.

(f) Use of related persons or pass-thru entities

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with—

(1) the linking of borrowing to investment, or

(2) diminishing risks,

through the use of related persons, pass-thru entities, or other intermediaries.

(g) Clarification of fair market value in the case of nonrecourse indebtedness

For purposes of subtitle A, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject.

(h) Motor vehicle operating leases

(1) In general

For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

(2) Qualified motor vehicle operating agreement defined

For purposes of this subsection—

(A) In general

The term “qualified motor vehicle operating agreement” means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

(B) Minimum liability of lessor

An agreement meets the requirements of this subparagraph if under such agreement the sum of—

(i) the amount the lessor is personally liable to repay, and

(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property

⁵ So in original. Probably should be “Reconciliation”.

pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

(C) Certification by lessee; notice of tax ownership

An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

(D) Lessor must have no knowledge that certification is false

An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

(3) Terminal rental adjustment clause defined

(A) In general

For purposes of this subsection, the term “terminal rental adjustment clause” means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

(B) Special rule for lessee dealers

The term “terminal rental adjustment clause” also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A).

(i) Taxable mortgage pools

(1) Treated as separate corporations

A taxable mortgage pool shall be treated as a separate corporation which may not be treated as an includible corporation with any other corporation for purposes of section 1501.

(2) Taxable mortgage pool defined

For purposes of this title—

(A) In general

Except as otherwise provided in this paragraph, a taxable mortgage pool is any entity (other than a REMIC) if—

(i) substantially all of the assets of such entity consists of debt obligations (or interests therein) and more than 50 percent of such debt obligations (or interests) consists of real estate mortgages (or interests therein),

(ii) such entity is the obligor under debt obligations with 2 or more maturities, and

(iii) under the terms of the debt obligations referred to in clause (ii) (or underlying

ing arrangement), payments on such debt obligations bear a relationship to payments on the debt obligations (or interests) referred to in clause (i).

(B) Portion of entities treated as pools

Any portion of an entity which meets the definition of subparagraph (A) shall be treated as a taxable mortgage pool.

(C) Exception for domestic building and loan

Nothing in this subsection shall be construed to treat any domestic building and loan association (or portion thereof) as a taxable mortgage pool.

(D) Treatment of certain equity interests

To the extent provided in regulations, equity interest of varying classes which correspond to maturity classes of debt shall be treated as debt for purposes of this subsection.

(3) Treatment of certain REIT's

If—

(A) a real estate investment trust is a taxable mortgage pool, or

(B) a qualified REIT subsidiary (as defined in section 856(i)(2)) of a real estate investment trust is a taxable mortgage pool,

under regulations prescribed by the Secretary, adjustments similar to the adjustments provided in section 860E(d) shall apply to the shareholders of such real estate investment trust.

(j) Tax treatment of Federal Thrift Savings Fund

(1) In general

For purposes of this title—

(A) the Thrift Savings Fund shall be treated as a trust described in section 401(a) which is exempt from taxation under section 501(a);

(B) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(e)(3), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

(2) Nondiscrimination requirements

Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.

(3) Coordination with Social Security Act

Paragraph (1) shall not be construed to provide that any amount of the employee's or

Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term "wages" for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

(4) Definitions

For purposes of this subsection, the terms "Member", "employee", and "Thrift Savings Fund" shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

(5) Coordination with other provisions of law

No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund.

(k) Treatment of certain amounts paid to charity

In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)—

(1) such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of any tax law of a State or political subdivision thereof, and

(2) no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Senator, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government.

(l) Regulations relating to conduit arrangements

The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title.

(m) Designation of contract markets

Any designation by the Commodity Futures Trading Commission of a contract market which could not have been made under the law in effect on the day before the date of the enactment of the Commodity Futures Modernization Act of 2000 shall apply for purposes of this title except to the extent provided in regulations prescribed by the Secretary.

(n) Convention or association of churches

For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.

(o) Clarification of economic substance doctrine

(1) Application of doctrine

In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

(2) Special rule where taxpayer relies on profit potential

(A) In general

The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

(B) Treatment of fees and foreign taxes

Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary shall issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

(3) State and local tax benefits

For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

(4) Financial accounting benefits

For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

(5) Definitions and special rules

For purposes of this subsection—

(A) Economic substance doctrine

The term "economic substance doctrine" means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

(B) Exception for personal transactions of individuals

In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

(C) Determination of application of doctrine not affected

The determination of whether the economic substance doctrine is relevant to a

transaction shall be made in the same manner as if this subsection had never been enacted.

(D) Transaction

The term “transaction” includes a series of transactions.

(p) Cross references

(1) Other definitions

For other definitions, see the following sections of Title 1 of the United States Code:

- (1) Singular as including plural, section 1.
- (2) Plural as including singular, section 1.
- (3) Masculine as including feminine, section 1.
- (4) Officer, section 1.
- (5) Oath as including affirmation, section 1.
- (6) County as including parish, section 2.
- (7) Vessel as including all means of water transportation, section 3.
- (8) Vehicle as including all means of land transportation, section 4.
- (9) Company or association as including successors and assigns, section 5.

(2) Effect of cross references

For effect of cross references in this title, see section 7806(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 911; Pub. L. 86–70, § 22(g), (h), June 25, 1959, 73 Stat. 146; Pub. L. 86–624, § 18(i), (j), July 12, 1960, 74 Stat. 416; Pub. L. 86–778, title I, § 103(t), Sept. 13, 1960, 74 Stat. 941; Pub. L. 87–834, §§ 6(c), 7(h), Oct. 16, 1962, 76 Stat. 982, 988; Pub. L. 87–870, § 5(a), Oct. 23, 1962, 76 Stat. 1161; Pub. L. 88–272, title II, §§ 204(a)(3), 234(b)(3), Feb. 26, 1964, 78 Stat. 36, 114; Pub. L. 89–368, title I, § 102(b)(5), Mar. 15, 1966, 80 Stat. 64; Pub. L. 89–809, title I, § 103(l)(1), Nov. 13, 1966, 80 Stat. 1554; Pub. L. 90–364, title I, § 103(e)(6), June 28, 1968, 82 Stat. 264; Pub. L. 91–172, title IV, § 432(c), (d), title IX, § 960(j), Dec. 30, 1969, 83 Stat. 622, 623, 735; Pub. L. 92–606, § 1(f)(4), Oct. 31, 1972, 86 Stat. 1497; Pub. L. 93–406, title III, § 3043, Sept. 2, 1974, 88 Stat. 1003; Pub. L. 94–455, title XII, § 1203(a), title XIX, § 1906(a)(57), (b)(13)(A), (c)(3), Oct. 4, 1976, 90 Stat. 1688, 1832, 1834, 1835; Pub. L. 95–600, title I, § 157(k)(2), title VII, § 701(cc)(2), Nov. 6, 1978, 92 Stat. 2809, 2923; Pub. L. 97–34, title VII, § 725(c)(4), Aug. 13, 1981, 95 Stat. 346; Pub. L. 97–248, title II, § 201(d)(10), formerly § 201(c)(10), title III, §§ 307(a)(17), 308(a), 336(a), Sept. 3, 1982, 96 Stat. 421, 590, 591, 628, renumbered § 201(d)(10) and amended Pub. L. 97–448, title III, § 306(a)(1)(A)(i), (b)(3), Jan. 12, 1983, 96 Stat. 2400, 2406; Pub. L. 97–449, § 5(e), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 97–473, title II, § 203, Jan. 14, 1983, 96 Stat. 2611; Pub. L. 98–67, title I, §§ 102(a), 104(d)(1), Aug. 5, 1983, 97 Stat. 369, 379; Pub. L. 98–216, § 3(c)(2), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–369, div. A, title I, §§ 31(e), 43(a)(1), 53(c), 75(c), 138(a), title IV, §§ 412(b)(11), 422(d)(3), 474(r)(29)(K), 491(d)(53), title V, § 526(c)(1), July 18, 1984, 98 Stat. 518, 558, 567, 595, 672, 792, 798, 845, 852, 874; Pub. L. 98–443, § 9(q), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 99–514, title II, § 201(c), (d)(14), title VI, §§ 671(b)(3), 673, title XI, §§ 1137, 1147(a), 1166(a), title XVIII, §§ 1802(a)(9)(C), 1810(l)(1)–(5)(A), 1842(d), 1899A(63), (64), Oct. 22, 1986, 100 Stat. 2138, 2142, 2317, 2319, 2486, 2493, 2511, 2790, 2830–2832, 2853, 2962; Pub. L. 100–202, § 101(m) [title VI, § 624(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–429; Pub. L. 100–647, § 1(c), title I, §§ 1001(d)(2)(D), 1002(a)(2), 1006(t)(12), (25)(A),

1011A(m)(1), 1011B(e), 1018(g)(3), Nov. 10, 1988, 102 Stat. 3342, 3351, 3352, 3422, 3426, 3483, 3489, 3583; Pub. L. 101–194, title VI, § 602, Nov. 30, 1989, 103 Stat. 1762; Pub. L. 101–508, title XI, §§ 11704(a)(34), 11812(b)(13), Nov. 5, 1990, 104 Stat. 1388–519, 1388–536; Pub. L. 102–90, title III, § 314(e), Aug. 14, 1991, 105 Stat. 470; Pub. L. 102–318, title V, § 521(b)(43), July 3, 1992, 106 Stat. 313; Pub. L. 103–66, title XIII, § 13238, Aug. 10, 1993, 107 Stat. 508; Pub. L. 103–296, title III, § 320(a)(3), Aug. 15, 1994, 108 Stat. 1535; Pub. L. 104–88, title III, § 304(e), Dec. 29, 1995, 109 Stat. 944; Pub. L. 104–188, title I, §§ 1402(b)(3), 1621(b)(8), (9), 1907(a)(1), (2), Aug. 20, 1996, 110 Stat. 1790, 1867, 1916; Pub. L. 105–34, title XI, §§ 1151(a), 1174(b), title XVI, § 1601(i)(3)(A), Aug. 5, 1997, 111 Stat. 986, 989, 1093; Pub. L. 106–554, § 1(a)(7) [title IV, § 401(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–650; Pub. L. 107–16, title V, § 542(e)(3), June 7, 2001, 115 Stat. 85; Pub. L. 108–311, title II, § 207(24), Oct. 4, 2004, 118 Stat. 1178; Pub. L. 108–357, title VIII, §§ 804(b), 835(b)(10), (11), 852(a), Oct. 22, 2004, 118 Stat. 1570, 1594, 1609; Pub. L. 109–135, title IV, § 403(v)(2), Dec. 21, 2005, 119 Stat. 2628; Pub. L. 109–280, title XII, §§ 1207(f), 1222, Aug. 17, 2006, 120 Stat. 1071, 1089; Pub. L. 110–28, title VIII, § 8246(a)(1), May 25, 2007, 121 Stat. 200; Pub. L. 110–245, title III, § 301(c)(1), (2)(B), (C), June 17, 2008, 122 Stat. 1646; Pub. L. 111–152, title I, § 1409(a), Mar. 30, 2010, 124 Stat. 1067; Pub. L. 111–312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300; Pub. L. 113–295, div. A, title II, § 221(a)(119), Dec. 19, 2014, 128 Stat. 4055; Pub. L. 115–97, title I, §§ 11051(b)(4), 13304(a)(2)(F), Dec. 22, 2017, 131 Stat. 2090, 2125.)

AMENDMENT OF SUBSECTION (a)(17)

Pub. L. 115–97, title I, § 11051(b)(4), (c), Dec. 22, 2017, 131 Stat. 2090, amended subsection (a)(17) of this section, applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115–97 applies to such modification. After amendment, subsection (a)(17) reads as follows:

(17) Husband and wife

As used in section 2516, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such section, the term “wife” shall be read “former wife” and the term “husband” shall be read “former husband”; and, if the payments described in such section are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such section, the term “husband” shall be read “wife” and the term “wife” shall be read “husband.”

See 2017 Amendment note below.

REFERENCES IN TEXT

Section 401 of the National Housing Act, referred to in subsec. (a)(19)(A), (32)(A)(i), which was classified to section 1724 of Title 12, Banks and Banking, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Part A and part B of title I of the Housing Act of 1949, referred to in subsec. (a)(19)(C)(vi), which were classi-

fied generally to part A (§1450 et seq.) and part B (§1469 et seq.) of subchapter II of chapter 8A of Title 42, The Public Health and Welfare, were omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make new loans and grants under title I of that Act after Jan. 1, 1975.

Section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a)(19)(C)(vi), which was classified to section 3303 of Title 42, was omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make new loans and grants under title I (§101 et seq.) of that Act after Jan. 1, 1975.

The Internal Revenue Code of 1939, referred to in subsec. (a)(29), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(35), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Subtitle C of title III of the Employee Retirement Income Security Act of 1974 is classified to subtitle C (§1241 et seq.) of subchapter II of chapter 18 of Title 29, Labor and amended subsec. (a)(35) of this section. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Indian Tribal Governmental Tax Status Act of 1982, referred to in subsec. (a)(40)(B), is title II of Pub. L. 97-473, Jan. 14, 1983, 96 Stat. 2607, as amended, which is classified principally to subchapter C (§7871) of chapter 80 of this title. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 1 of this title and Tables.

Section 101(15) of the Immigration and Nationality Act, referred to in subsec. (b)(5)(C)(i), (D)(i), probably means section 101(a)(15) of that Act, which is classified to section 1101(a)(15) of Title 8, Aliens and Nationality.

Section 212(2) of the Federal Water Pollution Control Act, referred to in subsec. (e)(3)(E), is classified to section 1292(2) of Title 33, Navigation and Navigable Waters.

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (e)(5)(B), is the date of enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

Section 209 of the Social Security Act, referred to in subsec. (j)(3), is classified to section 409 of Title 42, The Public Health and Welfare.

Section 501(b) of the Ethics in Government Act of 1978, referred to in subsec. (k), is section 501(b) of Pub. L. 95-521, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of the enactment of the Commodity Futures Modernization Act of 2000, referred to in subsec. (m), is the date of enactment of Pub. L. 106-554, which was approved Dec. 21, 2000.

CODIFICATION

Sections 1207(f) and 1222 of Pub. L. 109-280, which directed the amendment of section 7701 without specifying the act to be amended, were executed to this section, which is section 7701 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2017—Subsec. (a)(17). Pub. L. 115-97, §11051(b)(4), substituted “section 2516” for “sections 682 and 2516” and substituted “such section” for “such sections” wherever appearing.

Subsec. (b)(5)(A)(iv). Pub. L. 115-97, §13304(a)(2)(F), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “a professional athlete who is tempo-

rarily in the United States to compete in a charitable sports event described in section 274(l)(1)(B).”

2014—Subsec. (a)(20). Pub. L. 113-295 substituted “chapter 21.” for “chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.”

2010—Subsec. (a)(47). Pub. L. 111-312 amended subsec. (a) to read as if amendment by Pub. L. 107-16, §542(e)(3), had never been enacted.

Subsecs. (o), (p). Pub. L. 111-152 added subsec. (o) and redesignated former subsec. (o) as (p).

2008—Subsec. (a)(50). Pub. L. 110-245, §301(c)(1), added par. (50).

Subsec. (b)(6). Pub. L. 110-245, §301(c)(2)(B), inserted concluding provisions.

Subsecs. (n) to (p). Pub. L. 110-245, §301(c)(2)(C), redesignated subsecs. (o) and (p) as (n) and (o), respectively, and struck out former subsec. (n) which related to special rules for determining when an individual is no longer a United States citizen or long-term resident.

2007—Subsec. (a)(36). Pub. L. 110-28, §8246(a)(1)(A), which directed the striking out of “income” in heading, was executed by substituting “Tax” for “Income tax” to reflect the probable intent of Congress.

Pub. L. 110-28, §8246(a)(1)(A), struck out “income” before “tax return preparer” in subpar. (A) and in introductory provisions of subpar. (B).

Subsec. (a)(36)(A). Pub. L. 110-28, §8246(a)(1)(B), substituted “this title” for “subtitle A” in two places.

2006—Subsec. (a)(49). Pub. L. 109-280, §1207(f), added par. (49). See Codification note above.

Subsecs. (o), (p). Pub. L. 109-280, §1222, added subsec. (o) and redesignated former subsec. (o) as (p). See Codification note above.

2005—Subsec. (n). Pub. L. 109-135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “An individual who would (but for this subsection) cease to be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States, as the case may be, until such individual—

“(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

“(2) provides a statement in accordance with section 6039G.”

2004—Subsec. (a)(17). Pub. L. 108-311 substituted “682” for “152(b)(4), 682.”

Subsec. (a)(19)(C)(xi). Pub. L. 108-357, §835(b)(10), struck out “and any regular interest in a FASIT,” after “residual interest in a REMIC,” and struck out “or FASIT” after “entire interest in the REMIC” and after “such REMIC” in two places.

Subsec. (a)(48). Pub. L. 108-357, §852(a), added par. (48).

Subsec. (i)(2)(A). Pub. L. 108-357, §835(b)(11), struck out “or a FASIT” after “other than a REMIC” in introductory provisions.

Subsecs. (n), (o). Pub. L. 108-357, §804(b), added subsec. (n) and redesignated former subsec. (n) as (o).

2001—Subsec. (a)(47). Pub. L. 107-16, §542(e)(3), added par. (47) which defined the term “executor”.

2000—Subsecs. (m), (n). Pub. L. 106-554 added subsec. (m) and redesignated former subsec. (m) as (n).

1997—Subsec. (a)(4). Pub. L. 105-34, §1151(a), inserted before period at end “unless, in the case of a partnership, the Secretary provides otherwise by regulations”.

Subsec. (a)(30)(E)(ii). Pub. L. 105-34, §1601(i)(3)(A), substituted “persons” for “fiduciaries”.

Subsec. (b)(7)(A). Pub. L. 105-34, §1174(b)(2), substituted “, (C), or (D)” for “or (C)”.

Subsec. (b)(7)(D). Pub. L. 105-34, §1174(b)(1), added subpar. (D).

1996—Subsec. (a)(19)(C)(xi). Pub. L. 104-188, §1621(b)(8), amended cl. (xi) generally. Prior to amendment, cl. (xi) read as follows: “any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the

preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.”

Subsec. (a)(20). Pub. L. 104-188, §1402(b)(3), struck out “, for the purpose of applying the provisions of section 101(b) with respect to employees’ death benefits” after “health plans”.

Subsec. (a)(30)(C) to (E). Pub. L. 104-188, §1907(a)(1), struck out “and” at end of subpar. (C), added subpars. (D) and (E), and struck out former subpar. (D) which read as follows: “any estate or trust (other than a foreign estate or foreign trust, within the meaning of section 7701(a)(31)).”

Subsec. (a)(31). Pub. L. 104-188, §1907(a)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The terms ‘foreign estate’ and ‘foreign trust’ mean an estate or trust, as the case may be, the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.”

Subsec. (i)(2)(A). Pub. L. 104-188, §1621(b)(9), inserted “or a FASIT” after “a REMIC” in introductory provisions.

1995—Subsec. (a)(33)(B). Pub. L. 104-88, §304(e)(1), substituted “Federal Energy Regulatory Commission” for “Federal Power Commission”.

Subsec. (a)(33)(C)(i). Pub. L. 104-88, §304(e)(2), substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

Subsec. (a)(33)(C)(ii). Pub. L. 104-88, §304(e)(3), substituted “Federal Energy Regulatory Commission” for “Interstate Commerce Commission”.

Subsec. (a)(33)(F). Pub. L. 104-88, §304(e)(4), substituted “a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49” for “common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission under subchapter III of chapter 105 of title 49, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933”.

Subsec. (a)(33)(G). Pub. L. 104-88, §304(e)(5), substituted “rail carrier subject to part A of subtitle IV” for “railroad corporation subject to subchapter I of chapter 105”.

Subsec. (a)(33)(H). Pub. L. 104-88, §304(e)(6), substituted “part A of subtitle IV” for “subchapter I of chapter 105”.

1994—Subsec. (b)(5)(C)(i), (D)(i)(II). Pub. L. 103-296 substituted “(J) or (Q)” for “(J)”.

1993—Subsecs. (l), (m). Pub. L. 103-66 added subsec. (l) and redesignated former subsec. (l) as (m).

1992—Subsec. (j)(1)(C). Pub. L. 102-318 substituted “402(e)(3)” for “402(a)(8)”.

1991—Subsec. (k). Pub. L. 102-90 amended last sentence generally. Prior to amendment, last sentence read as follows: “For purposes of this subsection, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government and a Senator or officer (except the Vice President) or employee of the Senate shall not be treated as an officer or employee of the Federal Government.”

1990—Subsec. (e)(5)(B). Pub. L. 101-508, §11812(b)(13), inserted before period at end “(as in effect on the day before the date of the enactment of the Revenue Reconciliation [sic] Act of 1990)”.

Subsec. (j)(1)(C). Pub. L. 101-508, §11704(a)(34), substituted “(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(a)(8),” for “(C) subject to, section 401(k)(4)(B), and any dollar limitation on the application of section 402(a)(8).”

1989—Subsecs. (k), (l). Pub. L. 101-194 added subsec. (k) and redesignated former subsec. (k) as (l).

1988—Subsec. (a)(19). Pub. L. 100-647, §1006(t)(25)(A), inserted at end “For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC

shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC’s are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).”

Subsec. (a)(19)(C)(xi). Pub. L. 100-647, §1006(t)(12), substituted “are assets described” for “are loans described”.

Subsec. (a)(20). Pub. L. 100-647, §1011B(e), substituted “and 106” for “106, and 125” and inserted “and for purposes of applying section 125 with respect to cafeteria plans,” before “the term”.

Subsec. (a)(29). Pub. L. 100-647, §1(c), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (b)(5)(A)(iv). Pub. L. 100-647, §1018(g)(3), substituted “section 274(l)(1)(B)” for “section 274(k)(2)”.

Subsec. (b)(5)(D)(i)(I). Pub. L. 100-647, §1001(d)(2)(D), substituted “subparagraph (F) or (M)” for “subparagraph (F)”.

Subsec. (e)(5). Pub. L. 100-647, §1002(a)(2), made technical correction to language of Pub. L. 99-514, §201(d)(14)(B), see 1986 Amendment note below.

Subsec. (j)(1)(C). Pub. L. 100-647, §1011A(m)(1), inserted “, section 401(k)(4)(B),” after “the provisions of paragraph (2)” in subpar. (C), as it read before amendment by Pub. L. 100-202. See Effective Date of 1988 Amendment note below.

1987—Subsec. (j)(1)(C). Pub. L. 100-202, §101(m) [title VI, §624(a)(1)], which directed that “the provisions of paragraph (2) and” after “subject to” be struck out, was executed by striking out “the provisions of paragraph (2)” after “subject to” in view of the amendment by section 1011A(m)(1) of Pub. L. 100-647 which was effective as if it had been included in Pub. L. 99-514. See 1988 Amendment note above.

Subsec. (j)(2). Pub. L. 100-202, §101(m) [title VI, §624(a)(2)], added par. (2) and struck out former par. (2) which read as follows: “Paragraph (1)(C) shall not apply to the Thrift Savings Fund unless the Fund meets the antidiscrimination requirements (other than any requirement relating to coverage) applicable to arrangements described in section 401(k) and to matching contributions. Rules similar to the rules of sections 401(k)(8) and 401(m)(8) (relating to no disqualification if excess contributions distributed) shall apply for purposes of the preceding sentence.”

1986—Subsec. (a)(17). Pub. L. 99-514, §1842(d), inserted reference to section 2516.

Subsec. (a)(19)(C)(xi). Pub. L. 99-514, §671(b)(3), added cl. (xi).

Subsec. (a)(20). Pub. L. 99-514, §1166(a), inserted reference to section 125.

Subsec. (a)(46). Pub. L. 99-514, §1137, inserted last sentence.

Subsec. (b)(1)(A). Pub. L. 99-514, §1810(l)(2), substituted “the requirements of clause (i), (ii), or (iii)” for “the requirements of clause (i) or (ii)” in introductory provisions and added cl. (iii).

Subsec. (b)(2)(A)(iv). Pub. L. 99-514, §1810(l)(3), added cl. (iv).

Subsec. (b)(4). Pub. L. 99-514, §1810(l)(4), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 99-514, §1810(l)(4), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(5)(A)(iv). Pub. L. 99-514, §1810(l)(5)(A), which directed that cl. (iv) be added to subpar. (4)(A), was executed by adding cl. (iv) to subpar. (5)(A) to reflect the probable intent of Congress and the intervening redesignation of par. (4) as (5) by section 1810(l)(4) of Pub. L. 99-514.

Subsec. (b)(5)(E)(i). Pub. L. 99-514, §1810(l)(1), inserted last sentence.

Pub. L. 99-514, §1899A(63), substituted “preceding” for “preceeding”.

Subsec. (b)(6) to (11). Pub. L. 99-514, §1810(l)(4), redesignated pars. (5) to (10) as pars. (6) to (11), respectively.

Subsec. (e)(4)(A). Pub. L. 99-514, §201(d)(14)(A), substituted “section 168(h)” for “section 168(j)”.

Pub. L. 99-514, §1802(a)(9)(C), inserted at end “For purposes of this paragraph, the term ‘related entity’ has the same meaning as when used in section 168(j).”

Subsec. (e)(5). Pub. L. 99-514, §201(d)(14)(B), as amended by Pub. L. 100-647, §1002(a)(2), substituted “property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing)” for “low-income housing (within the meaning of section 168(c)(2)(F))”.

Pub. L. 99-514, §1899A(64), substituted “section 168(c)(2)(F)” for “section 168(C)(2)(F)”.

Subsec. (h). Pub. L. 99-514, §201(c), added subsec. (h). Former subsec. (h), relating to cross references, was successively redesignated as (i), (j), and (k).

Subsec. (i). Pub. L. 99-514, §673, added subsec. (i). Former subsec. (i), relating to cross references, as previously redesignated, was successively redesignated as (j) and (k).

Subsec. (j). Pub. L. 99-514, §1147(a), added subsec. (j). Former subsec. (j), relating to cross references, as previously redesignated, was redesignated as (k).

Subsec. (k). Pub. L. 99-514, §§201(c), 673, 1147(a), successively redesignated subsec. (h), relating to cross references, as subsecs. (i), (j), and (k).

1984—Subsec. (a)(16). Pub. L. 98-369, §474(r)(29)(K), struck out “1451,” after “1443”.

Subsec. (a)(17). Pub. L. 98-369, §422(d)(3), struck out reference to sections 71 and 215.

Subsec. (a)(33)(E). Pub. L. 98-443 substituted “Secretary of Transportation” for “Civil Aeronautics Board”.

Subsec. (a)(33)(G). Pub. L. 98-216 substituted “subchapter I of chapter 105 of title 49” for “part I of the Interstate Commerce Act”.

Subsec. (a)(34). Pub. L. 98-369, §412(b)(11), repealed par. (34) which defined estimated income tax in the case of an individual or a corporation as the estimated tax defined in section 6015(d) or 6154(c), respectively.

Subsec. (a)(37)(C). Pub. L. 98-369, §491(d)(53), struck out subpar. (C) which included a retirement bond described in section 409 within the term “individual plan”.

Subsec. (a)(42) to (45). Pub. L. 98-369, §43(a)(1), added pars. (42) to (45).

Subsec. (a)(46). Pub. L. 98-369, §526(c)(1), added par. (46).

Subsec. (b). Pub. L. 98-369, §138(a), added subsec. (b). Former subsec. (b), relating to includes and including, redesignated (c).

Subsec. (c). Pub. L. 98-369, §138(a), redesignated former subsec. (b), relating to includes and including, as (c). Former subsec. (c), relating to Commonwealth of Puerto Rico, redesignated (d).

Subsec. (d). Pub. L. 98-369, §138(a), redesignated former subsec. (c), relating to Commonwealth of Puerto Rico, as (d). Former subsec. (d), relating to cross references, redesignated (e).

Subsec. (e). Pub. L. 98-369, §31(e), added subsec. (e). Former subsec. (e), relating to cross references, redesignated (f).

Pub. L. 98-369, §138(a), redesignated former subsec. (d), relating to cross references, as (e).

Subsec. (f). Pub. L. 98-369, §53(c), added subsec. (f). Former subsec. (f), relating to cross references, redesignated (g).

Pub. L. 98-369, §31(e), redesignated former subsec. (e), relating to cross references, as (f).

Subsec. (g). Pub. L. 98-369, §75(c), added subsec. (g). Former subsec. (g), relating to cross references, redesignated (h).

Pub. L. 98-369, §53(c), redesignated former subsec. (f), relating to cross references, as (g).

Subsec. (h). Pub. L. 98-369, §75(c), redesignated former subsec. (g), relating to cross references, as (h).

1983—Subsec. (a)(16). Pub. L. 98-67, §102(a), repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Subsec. (a)(33)(F). Pub. L. 97-449, §5(e)(1), substituted “subchapter III of chapter 105 of title 49” for “part III of the Interstate Commerce Act”.

Subsec. (a)(33)(H). Pub. L. 97-449, §5(e)(2), substituted “subchapter I of chapter 105 of title 49” for “part I of the Interstate Commerce Act”.

Subsec. (a)(38), (39). Pub. L. 97-448, §306(b)(3), redesignated par. (38), as added by Pub. L. 97-248, §336(a), relating to persons residing outside the United States, as (39).

Subsec. (a)(40). Pub. L. 97-473 added par. (40).

Subsec. (a)(41). Pub. L. 98-67, §104(d)(1), added par. (41).

1982—Subsec. (a)(16). Pub. L. 97-248, §§307(a)(17), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (16) is amended by substituting “1461 or 3451” for “or 1461”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (a)(38). Pub. L. 97-248, §201(d)(10), formerly §201(c)(10), added par. (38) relating to joint return.

Pub. L. 97-248, §336(a), added par. (38) relating to persons residing outside the United States.

1981—Subsec. (a)(34)(A). Pub. L. 97-34 substituted “section 6015(d)” for “section 6015(c)”.

1978—Subsec. (a)(36)(B)(iii). Pub. L. 95-600, §701(cc)(2), substituted “prepares as a fiduciary a return or claim for refund for any person, or” for “prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or”.

Subsec. (a)(37). Pub. L. 95-600, §157(k)(2), added par. (37).

1976—Subsec. (a)(4). Pub. L. 94-455, §1906(c)(3), struck out “or Territory” after “any State”.

Subsec. (a)(11). Pub. L. 94-455, §1906(a)(57)(A), substituted definitions of “Secretary of the Treasury” and “Secretary” for “Secretary.—The term ‘Secretary’ means the Secretary of the Treasury”.

Subsec. (a)(12)(A). Pub. L. 94-455, §1906(a)(57)(B), substituted definition of “or his delegate” for definition of “Secretary of his delegate”.

Subsec. (a)(19), (23), (33). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (a)(36). Pub. L. 94-455, §1203(a), added par. (36).

1974—Subsec. (a)(35). Pub. L. 93-406 added par. (35).

1972—Subsec. (a)(12)(B). Pub. L. 92-606 inserted reference to chapter 1.

1969—Subsec. (a)(19)(A). Pub. L. 91-172, §432(c) reenacted subpar. (A) without change.

Subsec. (a)(19)(B). Pub. L. 91-172, §432(c), struck out reference to subpar. (C).

Subsec. (a)(19)(C). Pub. L. 91-172, §432(c), substituted 60 percent for 90 percent in text preceding cl. (i), reenacted cl. (i) without change, in cl. (ii), excluded obligations the interest on which was excludible from gross income under section 103, expanded provisions of former cl. (iii) and transferred them to cl. (v), reenacted cl. (iv) without change, redesignated former cls. (v) and (vi) as cls. (viii) and (x) and added cls. (iii), (vi), (vii) and (ix), and text following cl. (x).

Subsec. (a)(19)(D) to (F). Pub. L. 91-172, §432(c), struck out subpars. (D) to (F) and text following subpar. (F) which had further qualified the assets.

Subsec. (a)(27). Pub. L. 91-172, §960(j), substituted “United States Tax Court” for “Tax Court of the United States”.

Subsec. (a)(32). Pub. L. 91-172, §432(d), struck out references to subpars. (D), (E) and (F) and struck out “determined with the application of the second, third, and fourth sentences of paragraph (19).” in subpar. (B) and, in text following subpar. (B), struck out provisions relating to the deduction allowable for a reasonable addition to the reserve for bad debts.

1968—Subsec. (a)(34)(B). Pub. L. 90-364 substituted “section 6154(c)” for “section 6016(b)”.

1966—Subsec. (a)(31). Pub. L. 89-809 substituted “, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States,” for “from sources without the United States”.

Pub. L. 89-368 added par. (34).
1964—Subsec. (a)(20). Pub. L. 88-272 inserted “For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees”.

Subsec. (a)(33). Pub. L. 88-272 added par. (33).
1962—Subsec. (a)(19). Pub. L. 87-834, §6(c), amended par. (19) generally. Prior to such amendment, subsection read as follows: “The term ‘domestic building and loan association’ means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all the business of which is confined to making loans to members.”

Subsec. (a)(30), (31). Pub. L. 87-834, §7(h), added pars. (30), (31).

Subsec. (a)(32). Pub. L. 87-870 added par. (32).
1960—Subsec. (a)(9), (10). Pub. L. 86-624, §18(i), (j), struck out reference to the Territory of Hawaii.

Subsec. (a)(12). Pub. L. 86-778 designated existing provisions as par. (A) and added par. (B).

1959—Subsec. (a)(9). Pub. L. 86-70, §22(g), substituted “the Territory of Hawaii” for “the Territories of Alaska and Hawaii”.

Subsec. (a)(10). Pub. L. 86-70, §22(h), substituted “Territory of Hawaii” for “Territories”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11051(b)(4) of Pub. L. 115-97 applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, see section 11051(c) of Pub. L. 115-97, set out as a note under section 61 of this title.

Amendment by section 13304(a)(2)(F) of Pub. L. 115-97 applicable to amounts incurred or paid after Dec. 31, 2017, see section 13304(e)(1) of Pub. L. 115-97, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Amendment by Pub. L. 111-152 applicable to transactions entered into after Mar. 30, 2010, see section 1409(e)(1) of Pub. L. 111-152, set out as a note under section 6662 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-245 applicable to any individual whose expatriation date is on or after June 17, 2008, see section 301(g)(1) of Pub. L. 110-245, set out as an Effective Date note under section 2801 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1207(f) of Pub. L. 109-280 effective Jan. 1, 2007, see section 1207(g)(1) of Pub. L. 109-280, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of

2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by section 804(b) of Pub. L. 108-357 applicable to individuals who expatriate after June 3, 2004, see section 804(f) of Pub. L. 108-357, set out as a note under section 877 of this title.

Amendment by section 835(b)(10), (11) of Pub. L. 108-357 effective Jan. 1, 2005, with exception for any FASTIT in existence on Oct. 22, 2004, to the extent that regular interests issued by the FASTIT before such date continue to remain outstanding in accordance with the original terms of issuance, see section 835(c) of Pub. L. 108-357, set out as a note under section 56 of this title.

Pub. L. 108-357, title VIII, §852(c), Oct. 22, 2004, 118 Stat. 1609, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].

“(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.”

Amendment by Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108-311, set out as a note under section 2 of this title

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying after Dec. 31, 2009, see section 542(f)(1) of Pub. L. 107-16, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1151(b), Aug. 5, 1997, 111 Stat. 986, provided that: “Any regulations issued with respect to the amendment made by subsection (a) [amending this section] shall apply to partnerships created or organized after the date determined under section 7805(b) of the Internal Revenue Code of 1986 (without regard to paragraph (2) thereof) with respect to such regulations.”

Pub. L. 105-34, title XI, §1174(c), Aug. 5, 1997, 111 Stat. 989, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 861 and 863 of this title] shall apply to remuneration for services performed in taxable years beginning after December 31, 1997.

“(2) PRESENCE.—The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1997.”

Amendment by section 1601(i)(3)(A) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Pub. L. 105-34, title XVI, §1601(i)(4), Aug. 5, 1997, 111 Stat. 1093, provided that: “The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 [Pub. L. 104-188, amending this section] shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act [Aug. 20, 1996], if—

“(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

“(B) no election is in effect under section 1907(a)(3)(B) of such Act [set out as a note below] with respect to such trust,

“(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

“(D) such trust meets such other conditions as the Secretary may require.”

Amendment by section 1402(b)(3) of Pub. L. 104-188 applicable with respect to decedents dying after Aug. 20, 1996, see section 1402(c) of Pub. L. 104-188, set out as a note under section 101 of this title.

Amendment by section 1621(b)(8), (9) of Pub. L. 104-188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104-188, set out as a note under section 26 of this title.

Pub. L. 104-188, title I, §1907(a)(3), Aug. 20, 1996, 110 Stat. 1916, as amended by Pub. L. 105-34, title XI, §1161(a), Aug. 5, 1997, 111 Stat. 987, provided that: “The amendments made by this subsection [amending this section] shall apply—

“(A) to taxable years beginning after December 31, 1996, or

“(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act [Aug. 20, 1996].

Such an election, once made, shall be irrevocable. To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.”

[Pub. L. 105-34, title XI, §1161(b), Aug. 5, 1997, 111 Stat. 987, provided that: “The amendment made by subsection (a) [amending section 1907(a)(3) of Pub. L. 104-188, set out above] shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 [Pub. L. 104-188].”]

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103-296, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-90 effective Jan. 1, 1992, see section 314(g)(1) of Pub. L. 102-90, as amended, set out as a note under section 4725 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11812(b)(13) of Pub. L. 101-508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99-514, see section 11812(c) of Pub. L. 101-508, set out as a note under section 42 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-194, title VI, §603, Nov. 30, 1989, 103 Stat. 1763, provided that: “The amendments made by this

title [amending this section, sections 31-1 and former 441 of Title 2, The Congress, and title V of the Ethics in Government Act of 1978, Pub. L. 95-521, set out in the Appendix to Title 5, Government Organization and Employees] shall take effect on January 1, 1991. Such amendments shall cease to be effective if the provisions of section 703 [5 U.S.C. 5318 note] are subsequently repealed, in which case the laws in effect before such amendments shall be deemed to be reenacted.”

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(c), (d)(14) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(c), (d)(14) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

Amendment by section 671(b)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 675 of Pub. L. 99-514, set out as an Effective Date note under section 860A of this title.

Amendment by section 673 of Pub. L. 99-514 effective Jan. 1, 1992, but not applicable to any entity in existence on Dec. 31, 1991, except with respect to any entity as of the first day after Dec. 31, 1991, on which there is a substantial transfer of cash or other property to such entity, and for purposes of applying section 860F(d) of this title, applicable to taxable years beginning after Dec. 31, 1986, see section 675(c) of Pub. L. 99-514, set out as an Effective Date note under section 860A of this title.

Pub. L. 99-514, title XI, §1166(b), Oct. 22, 1986, 100 Stat. 2512, provided that: “The amendment made by subsection (a) [amending this section] shall apply to years beginning after December 31, 1985.”

Amendment by sections 1802(a)(9)(C), 1810(l)(1)-(4), 1842(d) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

Pub. L. 99-514, title XVIII, §1810(l)(5)(B), Oct. 22, 1986, 100 Stat. 2832, provided that: “The amendments made by this paragraph [amending this section] shall apply to periods after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98-443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

Amendment by section 31(e) of Pub. L. 98-369 effective, except as otherwise provided in section 31(g) of Pub. L. 98-369, as to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date and to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax-exempt entity is entered into after May 23, 1983, except that in the case of a service contract or other arrangement described in section 7701(e) of this title with respect to which no party is a tax-exempt entity, section 7701(e) shall not apply to (A) such contract or other arrangement if such contract or other arrangement was entered into before Nov. 5, 1983, or (B) any re-

newal or other extension of such contract or other arrangement pursuant to an option contained in such contract or other arrangement on Nov. 5, 1983, see section 31(g)(1), (13) of Pub. L. 98-369, set out as a note under section 168 of this title.

Amendment by section 43(a)(1) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 53(c) of Pub. L. 98-369 effective July 18, 1984, except as otherwise provided, see section 53(e)(3) of Pub. L. 98-369, as amended, set out as an Effective Date note under section 1059 of this title.

Amendment by section 75(c) of Pub. L. 98-369 applicable to distributions, sales, and exchanges made after Mar. 31, 1984, in taxable years ending after such date, see section 75(e) of Pub. L. 98-369, set out as an Effective Date note under section 386 of this title.

Pub. L. 98-369, div. A, title I, §138(b), July 18, 1984, 98 Stat. 676, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1984.

“(2) TRANSITIONAL RULE FOR APPLYING SUBSTANTIAL PRESENCE TEST.—

“(A) If an alien individual was not a resident of the United States as of the close of calendar year 1984, the determination of whether such individual meets the substantial presence test of section 7701(b)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this section) shall be made by only taking into account presence after 1984.

“(B) If an alien individual was a resident of the United States as of the close of calendar year 1984, but was not a resident of the United States as of the close of calendar year 1983, the determination of whether such individual meets such substantial presence test shall be made by only taking into account presence in the United States after 1983.

“(3) TRANSITIONAL RULE FOR APPLYING LAWFUL RESIDENCE TEST.—In the case of any individual who—

“(A) was a lawful permanent resident of the United States (within the meaning of section 7701(b)(5) of the Internal Revenue Code of 1986, as added by this section) throughout calendar year 1984, or

“(B) was present in the United States at any time during 1984 while such individual was a lawful permanent resident of the United States (within the meaning of such section 7701(b)(5)),

for purposes of section 7701(b)(2)(A) of such Code (as so added), such individual shall be treated as a resident of the United States during 1984.”

Amendment by section 412(b)(11) of Pub. L. 98-369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98-369, set out as a note under section 6654 of this title.

Amendment by section 422(d)(3) of Pub. L. 98-369 applicable with respect to divorce or separation instruments executed after Dec. 31, 1984, or executed before Jan. 1, 1985, but modified on or after Jan. 1, 1985, with express provision for application of amendment to modification, see section 422(e)(1), (2) of Pub. L. 98-369, set out as a note under section 219 of this title.

Amendment by section 474(r)(29)(K) of Pub. L. 98-369 not applicable with respect to obligations issued before Jan. 1, 1984, see section 475(b) of Pub. L. 98-369, set out as a note under section 33 of this title.

Amendment by section 491(d)(53) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Pub. L. 98-369, div. A, title V, §526(c)(2), July 18, 1984, 98 Stat. 875, provided that: “The amendment made by this subsection [amending this section] shall take effect on April 1, 1984.”

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by section 104(d)(1) of Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983,

see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 201(d)(10) of Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

Pub. L. 97-248, title III, §336(b), Sept. 3, 1982, 96 Stat. 629, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estimated tax for taxable years beginning after Dec. 31, 1980, see section 725(d) of Pub. L. 97-34, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 157(k)(2) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1974, see section 157(k)(3) of Pub. L. 95-600, set out as a note under section 6058 of this title.

Amendment by section 701(cc)(2) of Pub. L. 95-600 applicable to documents prepared after Dec. 31, 1976, see section 701(cc)(3) of Pub. L. 95-600, set out as a note under section 6695 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1203(j), Oct. 4, 1976, 90 Stat. 1695, provided that: “The amendments made by this section [enacting sections 6060, 6107, 6694, 6695, 6696, 7407, and 7427 of this title, renumbering former sections 7407 and 7427 as 7408 and 7428 of this title, respectively, and amending this section and sections 6109, 6503, 6504, and 6511 of this title] shall apply to documents prepared after December 31, 1976.”

Amendment by section 1906(a)(57), (b)(13)(A), (c)(3) of Pub. L. 94-455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-606 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92-606, set out in part as an Effective Date note under section 931 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 432(c), (d) of Pub. L. 91-172 effective for taxable years beginning after July 11, 1969, see section 432(e) of Pub. L. 91-172, set out as a note under section 593 of this title.

Amendment by section 960(j) of Pub. L. 91-172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91-172, set out as a note under section 7441 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see sec-

tion 103(n)(1) of Pub. L. 89-809, set out as a note under section 871 of this title.

Amendment by Pub. L. 89-368 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 102(d) of Pub. L. 89-368, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by section 204(a)(3) of Pub. L. 88-272 applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88-272, set out as an Effective Date note under section 79 of this title.

Amendment by section 234(b)(3) of Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 234(c) of Pub. L. 88-272, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Pub. L. 87-870, §5(b), Oct. 23, 1962, 76 Stat. 1162, provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply with respect to taxable years beginning after the date of the enactment of the Revenue Act of 1962 [Oct. 16, 1962]."

Pub. L. 87-834, §6(g)(3), Oct. 16, 1962, 76 Stat. 985, provided that: "The amendment made by subsection (c) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 16, 1962]."

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86-778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 86-624 effective August 21, 1959, see section 18(k) of Pub. L. 86-624, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

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

SAVINGS PROVISION

For provisions that nothing in amendment by section 11812(b)(13) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K 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.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L.

104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

AUTHORS OR ARTISTS PERFORMING SERVICES UNDER CONTRACT WITH CORPORATION

Pub. L. 96-605, title IV, §402, Dec. 28, 1980, 94 Stat. 3532, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(a) IN GENERAL.—An author or artist performing services under contract with a corporation shall be considered as an employee of the corporation for the purpose of applying the provisions specified in section 7701(a)(20) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], if, on December 31, 1977, such author or artist was a participant in one or more of the pension, profit-sharing or annuity plans of such corporation which are described in subsection (b)(2).

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONTRACT.—The term 'contract' means a contract which during its term—

"(A) requires such author or artist to give the corporation first reading or first refusal on writings or drawings of specified types, and prohibits him from offering any such writing or drawing to any other publication unless it has been offered to and rejected by the corporation; or

"(B) requires such author or artist to use his best efforts to produce work of specified types for the corporation.

"(2) CORPORATION.—The term 'corporation' means a corporation which for at least 15 years prior to January 1, 1978, had in effect one or more pension, profit-sharing and annuity plans, each of which—

"(A) had contained from its inception a definition of the term 'employee' that included the category of 'authors and artists under contract', and

"(B) had been determined by the Secretary of the Treasury (taking into account the definition described in subparagraph (A)) to be a qualified plan within part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1986 [section 401 et seq. of this title] for all of such years.

"(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1980."

§ 7702. Life insurance contract defined

(a) General rule

For purposes of this title, the term "life insurance contract" means any contract which is a life insurance contract under the applicable law, but only if such contract—

(1) meets the cash value accumulation test of subsection (b), or

(2)(A) meets the guideline premium requirements of subsection (c), and

(B) falls within the cash value corridor of subsection (d).

(b) Cash value accumulation test for subsection (a)(1)

(1) In general

A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

(2) Rules for applying paragraph (1)

Determinations under paragraph (1) shall be made—

(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

(C) by taking into account under subparagraphs (A) and (D) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

(c) Guideline premium requirements

For purposes of this section—

(1) In general

A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

(2) Guideline premium limitation

The term “guideline premium limitation” means, as of any date, the greater of—

(A) the guideline single premium, or

(B) the sum of the guideline level premiums to such date.

(3) Guideline single premium

(A) In general

The term “guideline single premium” means the premium at issue with respect to future benefits under the contract.

(B) Basis on which determination is made

The determination under subparagraph (A) shall be based on—

(i) reasonable mortality charges which meet the requirements prescribed in regulations to be promulgated by the Secretary or that do not exceed the mortality charges specified in the prevailing commissioners’ standard tables as defined in subsection (f)(10),

(ii) any reasonable charges (other than mortality charges) which (on the basis of the company’s experience, if any, with respect to similar contracts) are reasonably expected to be actually paid, and

(iii) interest at the greater of an annual effective rate of 6 percent or the rate or rates guaranteed on issuance of the contract.

(C) When determination made

Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

(D) Special rules for subparagraph (B)(ii)

(i) Charges not specified in the contract

If any charge is not specified in the contract, the amount taken into account under subparagraph (B)(ii) for such charge shall be zero.

(ii) New companies, etc.

If any company does not have adequate experience for purposes of the determination under subparagraph (B)(ii), to the extent provided in regulations, such determination shall be made on the basis of the industry-wide experience.

(4) Guideline level premium

The term “guideline level premium” means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting “4 percent” for “6 percent”.

(d) Cash value corridor for purposes of subsection (a)(2)(B)

For purposes of this section—

(1) In general

A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

(2) Applicable percentage

In the case of an insured with an attained age as of the beginning of the contract year of:

The applicable percentage shall decrease by a ratable portion for each full year:

More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	215
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

(e) Computational rules

(1) In general

For purposes of this section (other than subsection (d))—

(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be deemed to be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100,

(C) the death benefits shall be deemed to be provided until the maturity date deter-

mined by taking into account subparagraph (B), and

(D) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date determined by taking into account subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

(2) Limited increases in death benefit permitted

Notwithstanding paragraph (1)(A)—

(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract,

(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium, and

(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

(i) has an initial death benefit of \$5,000 or less and a maximum death benefit of \$25,000 or less,

(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract.

(f) Other definitions and special rules

For purposes of this section—

(1) Premiums paid

(A) In general

The term “premiums paid” means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received with respect to the contract which are specified in regulations.

(B) Treatment of certain premiums returned to policyholder

If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce

the sum of the premiums paid under the contract during such year.

(C) Interest returned includible in gross income

Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

(2) Cash values

(A) Cash surrender value

The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

(B) Net surrender value

The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

(3) Death benefit

The term “death benefit” means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

(4) Future benefits

The term “future benefits” means death benefits and endowment benefits.

(5) Qualified additional benefits

(A) In general

The term “qualified additional benefits” means any—

- (i) guaranteed insurability,
- (ii) accidental death or disability benefit,
- (iii) family term coverage,
- (iv) disability waiver benefit, or
- (v) other benefit prescribed under regulations.

(B) Treatment of qualified additional benefits

For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

(C) Treatment of other additional benefits

In the case of any additional benefit which is not a qualified additional benefit—

- (i) such benefit shall not be treated as a future benefit, and
- (ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

(6) Premium payments not disqualifying contract

The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

(7) Adjustments**(A) In general**

If there is a change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination or adjustment made under this section, there shall be proper adjustments in future determinations made under this section.

(B) Rule for certain changes during first 15 years

If—

(i) a change described in subparagraph (A) reduces benefits under the contract,

(ii) the change occurs during the 15-year period beginning on the issue date of the contract, and

(iii) a cash distribution is made to the policyholder as a result of such change,

section 72 (other than subsection (e)(5) thereof) shall apply to such cash distribution to the extent it does not exceed the recapture ceiling determined under subparagraph (C) or (D) (whichever applies).

(C) Recapture ceiling where change occurs during first 5 years

If the change referred to in subparagraph (B)(ii) occurs during the 5-year period beginning on the issue date of the contract, the recapture ceiling is—

(i) in the case of a contract to which subsection (a)(1) applies, the excess of—

(I) the cash surrender value of the contract, immediately before the reduction, over

(II) the net single premium (determined under subsection (b)), immediately after the reduction, or

(ii) in the case of a contract to which subsection (a)(2) applies, the greater of—

(I) the excess of the aggregate premiums paid under the contract, immediately before the reduction, over the guideline premium limitation for the contract (determined under subsection (c)(2), taking into account the adjustment described in subparagraph (A)), or

(II) the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction).

(D) Recapture ceiling where change occurs after 5th year and before 16th year

If the change referred to in subparagraph (B) occurs after the 5-year period referred to under subparagraph (C), the recapture ceiling is the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction and whether or not subsection (d) applies to the contract).

(E) Treatment of certain distributions made in anticipation of benefit reductions

Under regulations prescribed by the Secretary, subparagraph (B) shall apply also to any distribution made in anticipation of a

reduction in benefits under the contract. For purposes of the preceding sentence, appropriate adjustments shall be made in the provisions of subparagraphs (C) and (D); and any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in benefits under the contract shall be treated as made in anticipation of such reduction.

(8) Correction of errors

If the taxpayer establishes to the satisfaction of the Secretary that—

(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

(9) Special rule for variable life insurance contracts

In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

(10) Prevailing commissioners' standard tables

For purposes of subsection (c)(3)(B)(i), the term "prevailing commissioners' standard tables" means the most recent commissioners' standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued. If the prevailing commissioners' standard tables as of the beginning of any calendar year (hereinafter in this paragraph referred to as the "year of change") are different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

(g) Treatment of contracts which do not meet subsection (a) test**(1) Income inclusion****(A) In general**

If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year.

(B) Income on the contract

For purposes of this paragraph, the term "income on the contract" means, with respect to any taxable year of the policyholder, the excess of—

(i) the sum of—

(I) the increase in the net surrender value of the contract during the taxable year, and

(II) the cost of life insurance protection provided under the contract during the taxable year, over

(ii) the premiums paid (as defined in subsection (f)(1)) under the contract during the taxable year.

(C) Contracts which cease to meet definition

If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs.

(D) Cost of life insurance protection

For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

(ii) the mortality charge (if any) stated in the contract.

(2) Treatment of amount paid on death of insured

If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

(3) Contract continues to be treated as insurance contract

If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), such contract shall, notwithstanding such failure, be treated as an insurance contract for purposes of this title.

(h) Endowment contracts receive same treatment

(1) In general

References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

(2) Definition of endowment contract

For purposes of this title (other than paragraph (1)), the term “endowment contract” means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

(i) Transitional rule for certain 20-pay contracts

(1) In general

In the case of a qualified 20-pay contract, this section shall be applied by substituting “3 percent” for “4 percent” in subsection (b)(2).

(2) Qualified 20-pay contract

For purposes of paragraph (1), the term “qualified 20-pay contract” means any contract which—

(A) requires at least 20 nondecreasing annual premium payments, and

(B) is issued pursuant to an existing plan of insurance.

(3) Existing plan of insurance

For purposes of this subsection, the term “existing plan of insurance” means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

(j) Certain church self-funded death benefit plans treated as life insurance

(1) In general

In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

(2) Description

For purposes of this subsection, a plan or arrangement is described in this paragraph if—

(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

(3) Definitions

For purposes of this subsection—

(A) Church

The term “church” means a church or a convention or association of churches.

(B) Employee

The term “employee” includes an employee described in section 414(e)(3)(B).

(k) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 98-369, div. A, title II, §221(a), July 18, 1984, 98 Stat. 767; amended Pub. L. 99-514, title XVIII, §1825(a)–(c), Oct. 22, 1986, 100 Stat. 2846-2848; Pub. L. 100-647, title V, §5011(a), (b), title VI, §6078(a), Nov. 10, 1988, 102 Stat. 3660, 3661, 3709; Pub. L. 115-97, title I, §13517(a)(4), Dec. 22, 2017, 131 Stat. 2146.)

AMENDMENTS

2017—Subsec. (c)(3)(B)(i). Pub. L. 115-97, §13517(a)(4)(A), added cl. (i) and struck out former cl. (i) which read as follows: “reasonable mortality charges which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges specified in the prevailing commissioners’ standard tables (as defined in section 807(d)(5)) as of the time the contract is issued.”.

Subsec. (f)(10). Pub. L. 115-97, §13517(a)(4)(B), added par. (10).

1988—Subsec. (c)(3)(B)(i), (ii). Pub. L. 100-647, §5011(a), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

“(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

“(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and”.

Subsec. (c)(3)(D). Pub. L. 100-647, §5011(b), added subpar. (D).

Subsecs. (j), (k). Pub. L. 100-647, §6078(a), added subsec. (j) and redesignated former subsec. (j) as (k).

1986—Subsec. (b)(2)(C). Pub. L. 99-514, §1825(a)(2), substituted “subparagraphs (A) and (D)” for “subparagraphs (A) and (C)”.

Subsec. (e)(1). Pub. L. 99-514, §1825(a)(3), inserted “(other than subsection (d))” after “section”.

Subsec. (e)(1)(B). Pub. L. 99-514, §1825(a)(1)(A), substituted “shall be deemed to be no earlier than” for “shall be no earlier than”.

Subsec. (e)(1)(C). Pub. L. 99-514, §1821(a)(1)(C), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (e)(1)(D). Pub. L. 99-514, §1821(a)(1)(C), (D), redesignated subpar. (C) as (D) and substituted “the maturity date determined by taking into account subparagraph (B)” for “the maturity date described in subparagraph (B)”.

Subsec. (e)(2)(C). Pub. L. 99-514, §1825(a)(4), added subpar. (C).

Subsec. (f)(1)(A). Pub. L. 99-514, §1825(b)(2), substituted “less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received” for “less any other amounts received”.

Subsec. (f)(7). Pub. L. 99-514, §1825(b)(1), amended par. (7) generally. Prior to amendment, par. (7)(A), in general, read as follows: “In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary, there shall be proper adjustments in future determinations made under this section.”, and par. (7)(B), certain changes treated as exchange, read as follows: “In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.”

Subsec. (g)(1)(B)(ii). Pub. L. 99-514, §1825(c), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the amount of premiums paid under the contract during the taxable year reduced by any policyholder dividends received during such taxable year.”

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, with transition rule and transition relief, see section 13517(c) of Pub. L. 115-97, set out as a note under section 807 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5011(d), Nov. 10, 1988, 102 Stat. 3661, provided that: “The amendments made by this section [amending this section] shall apply to contracts entered into on or after October 21, 1988.”

Pub. L. 100-647, title VI, §6078(b), Nov. 10, 1988, 102 Stat. 3709, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984 [Pub. L. 98-369, which enacted this section].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XVIII, §1825(a)(4), Oct. 22, 1986, 100 Stat. 2846, as amended by Pub. L. 100-647, title I, §1018(j), Nov. 10, 1988, 102 Stat. 3583, provided that the amendment made by that section is effective with respect to contracts entered into after Oct. 22, 1986.

Amendment by section 1825(a)(1)–(3), (b), (c) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title II, §221(d), July 18, 1984, 98 Stat. 772, as amended by Pub. L. 99-514, §2, title XVIII, §§1825(e), 1899A(69), Oct. 22, 1986, 100 Stat. 2095, 2848, 2962, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending section 101 of this title and provisions set out as a note under section 101 of this title] shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

“(2) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED AFTER JUNE 30, 1984.—

“(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by this section shall apply also to any contract issued after June 30, 1984, which provides an increasing death benefit and has premium funding more rapid than 10-year level premium payments.

“(B) EXCEPTION FOR CERTAIN CONTRACTS.—Subparagraph (A) shall not apply to any contract if—

“(i) such contract (whether or not a flexible premium contract) would meet the requirements of section 101(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954],

“(ii) such contract is not a flexible premium life insurance contract (within the meaning of section 101(f) of such Code) and would meet the requirements of section 7702 of such Code determined by—

“(I) substituting ‘3 percent’ for ‘4 percent’ in section 7702(b)(2) of such Code, and

“(II) treating subparagraph (B) of section 7702(e)(1) of such Code as if it read as follows: ‘the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95’, or

“(iii) under such contract—

“(I) the premiums (including any policy fees) will be adjusted from time-to-time to reflect the level amount necessary (but not less than zero) at the time of such adjustment to provide a level death benefit assuming interest crediting and an annual effective interest rate of not less than 3 percent, or

“(II) at the option of the insured, in lieu of an adjustment under subclause (I) there will be a comparable adjustment in the amount of the death benefit.

“(C) CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—

“(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting ‘September 30, 1984’ for ‘June 30, 1984’ in the case of a contract—

“(I) which would meet the requirements of section 7702 of such Code if ‘3 percent’ were substituted for ‘4 percent’ in section 7702(b)(2) of such Code, and the rate or rates guaranteed on issuance of the contract were determined without regard to any mortality charges and any initial excess interest guarantees, and

“(II) the cash surrender value of which does not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

“(ii) DEFINITIONS.—For purposes of clause (i)—

“(I) IN GENERAL.—Except as provided in subclause (II), terms used in clause (i) shall have the same meanings as when used in section 7702 of such Code.

“(II) NET SINGLE PREMIUM.—The term ‘net single premium’ shall be determined by substituting ‘3 percent’ for ‘4 percent’ in section 7702(b)(2) of

such Code, by using the 1958 standard ordinary mortality and morbidity tables of the National Association of Insurance Commissioners, and by assuming a level death benefit.

“(3) TRANSITIONAL RULE FOR CERTAIN EXISTING PLANS OF INSURANCE.—A plan of insurance on file in 1 or more States before September 28, 1983, shall be treated for purposes of section 7702(i)(3) of such Code as a plan of insurance on file in 1 or more States before September 28, 1983, without regard to whether such plan of insurance is modified after September 28, 1983, to permit the crediting of excess interest or similar amounts annually and not monthly under contracts issued pursuant to such plan of insurance.

“(4) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) [amending section 101 of this title and provisions set out as a note under section 101 of this title] shall take effect on January 1, 1984.

“(5) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into account with respect to any insured shall be the first date on which such insured is covered under such contract.”

INTERIM RULES; REGULATIONS; STANDARDS BEFORE REGULATIONS TAKE EFFECT

Pub. L. 100-647, title V, § 5011(c), Nov. 10, 1988, 102 Stat. 3661, provided that:

“(1) REGULATIONS.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall issue regulations under section 7702(c)(3)(B)(i) of the 1986 Code (as amended by subsection (a)).

“(2) STANDARDS BEFORE REGULATIONS TAKE EFFECT.—In the case of any contract to which the amendments made by this section [amending this section] apply and which is issued before the effective date of the regulations required under paragraph (1), mortality charges which do not differ materially from the charges actually expected to be imposed by the company (taking into account any relevant characteristic of the insured of which the company is aware) shall be treated as meeting the requirements of clause (i) of section 7702(c)(3)(B) of the 1986 Code (as amended by subsection (a)).”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

TREATMENT OF FLEXIBLE PREMIUM CONTRACTS ISSUED DURING 1984 WHICH MEET NEW REQUIREMENTS

Pub. L. 98-369, div. A, title II, § 221(b)(3), as added by Pub. L. 99-514, title XVIII, § 1825(d), Oct. 22, 1986, 100 Stat. 2848, provided that: “Any flexible premium contract issued during 1984 which meets the requirements of section 7702 of the Internal Revenue Code of 1954 [now 1986] (as added by this section) shall be treated as meeting the requirements of section 101(f) of such Code.”

§ 7702A. Modified endowment contract defined

(a) General rule

For purposes of section 72, the term “modified endowment contract” means any contract meeting the requirements of section 7702—

(1) which—

(A) is entered into on or after June 21, 1988, and

(B) fails to meet the 7-pay test of subsection (b), or

(2) which is received in exchange for a contract described in paragraph (1) or this paragraph.

(b) 7-pay test

For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

(c) Computational rules

(1) In general

Except as provided in this subsection, the determination under subsection (b) of the 7 level annual premiums shall be made—

(A) as of the time the contract is issued, and

(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years.

(2) Reduction in benefits during 1st 7 years

(A) In general

If there is a reduction in benefits under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced benefit level.

(B) Reductions attributable to nonpayment of premiums

Any reduction in benefits attributable to the nonpayment of premiums due under the contract shall not be taken into account under subparagraph (A) if the benefits are reinstated within 90 days after the reduction in such benefits.

(3) Treatment of material changes

(A) In general

If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account the cash surrender value under the contract.

(B) Treatment of certain benefit increases

For purposes of subparagraph (A), the term “material change” includes any increase in the death benefit under the contract or any increase in, or addition of, a qualified additional benefit under the contract. Such term shall not include—

(i) any increase which is attributable to the payment of premiums necessary to

fund the lowest level of the death benefit and qualified additional benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining period during which premiums are required to be paid under the contract.

(4) Special rule for contracts with death benefits of \$10,000 or less

In the case of a contract—

(A) which provides an initial death benefit of \$10,000 or less, and

(B) which requires at least 7 nondecreasing annual premium payments,

each of the 7 level annual premiums determined under subsection (b) (without regard to this paragraph) shall be increased by \$75. For purposes of this paragraph, the contract involved and all contracts previously issued to the same policyholder by the same company shall be treated as one contract.

(5) Regulatory authority for certain collection expenses

The Secretary may by regulations prescribe rules for taking into account expenses solely attributable to the collection of premiums paid more frequently than annually.

(6) Treatment of certain contracts with more than one insured

If—

(A) a contract provides a death benefit which is payable only upon the death of 1 insured following (or occurring simultaneously with) the death of another insured, and

(B) there is a reduction in such death benefit below the lowest level of such death benefit provided under the contract during the 1st 7 contract years,

this section shall be applied as if the contract had originally been issued at the reduced benefit level.

(d) Distributions affected

If a contract fails to meet the 7-pay test of subsection (b), such contract shall be treated as failing to meet such requirements only in the case of—

(1) distributions during the contract year in which the failure takes effect and during any subsequent contract year, and

(2) under regulations prescribed by the Secretary, distributions (not described in paragraph (1)) in anticipation of such failure.

For purposes of the preceding sentence, any distribution which is made within 2 years before the failure to meet the 7-pay test shall be treated as made in anticipation of such failure.

(e) Definitions

For purposes of this section—

(1) Amount paid

(A) In general

The term “amount paid” means—

(i) the premiums paid under the contract, reduced by

(ii) amounts to which section 72(e) applies (determined without regard to paragraph (4)(A) thereof) but not including amounts includible in gross income.

(B) Treatment of certain premiums returned

If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

(C) Interest returned includible in gross income

Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

(2) Contract year

The term “contract year” means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

(3) Other terms

Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702.

(Added Pub. L. 100-647, title V, §5012(c)(1), Nov. 10, 1988, 102 Stat. 3662; amended Pub. L. 101-239, title VII, §§7647(a), 7815(a)(1), (4), Dec. 19, 1989, 103 Stat. 2382, 2414; Pub. L. 106-554, §1(a)(7) [title III, §318(a)(1), (2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645; Pub. L. 107-147, title IV, §416(f), Mar. 9, 2002, 116 Stat. 55.)

AMENDMENTS

2002—Subsec. (c)(3)(A)(ii). Pub. L. 107-147 repealed Pub. L. 106-554, §1(a)(7) [title III, §318(a)(2)]. See 2000 Amendment note below.

2000—Subsec. (a)(2). Pub. L. 106-554, §1(a)(7) [title III, §318(a)(1)], inserted “or this paragraph” before period at end.

Subsec. (c)(3)(A)(ii). Pub. L. 106-554, §1(a)(7) [title III, §318(a)(2)], which substituted “under the old contract” for “under the contract”, was repealed by Pub. L. 107-147. See Construction of 2002 Amendment note below.

1989—Subsec. (c)(3)(B). Pub. L. 101-239, §7815(a)(1), substituted “benefit increases” for “increases in future benefits” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of subparagraph (A), the term ‘material change’ includes any increase in future benefits under the contract. Such term shall not include—

“(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of future benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

“(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining life of the the contract.”

Subsec. (c)(4). Pub. L. 101-239, § 7815(a)(4), substituted “of \$10,000 or less” for “under \$10,000” in heading and “the same policyholder” for “the same insurer” in concluding provisions.

Subsec. (c)(6). Pub. L. 101-239, § 7647(a), added par. (6).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(7) [title III, § 318(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the amendments made by section 5012 of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7647(b), Dec. 19, 1989, 103 Stat. 2383, provided that: “The amendment made by subsection (a) [amending this section] shall apply to contracts entered into on or after September 14, 1989.”

Amendment by section 7815(a)(1), (4) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 100-647, title V, § 5012(e), Nov. 10, 1988, 102 Stat. 3665, as amended by Pub. L. 101-239, title VII, § 7815(a)(2), Dec. 19, 1989, 103 Stat. 2414, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 26 and 72 of this title] shall apply to contracts entered into on or after June 21, 1988.

“(2) SPECIAL RULE WHERE DEATH BENEFIT INCREASES BY MORE THAN \$150,000.—If the death benefit under the contract increases by more than \$150,000 over the death benefit under the contract in effect on October 20, 1988, the rules of section 7702A(c)(3) of the 1986 Code (as added by this section) shall apply in determining whether such contract is issued on or after June 21, 1988. The preceding sentence shall not apply in the case of a contract which, as of June 21, 1988, required at least 7 level annual premium payments and under which the policyholder makes at least 7 level annual premium payments.

“(3) CERTAIN OTHER MATERIAL CHANGES TAKEN INTO ACCOUNT.—A contract entered into before June 21, 1988, shall be treated as entered into after such date if—

“(A) on or after June 21, 1988, the death benefit under the contract is increased (or a qualified additional benefit is increased or added) and before June 21, 1988, the owner of the contract did not have a unilateral right under the contract to obtain such increase or addition without providing additional evidence of insurability, or

“(B) the contract is converted after June 20, 1988, from a term life insurance contract to a life insurance contract providing coverage other than term life insurance coverage without regard to any right of the owner of the contract to such conversion.

“(4) CERTAIN EXCHANGES PERMITTED.—In the case of a modified endowment contract which—

“(A) required at least 7 annual level premium payments,

“(B) is entered into after June 20, 1988, and before the date of the enactment of this Act [Nov. 10, 1988], and

“(C) is exchanged within 3 months after such date of enactment for a life insurance contract which meets the requirements of section 7702A(b), the contract which is received in exchange for such contract shall not be treated as a modified endowment contract if the taxpayer elects, notwithstanding sec-

tion 1035 of the 1986 Code, to recognize gain on such exchange.

“(5) SPECIAL RULE FOR ANNUITY CONTRACTS.—In the case of annuity contracts, the amendments made by subsection (d) [amending section 72 of this title] shall apply to contracts entered into after October 21, 1988.”

CONSTRUCTION OF 2002 AMENDMENT

Pub. L. 107-147, title IV, § 416(f), Mar. 9, 2002, 116 Stat. 55, provided that: “Paragraph (2) of section 318(a) of the Community Renewal Tax Relief Act of 2000 [H.R. 5662, as enacted by section 1(a)(7) of Pub. L. 106-554] (114 Stat. 2763A-645) [amending this section] is repealed, and clause (ii) of section 7702A(c)(3)(A) shall read and be applied as if the amendment made by such paragraph had not been enacted.”

§ 7702B. Treatment of qualified long-term care insurance

(a) In general

For purposes of this title—

(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

(b) Qualified long-term care insurance contract

For purposes of this title—

(1) In general

The term “qualified long-term care insurance contract” means any insurance contract if—

(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

(C) such contract is guaranteed renewable,

(D) such contract does not provide for a cash surrender value or other money that can be—

(i) paid, assigned, or pledged as collateral for a loan, or

(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

(F) such contract meets the requirements of subsection (g).

(2) Special rules

(A) Per diem, etc. payments permitted

A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(B) Special rules relating to medicare

(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

(C) Refunds of premiums

Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

(c) Qualified long-term care services

For purposes of this section—

(1) In general

The term “qualified long-term care services” means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

(A) are required by a chronically ill individual, and

(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(2) Chronically ill individual

(A) In general

The term “chronically ill individual” means any individual who has been certified by a licensed health care practitioner as—

(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

(ii) having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

(B) Activities of daily living

For purposes of subparagraph (A), each of the following is an activity of daily living:

- (i) Eating.
- (ii) Toileting.
- (iii) Transferring.
- (iv) Bathing.
- (v) Dressing.
- (vi) Continence.

A contract shall not be treated as a qualified long-term care insurance contract unless the determination of whether an individual is a chronically ill individual described in subparagraph (A)(i) takes into account at least 5 of such activities.

(3) Maintenance or personal care services

The term “maintenance or personal care services” means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(4) Licensed health care practitioner

The term “licensed health care practitioner” means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

(d) Aggregate payments in excess of limits

(1) In general

If the aggregate of—

(A) the periodic payments received for any period under all qualified long-term care insurance contracts which are treated as made for qualified long-term care services for an insured, and

(B) the periodic payments received for such period which are treated under section 101(g) as paid by reason of the death of such insured,

exceeds the per diem limitation for such period, such excess shall be includible in gross income without regard to section 72. A payment shall not be taken into account under subparagraph (B) if the insured is a terminally ill individual (as defined in section 101(g)) at the time the payment is received.

(2) Per diem limitation

For purposes of paragraph (1), the per diem limitation for any period is an amount equal to the excess (if any) of—

(A) the greater of—

(i) the dollar amount in effect for such period under paragraph (4), or

(ii) the costs incurred for qualified long-term care services provided for the insured for such period, over

(B) the aggregate payments received as reimbursements (through insurance or otherwise) for qualified long-term care services provided for the insured during such period.

(3) Aggregation rules

For purposes of this subsection—

(A) all persons receiving periodic payments described in paragraph (1) with respect to the same insured shall be treated as 1 person, and

(B) the per diem limitation determined under paragraph (2) shall be allocated first to the insured and any remaining limitation shall be allocated among the other such persons in such manner as the Secretary shall prescribe.

(4) Dollar amount

The dollar amount in effect under this subsection shall be \$175 per day (or the equivalent amount in the case of payments on another periodic basis).

(5) Inflation adjustment

In the case of a calendar year after 1997, the dollar amount contained in paragraph (4) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

(6) Periodic payments

For purposes of this subsection, the term “periodic payment” means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

(e) Treatment of coverage provided as part of a life insurance or annuity contract

Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract or an annuity contract—

(1) In general

This title shall apply as if the portion of the contract providing such coverage is a separate contract.

(2) Denial of deduction under section 213

No deduction shall be allowed under section 213(a) for any payment made for coverage under a qualified long-term care insurance contract if such payment is made as a charge against the cash surrender value of a life insurance contract or the cash value of an annuity contract.

(3) Portion defined

For purposes of this subsection, the term “portion” means only the terms and benefits under a life insurance contract or annuity contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

(4) Annuity contracts to which paragraph (1) does not apply

For purposes of this subsection, none of the following shall be treated as an annuity contract:

(A) A trust described in section 401(a) which is exempt from tax under section 501(a).

(B) A contract—

(i) purchased by a trust described in subparagraph (A),

(ii) purchased as part of a plan described in section 403(a),

(iii) described in section 403(b),

(iv) provided for employees of a life insurance company under a plan described in section 818(a)(3), or

(v) from an individual retirement account or an individual retirement annuity.

(C) A contract purchased by an employer for the benefit of the employee (or the employee’s spouse).

Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this paragraph, be treated as paid under a separate contract to which subparagraph (B)(i) applies.

(f) Treatment of certain State-maintained plans

(1) In general

If—

(A) an individual receives coverage for qualified long-term care services under a State long-term care plan, and

(B) the terms of such plan would satisfy the requirements of subsection (b) were such plan an insurance contract,

such plan shall be treated as a qualified long-term care insurance contract for purposes of this title.

(2) State long-term care plan

For purposes of paragraph (1), the term “State long-term care plan” means any plan—

(A) which is established and maintained by a State or an instrumentality of a State,

(B) which provides coverage only for qualified long-term care services, and

(C) under which such coverage is provided only to—

(i) employees and former employees of a State (or any political subdivision or instrumentality of a State),

(ii) the spouses of such employees, and

(iii) individuals bearing a relationship to such employees or spouses which is described in any of subparagraphs (A) through (G) of section 152(d)(2).

(g) Consumer protection provisions

(1) In general

The requirements of this subsection are met with respect to any contract if the contract meets—

(A) the requirements of the model regulation and model Act described in paragraph (2),

(B) the disclosure requirement of paragraph (3), and

(C) the requirements relating to non-forfeatability under paragraph (4).

(2) Requirements of model regulation and Act**(A) In general**

The requirements of this paragraph are met with respect to any contract if such contract meets—

(i) Model regulation

The following requirements of the model regulation:

(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

(II) Section 7B (relating to prohibitions on limitations and exclusions).

(III) Section 7C (relating to extension of benefits).

(IV) Section 7D (relating to continuation or conversion of coverage).

(V) Section 7E (relating to discontinuance and replacement of policies).

(VI) Section 8 (relating to unintentional lapse).

(VII) Section 9 (relating to disclosure), other than section 9F thereof.

(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

(IX) Section 11 (relating to minimum standards).

(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

(ii) Model Act

The following requirements of the model Act:

(I) Section 6C (relating to preexisting conditions).

(II) Section 6D (relating to prior hospitalization).

(B) Definitions

For purposes of this paragraph—

(i) Model provisions

The terms “model regulation” and “model Act” mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

(ii) Coordination

Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

(iii) Determination

For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the

model Act has been met shall be made by the Secretary.

(3) Disclosure requirement

The requirement of this paragraph is met with respect to any contract if such contract meets the requirements of section 4980C(d).

(4) Nonforfeiture requirements**(A) In general**

The requirements of this paragraph are met with respect to any level premium contract, if the issuer of such contract offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

(B) Requirements of provision

The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

(i) The nonforfeiture provision shall be appropriately captioned.

(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the appropriate State regulatory agency for the same contract form.

(iii) The nonforfeiture provision shall provide at least one of the following:

(I) Reduced paid-up insurance.

(II) Extended term insurance.

(III) Shortened benefit period.

(IV) Other similar offerings approved by the appropriate State regulatory agency.

(5) Cross reference

For coordination of the requirements of this subsection with State requirements, see section 4980C(f).

(Added and amended Pub. L. 104-191, title III, §§321(a), 325, Aug. 21, 1996, 110 Stat. 2054, 2063; Pub. L. 105-34, title XVI, §1602(b), (e), Aug. 5, 1997, 111 Stat. 1094; Pub. L. 105-206, title VI, §6023(28), July 22, 1998, 112 Stat. 826; Pub. L. 108-311, title II, §207(25), Oct. 4, 2004, 118 Stat. 1178; Pub. L. 109-280, title VIII, §844(c), (f), Aug. 17, 2006, 120 Stat. 1011, 1013.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1)(B), (2)(B)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 1861(r)(1) of the Act is classified to section 1395x(r)(1) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109-280, §844(c), amended subsec. (e) generally. Prior to amendment, subsec. (e)

related to treatment of coverage provided as part of a life insurance contract.

Subsec. (e)(1). Pub. L. 109-280, §844(f), substituted “title” for “section”.

2004—Subsec. (f)(2)(C)(iii). Pub. L. 108-311 substituted “subparagraphs (A) through (G) of section 152(d)(2)” for “paragraphs (1) through (8) of section 152(a)”.

1998—Subsec. (e)(2). Pub. L. 105-206 inserted “section” after “Application of” in heading.

1997—Subsec. (c)(2)(B). Pub. L. 105-34, §1602(b), inserted “described in subparagraph (A)(i)” after “chronically ill individual” in concluding provisions.

Subsec. (g)(4)(B)(ii), (iii)(IV). Pub. L. 105-34, §1602(e), substituted “appropriate State regulatory agency” for “Secretary”.

1996—Subsec. (g). Pub. L. 104-191, §325, added subsec. (g).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to contracts issued after Dec. 31, 1996, but only with respect to taxable years beginning after Dec. 31, 2009, except as otherwise provided, see section 844(g)(1) of Pub. L. 109-280, set out as a note under section 72 of this title.

Amendment by section 844(f) of Pub. L. 109-280 effective as if included in section 321(a) of Pub. L. 104-191, see section 844(g)(5) of Pub. L. 109-280, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108-311, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 325 of Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1996, with provisions of section 321(f) of Pub. L. 104-191, set out as an Effective Date note below, applicable to such contracts, see section 327 of Pub. L. 104-191, set out as an Effective Date note under section 4980C of this title.

EFFECTIVE DATE

Pub. L. 104-191, title III, §321(f), Aug. 21, 1996, 110 Stat. 2059, provided that:

“(1) GENERAL EFFECTIVE DATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section [enacting this section and amending sections 106, 125, 807, and 4980B of this title, section 1167 of Title 29, Labor, and section 300bb-8 of Title 42, The Public Health and Welfare] shall apply to contracts issued after December 31, 1996.

“(B) RESERVE METHOD.—The amendment made by subsection (b) [amending section 807 of this title] shall apply to contracts issued after December 31, 1997.

“(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was situated [sic] at the time the contract was issued—

“(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

“(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

In the case of an individual who is covered on December 31, 1996, under a State long-term care plan (as defined in section 7702B(f)(2) of such Code), the terms of such plan on such date shall be treated for purposes of the preceding sentence as a contract issued on such date which met the long-term care insurance requirements of such State.

“(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act [Aug. 21, 1996] and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

“(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

“(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

“(B) the addition of any provision required to conform any other long-term care rider to be so treated, shall not be treated as a modification or material change of such contract.

“(5) APPLICATION OF PER DIEM LIMITATION TO EXISTING CONTRACTS.—The amount of per diem payments made under a contract issued on or before July 31, 1996, with respect to an insured which are excludable from gross income by reason of section 7702B of the Internal Revenue Code of 1986 (as added by this section) shall not be reduced under subsection (d)(2)(B) thereof by reason of reimbursements received under a contract issued on or before such date. The preceding sentence shall cease to apply as of the date (after July 31, 1996) such contract is exchanged or there is any contract modification which results in an increase in the amount of such per diem payments or the amount of such reimbursements.”

LONG-TERM CARE STUDY REQUEST

Pub. L. 104-191, title III, §321(g), Aug. 21, 1996, 110 Stat. 2060, provided that: “The Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate shall jointly request the National Association of Insurance Commissioners, in consultation with representatives of the insurance industry and consumer organizations, to formulate, develop, and conduct a study to determine the marketing and other effects of per diem limits on certain types of long-term care policies. If the National Association of Insurance Commissioners agrees to the study request, the National Association of Insurance Commissioners shall report the results of its study to such committees not later than 2 years after accepting the request.”

§ 7703. Determination of marital status

(a) General rule

For purposes of part V of subchapter B of chapter 1 and those provisions of this title which refer to this subsection—

(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) an individual legally separated from his spouse under a decree of divorce or of separate

maintenance shall not be considered as married.

(b) Certain married individuals living apart

For purposes of those provisions of this title which refer to this subsection, if—

(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 152(f)(1)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for section 152(e)),

(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married.

(Added Pub. L. 99-514, title XIII, § 1301(j)(2)(A), Oct. 22, 1986, 100 Stat. 2657; amended Pub. L. 100-647, title I, § 1018(u)(41), Nov. 10, 1988, 102 Stat. 3592; Pub. L. 108-311, title II, § 207(26), Oct. 4, 2004, 118 Stat. 1178.)

PRIOR PROVISIONS

Provisions relating to determination of marital status were formerly contained in section 143 of this title, prior to enactment of this section by Pub. L. 99-514.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-311 substituted “152(f)(1)” for “151(c)(3)” and struck out “paragraph (2) or (4) of” before “section 152(e)”,.

1988—Subsec. (b)(1). Pub. L. 100-647 substituted “section 151(c)(3)” for “section 151(e)(3)”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108-311, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Section applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

§ 7704. Certain publicly traded partnerships treated as corporations

(a) General rule

For purposes of this title, except as provided in subsection (c), a publicly traded partnership shall be treated as a corporation.

(b) Publicly traded partnership

For purposes of this section, the term “publicly traded partnership” means any partnership if—

(1) interests in such partnership are traded on an established securities market, or

(2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

(c) Exception for partnerships with passive-type income

(1) In general

Subsection (a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of paragraph (2) for such taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence. For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership.

(2) Gross income requirements

A partnership meets the gross income requirements of this paragraph for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

(3) Exception not to apply to certain partnerships which could qualify as regulated investment companies

This subsection shall not apply to any partnership which would be described in section 851(a) if such partnership were a domestic corporation. To the extent provided in regulations, the preceding sentence shall not apply to any partnership a principal activity of which is the buying and selling of commodities (not described in section 1221(a)(1)), or options, futures, or forwards with respect to commodities.

(d) Qualifying income

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualifying income” means—

(A) interest,

(B) dividends,

(C) real property rents,

(D) gain from the sale or other disposition of real property (including property described in section 1221(a)(1)),

(E) income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber), industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1),

(F) any gain from the sale or disposition of a capital asset (or property described in section 1231(b)) held for the production of in-

come described in any of the foregoing subparagraphs of this paragraph, and

(G) in the case of a partnership described in the second sentence of subsection (c)(3), income and gains from commodities (not described in section 1221(a)(1)) or futures, forwards, and options with respect to commodities.

For purposes of subparagraph (E), the term “mineral or natural resource” means any product of a character with respect to which a deduction for depletion is allowable under section 611; except that such term shall not include any product described in subparagraph (A) or (B) of section 613(b)(7).

(2) Certain interest not qualified

Interest shall not be treated as qualifying income if—

(A) such interest is derived in the conduct of a financial or insurance business, or

(B) such interest would be excluded from the term “interest” under section 856(f).

(3) Real property rent

The term “real property rent” means amounts which would qualify as rent from real property under section 856(d) if—

(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner.

(4) Certain income qualifying under regulated investment company or real estate trust provisions

The term “qualifying income” also includes any income which would qualify under section 851(b)(2)(A) or 856(c)(2).

(5) Special rule for determining gross income from certain real property sales

In the case of the sale or other disposition of real property described in section 1221(a)(1), gross income shall not be reduced by inventory costs.

(e) Inadvertent terminations

If—

(1) a partnership fails to meet the gross income requirements of subsection (c)(2),

(2) the Secretary determines that such failure was inadvertent,

(3) no later than a reasonable time after the discovery of such failure, steps are taken so that such partnership once more meets such gross income requirements, and

(4) such partnership agrees to make such adjustments (including adjustments with respect to the partners) or to pay such amounts as may be required by the Secretary with respect to such period,

then, notwithstanding such failure, such entity shall be treated as continuing to meet such gross income requirements for such period.

(f) Effect of becoming corporation

As of the 1st day that a partnership is treated as a corporation under this section, for purposes

of this title, such partnership shall be treated as—

(1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and

(2) distributing such stock to its partners in liquidation of their interests in the partnership.

(g) Exception for electing 1987 partnerships

(1) In general

Subsection (a) shall not apply to an electing 1987 partnership.

(2) Electing 1987 partnership

For purposes of this subsection, the term “electing 1987 partnership” means any publicly traded partnership if—

(A) such partnership is an existing partnership (as defined in section 1021(c)(2) of the Revenue Reconciliation Act of 1987),

(B) subsection (a) has not applied (and without regard to subsection (c)(1) would not have applied) to such partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998, and

(C) such partnership elects the application of this subsection, and consents to the application of the tax imposed by paragraph (3), for its first taxable year beginning after December 31, 1997.

A partnership which, but for this sentence, would be treated as an electing 1987 partnership shall cease to be so treated (and the election under subparagraph (C) shall cease to be in effect) as of the 1st day after December 31, 1997, on which there has been an addition of a substantial new line of business with respect to such partnership.

(3) Additional tax on electing partnerships

(A) Imposition of tax

There is hereby imposed for each taxable year on the income of each electing 1987 partnership a tax equal to 3.5 percent of such partnership's gross income for the taxable year from the active conduct of trades and businesses by the partnership.

(B) Adjustments in the case of tiered partnerships

For purposes of this paragraph, in the case of a partnership which is a partner in another partnership, the gross income referred to in subparagraph (A) shall include the partnership's distributive share of the gross income of such other partnership from the active conduct of trades and businesses of such other partnership. A similar rule shall apply in the case of lower-tiered partnerships.

(C) Treatment of tax

For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1 and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were

a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).

(4) Election

An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.

(Added Pub. L. 100-203, title X, §10211(a), Dec. 22, 1987, 101 Stat. 1330-403; amended Pub. L. 100-647, title II, §2004(f)(1), (3)-(5), Nov. 10, 1988, 102 Stat. 3602, 3603; Pub. L. 105-34, title IX, §964(a), Aug. 5, 1997, 111 Stat. 892; Pub. L. 105-206, title VI, §6009(b)(1), July 22, 1998, 112 Stat. 812; Pub. L. 106-170, title V, §532(c)(2)(V)-(Y), Dec. 17, 1999, 113 Stat. 1931; Pub. L. 108-357, title III, §331(e), Oct. 22, 2004, 118 Stat. 1476; Pub. L. 110-343, div. B, title I, §116(a), title II, §208(a), Oct. 3, 2008, 122 Stat. 3831, 3840.)

REFERENCES IN TEXT

Section 10211(c)(2) of the Revenue Reconciliation Act of 1987, referred to in subsec. (g)(2)(A), probably means section 10211(c)(2) of the Revenue Act of 1987, title X of Pub. L. 100-203, which is set out as a note below.

AMENDMENTS

2008—Subsec. (d)(1)(E). Pub. L. 110-343, §208(a), substituted “, industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)” for “or industrial source carbon dioxide”.

Pub. L. 110-343, §116(a), inserted “or industrial source carbon dioxide” before comma at end.

2004—Subsec. (d)(4). Pub. L. 108-357 substituted “section 851(b)(2)(A)” for “section 851(b)(2)”.

1999—Subsecs. (c)(3), (d)(1)(D), (G), (5). Pub. L. 106-170 substituted “section 1221(a)(1)” for “section 1221(1)”.

1998—Subsec. (g)(3)(C). Pub. L. 105-206 inserted at end “and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A)”.

1997—Subsec. (g). Pub. L. 105-34 added subsec. (g).

1988—Subsec. (c)(1). Pub. L. 100-647, §2004(f)(3), inserted at end “For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership.”

Subsec. (d)(1). Pub. L. 100-647, §2004(f)(4), inserted at end “For purposes of subparagraph (E), the term ‘mineral or natural resource’ means any product of a character with respect to which a deduction for depletion is allowable under section 611; except that such term shall not include any product described in subparagraph (A) or (B) of section 613(b)(7).”

Subsec. (d)(3). Pub. L. 100-647, §2004(f)(5), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The term ‘real property rent’ means amounts which would qualify as rent from real property under section 856(d) if such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements).”

Subsec. (e)(4). Pub. L. 100-647, §2004(f)(1), inserted “or to pay such amounts” before “as may be required”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title I, §116(b), Oct. 3, 2008, 122 Stat. 3831, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 3, 2008], in taxable years ending after such date.”

Pub. L. 110-343, div. B, title II, §208(b), Oct. 3, 2008, 122 Stat. 3840, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 3, 2008], in taxable years ending after such date.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 331(h) of Pub. L. 108-357, set out as a note under section 469 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title VI, §6009(b)(2), July 22, 1998, 112 Stat. 812, provided that: “The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §964(b), Aug. 5, 1997, 111 Stat. 893, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.”

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 100-203, title X, §10211(c), Dec. 22, 1987, 101 Stat. 1330-405, as amended by Pub. L. 100-647, title II, §2004(f)(2), Nov. 10, 1988, 102 Stat. 3602, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply—

“(A) except as provided in subparagraph (B), to taxable years beginning after December 31, 1987, or

“(B) in the case of an existing partnership, to taxable years beginning after December 31, 1997.

“(2) EXISTING PARTNERSHIP.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘existing partnership’ means any partnership if—

“(i) such partnership was a publicly traded partnership on December 17, 1987,

“(ii) a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange Commission with respect to such partnership on or before such date, or

“(iii) with respect to such partnership, an application was filed with a State regulatory commission on or before such date seeking permission to restructure a portion of a corporation as a publicly traded partnership.

“(B) SPECIAL RULE WHERE SUBSTANTIAL NEW LINE OF BUSINESS ADDED AFTER DECEMBER 17, 1987.—A partnership which, but for this subparagraph, would be treated as an existing partnership shall cease to be treated as an existing partnership as of the 1st day after December 17, 1987, on which there has been an addition

of a substantial new line of business with respect to such partnership.

“(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for ‘December 31, 1987’ the earlier of—

“(i) December 31, 1997, or

“(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B).”

§ 7705. Certified professional employer organizations

(a) In general

For purposes of this title, the term “certified professional employer organization” means a person who applies to be treated as a certified professional employer organization for purposes of section 3511 and has been certified by the Secretary as meeting the requirements of subsection (b).

(b) Certification requirements

A person meets the requirements of this subsection if such person—

(1) demonstrates that such person (and any owner, officer, and other persons as may be specified in regulations) meets such requirements as the Secretary shall establish, including requirements with respect to tax status, background, experience, business location, and annual financial audits,

(2) agrees that it will satisfy the bond and independent financial review requirements of subsection (c) on an ongoing basis,

(3) agrees that it will satisfy such reporting obligations as may be imposed by the Secretary,

(4) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

(5) agrees to verify on such periodic basis as the Secretary may prescribe that it continues to meet the requirements of this subsection, and

(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe of any change that materially affects the continuing accuracy of any agreement or information that was previously made or provided under this subsection.

(c) Bond and independent financial review

(1) In general

An organization meets the requirements of this paragraph if such organization—

(A) meets the bond requirements of paragraph (2), and

(B) meets the independent financial review requirements of paragraph (3).

(2) Bond

(A) In general

A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) that is in an amount at least equal to the amount specified in subparagraph (B).

(B) Amount of bond

For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

(i) 5 percent of the organization’s liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed \$1,000,000), or

(ii) \$50,000.

(3) Independent financial review requirements

A certified professional employer organization meets the requirements of this paragraph if such organization—

(A) has, as of the most recent audit date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant as to whether the certified professional employer organization’s financial statements are presented fairly in accordance with generally accepted accounting principles, and

(B) provides to the Secretary an assertion regarding Federal employment tax payments and an examination level attestation on such assertion from an independent certified public accountant not later than the last day of the second month beginning after the end of each calendar quarter.

Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

(4) Controlled group rules

For purposes of the requirements of paragraphs (2) and (3), all certified professional employer organizations that are members of a controlled group within the meaning of sections 414(b) and (c) shall be treated as a single organization.

(5) Failure to file assertion and attestation

If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

(6) Audit date

For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization’s fiscal year.

(d) Suspension and revocation authority

The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the agreements or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

(e) Work site employee

For purposes of this title—

(1) In general

The term “work site employee” means, with respect to a certified professional employer organization, an individual who—

(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

(B) performs services at a work site meeting the requirements of paragraph (3).

(2) Service contract requirements

A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

(A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,

(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

(C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such benefits,

(D) assume responsibility for recruiting, hiring, and firing workers in addition to the customer's responsibility for recruiting, hiring, and firing workers,

(E) maintain employee records relating to such individual, and

(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

(3) Work site coverage requirement

The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

(f) Public disclosure

The Secretary shall make available to the public the name and address of—

(1) each person certified as a professional employer organization under subsection (a), and

(2) each person whose certification as a professional employer organization is suspended or revoked under subsection (d).

(g) Determination of employment status

Except to the extent necessary for purposes of section 3511, nothing in this section shall be con-

strued to affect the determination of who is an employee or employer for purposes of this title.

(h) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 113-295, div. B, title II, §206(b), Dec. 19, 2014, 128 Stat. 4067.)

EFFECTIVE DATE

Section applicable with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after Dec. 19, 2014, see section 206(g)(1) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 3302 of this title.

**CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION
CERTIFICATION PROGRAM**

Pub. L. 113-295, div. B, title II, §206(g)(2), Dec. 19, 2014, 128 Stat. 4071, provided that: “The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1) [see section 206(g)(1) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 3302 of this title].”

CHAPTER 80—GENERAL RULES

Subchapter	Sec. ¹
A. Application of internal revenue laws	7801
B. Effective date and related provisions	7851
C. Provisions affecting more than one sub- title	7871

**Subchapter A—Application of Internal Revenue
Laws**

Sec.	
7801.	Authority of Department of the Treasury.
7802.	Internal Revenue Service Oversight Board.
7803.	Commissioner of Internal Revenue; other officials.
7804.	Other personnel.
7805.	Rules and regulations.
7806.	Construction of title.
7807.	Rules in effect upon enactment of this title.
7808.	Depositories for collections.
7809.	Deposit of collections.
7810.	Revolving fund for redemption of real property.
7811.	Taxpayer Assistance Orders.

AMENDMENTS

1998—Pub. L. 105-206, title I, §§1101(c)(2), 1102(e)(1), 1104(b)(2), July 22, 1998, 112 Stat. 697, 704, 710, added items 7802 to 7804 and struck out former items 7802 “Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate”, 7803 “Other personnel”, and 7804 “Effect of reorganization plans”.

1996—Pub. L. 104-168, title I, §101(b)(3), July 30, 1996, 110 Stat. 1456, added item 7802 and struck out former item 7802 “Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)”.

1988—Pub. L. 100-647, title VI, §6230(b), Nov. 10, 1988, 102 Stat. 3734, added item 7811.

1983—Pub. L. 97-473, title II, §202(c), Jan. 14, 1983, 96 Stat. 2610, added item for subchapter C.

1974—Pub. L. 93-406, title II, §1051(c), Sept. 2, 1974, 88 Stat. 951, substituted “Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)” for “Commissioner of Internal Revenue” in item 7802.

¹ Section numbers editorially supplied.

1966—Pub. L. 89-719, title I, §112(c), Nov. 2, 1966, 80 Stat. 1146, added item 7810.

§ 7801. Authority of Department of the Treasury

(a) Powers and duties of Secretary

(1) In general

Except as otherwise expressly provided by law, the administration and enforcement of this title shall be performed by or under the supervision of the Secretary of the Treasury.

(2) Administration and enforcement of certain provisions by Attorney General

(A) In general

The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term “Secretary” or “Secretary of the Treasury” shall, when applied to those provisions, mean the Attorney General; and the term “internal revenue officer” shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

(i) Chapter 53.

(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

(B) Use of existing rulings and interpretations

Nothing in this Act¹ alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.

[(b) Repealed. Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1078]

(c) Functions of Department of Justice unaffected

Nothing in this section or section 301(f) of title 31 shall be considered to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by law existing on May 10, 1934.

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 86-368, §1, Sept. 22, 1959, 73 Stat. 647; Pub. L. 88-426, title III, §305(39), Aug. 14, 1964, 78 Stat. 427; Pub. L. 94-455, title XIX, §1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §§2(f)(1), 5(b), Sept. 13, 1982, 96 Stat. 1059, 1068, 1078; Pub. L. 107-296, title XI, §1112(k), Nov. 25, 2002, 116 Stat. 2277.)

REFERENCES IN TEXT

The effective date of the Homeland Security Act of 2002, referred to in subsec. (a)(2)(B), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

¹ So in original.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-296 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1982—Subsec. (b). Pub. L. 97-258, §5(b), struck out subsec. (b) which related to Office of General Counsel of Department of the Treasury. See section 301 of Title 31, Money and Finance.

Subsec. (c). Pub. L. 97-258, §2(f)(1), inserted “or section 301(f) of title 31” after “Nothing in this section”.

1976—Subsec. (b). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary” in four places, in par. (1) after “prescribed by the”, in par. (2) after “prescribed by the” and in third sentence thereof “The”, and in par. (3) before “may appoint and fix”.

1964—Subsec. (b)(2). Pub. L. 88-426 struck out provisions which prescribed compensation of Assistant General Counsel.

1959—Pub. L. 86-368 provided for Presidential appointment and for compensation of Assistant General Counsel who shall be Chief Counsel for Internal Revenue Service.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

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, title V, Aug. 14, 1964, 78 Stat. 435.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-368, §3, Sept. 22, 1959, 73 Stat. 648, provided that:

“(a) Except as otherwise provided in this Act, the amendments made by this Act [amending this section] shall take effect on the date of the enactment of this Act [Sept. 22, 1959].

“(b) The amendments made by section 2 of this Act [amending sections 7452 and 8023 of this title] shall take effect when the Chief Counsel for the Internal Revenue Service first appointed pursuant to the amendment made by section 1 of this Act [amending this section] qualifies and takes office.”

REPEALS

Pub. L. 86-368, §1, Sept. 22, 1959, 73 Stat. 648; Pub. L. 88-426, title III, §305(39), Aug. 14, 1964, 78 Stat. 427; and Pub. L. 94-455, title XIX, §1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1834, cited as credits to this section, were repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1079, 1080, 1082.

SAVINGS PROVISION

Pub. L. 86-368, §4, Sept. 22, 1959, 73 Stat. 649, provided that the position of Assistant General Counsel serving as Chief Counsel of the Internal Revenue Service was abolished as of the time that the Chief Counsel for the Internal Revenue Service appointed pursuant to the amendment to this section by Pub. L. 86-368, took office, but that Pub. L. 86-368 was not to be construed to otherwise abolish, terminate, or change any office or position, or employment of any officer or employee existing immediately preceding Sept. 22, 1959, and that any delegation of authority pursuant to Reorg. Plan No. 26 of 1950 or Reorg. Plan No. 2 of 1952 including any redelegation of authority, in effect immediately preceding Sept. 22, 1959, was to remain in effect unless distinctly inconsistent or manifestly incompatible with the amendment made to this section by Pub. L. 86-368.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms,

including the related functions of the Secretary of the Treasury, to the Department of Justice, see section 531(c) of Title 6, Domestic Security, and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of the Treasury are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13246, Dec. 18, 2001, 66 F.R. 66270, listed in a table under section 3345 of Title 5, Government Organization and Employees.

IRS EMPLOYEES PROHIBITED FROM USING PERSONAL EMAIL ACCOUNTS FOR OFFICIAL BUSINESS

Pub. L. 114-113, div. Q, title IV, § 402, Dec. 18, 2015, 129 Stat. 3117, provided that: “No officer or employee of the Internal Revenue Service may use a personal email account to conduct any official business of the Government.”

IRS REPORTS ON INFORMATION TECHNOLOGY INVESTMENTS

Pub. L. 112-74, div. C, title I, Dec. 23, 2011, 125 Stat. 888, provided in part: “That not later than 14 days after the end of each quarter of each fiscal year, the Internal Revenue Service shall submit a report to the House and Senate Committees on Appropriations and the Comptroller General of the United States detailing the cost and schedule performance for its major information technology investments, including the purpose and life-cycle stages of the investments; the reasons for any cost and schedule variances; the risks of such investments and strategies the Internal Revenue Service is using to mitigate such risks; and the expected developmental milestones to be achieved and costs to be incurred in the next quarter”.

Similar provisions were contained in the following appropriation acts:

Pub. L. 115-31, div. E, title I, May 5, 2017, 131 Stat. 332.
Pub. L. 114-113, div. E, title I, Dec. 18, 2015, 129 Stat. 2428.

Pub. L. 113-235, div. E, title I, Dec. 16, 2014, 128 Stat. 2337.

Pub. L. 113-76, div. E, title I, Jan. 17, 2014, 128 Stat. 189.

Pub. L. 112-74, div. C, title I, Dec. 23, 2011, 125 Stat. 889, provided in part: “That not later than 14 days after the end of each quarter of each fiscal year, the Internal Revenue Service shall submit a report to the House and Senate Committees on Appropriations and the Comptroller General of the United States detailing the cost and schedule performance for CADE2 and Modernized e-File information technology investments, including the purposes and life-cycle stages of the investments; the reasons for any cost and schedule variances; the risks of such investments and the strategies the Internal Revenue Service is using to mitigate such risks; and the expected developmental milestones to be achieved and costs to be incurred in the next quarter.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 115-31, div. E, title I, May 5, 2017, 131 Stat. 332.
Pub. L. 114-113, div. E, title I, Dec. 18, 2015, 129 Stat. 2429.

Pub. L. 113-235, div. E, title I, Dec. 16, 2014, 128 Stat. 2337.

Pub. L. 113-76, div. E, title I, Jan. 17, 2014, 128 Stat. 189.

ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING PENSION PLANS

Pub. L. 107-16, title VI, § 620, June 7, 2001, 115 Stat. 110, related to elimination of user fees for certain requests to the Internal Revenue Service regarding pension plans, prior to repeal by Pub. L. 108-89, title II, § 202(b)(3), Oct. 1, 2003, 117 Stat. 1133.

ITEMIZED INCOME TAX RECEIPT

Pub. L. 106-58, title VI, § 650, Sept. 29, 1999, 113 Stat. 479, as amended by Pub. L. 110-234, title IV,

§ 4002(b)(1)(D), (2)(P), May 22, 2008, 110 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(D), (2)(P), June 18, 2008, 122 Stat. 1664, 1857, 1858, provided that:

“(a) IN GENERAL.—Not later than April 15, 2000, the Secretary of the Treasury shall establish an interactive program on an Internet website where any taxpayer may generate an itemized receipt showing a proportionate allocation (in money terms) of the taxpayer's total tax payments among the major expenditure categories.

“(b) INFORMATION NECESSARY TO GENERATE RECEIPT.—For purposes of generating an itemized receipt under subsection (a), the interactive program—

“(1) shall only require the input of the taxpayer's total tax payments; and

“(2) shall not require any identifying information relating to the taxpayer.

“(c) TOTAL TAX PAYMENTS.—For purposes of this section, total tax payments of an individual for any taxable year are—

“(1) the tax imposed by subtitle A of the Internal Revenue Code of 1986 for such taxable year (as shown on his return); and

“(2) the tax imposed by section 3101 of such Code on wages received during such taxable year.

“(d) CONTENT OF TAX RECEIPT.—

“(1) MAJOR EXPENDITURE CATEGORIES.—For purposes of subsection (a), the major expenditure categories are:

“(A) National defense.

“(B) International affairs.

“(C) Medicaid.

“(D) Medicare.

“(E) Means-tested entitlements.

“(F) Domestic discretionary.

“(G) Social Security.

“(H) Interest payments.

“(I) All other.

“(2) Other items on receipt.—

“(A) IN GENERAL.—In addition, the tax receipt shall include selected examples of more specific expenditure items, including the items listed in subparagraph (B), either at the budget function, subfunction, or program, project, or activity levels, along with any other information deemed appropriate by the Secretary of the Treasury and the Director of the Office of Management and Budget to enhance taxpayer understanding of the Federal budget.

“(B) LISTED ITEMS.—The expenditure items listed in this subparagraph are as follows:

“(i) Public schools funding programs.

“(ii) Student loans and college aid.

“(iii) Low-income housing programs.

“(iv) supplemental [sic] nutrition assistance program benefits and welfare programs.

“(v) Law enforcement, including the Federal Bureau of Investigation, law enforcement grants to the States, and other Federal law enforcement personnel.

“(vi) Infrastructure, including roads, bridges, and mass transit.

“(vii) Farm subsidies.

“(viii) Congressional Member and staff salaries.

“(ix) Health research programs.

“(x) Aid to the disabled.

“(xi) Veterans health care and pension programs.

“(xii) Space programs.

“(xiii) Environmental cleanup programs.

“(xiv) United States embassies.

“(xv) Military salaries.

“(xvi) Foreign aid.

“(xvii) Contributions to the North Atlantic Treaty Organization.

“(xviii) Amtrak.

“(xix) United States Postal Service.

“(e) COST.—No charge shall be imposed to cover any cost associated with the production or distribution of the tax receipt.

“(f) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out this section.”

[Pub. L. 110-234, § 4002(b)(1)(D), (2)(P), and Pub. L. 110-246, § 4002(b)(1)(D), (2)(P), which directed identical amendment of Pub. L. 106-58, § 650, set out above, by substituting “supplemental nutrition assistance program benefits” for “food stamp” wherever appearing, was executed by making the substitution for “Food stamp” in subsec. (d)(2)(B)(iv), to reflect the probable intent of Congress. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.]

REORGANIZATION OF INTERNAL REVENUE SERVICE

Pub. L. 105-206, title I, § 1001, July 22, 1998, 112 Stat. 689, provided that:

“(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

“(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

“(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

“(3) establish organizational units serving particular groups of taxpayers with similar needs; and

“(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

“(b) SAVINGS PROVISIONS.—

“(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

“(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

“(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section; and

“(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

“(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any applica-

tion for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

“(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

“(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

“(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

“(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [July 22, 1998].”

INTERNAL REVENUE SERVICE MISSION TO FOCUS ON TAXPAYERS' NEEDS

Pub. L. 105-206, title I, § 1002, July 22, 1998, 112 Stat. 690, provided that: “The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.”

EXPLANATION OF JOINT AND SEVERAL LIABILITY

Pub. L. 105-206, title III, § 3501, July 22, 1998, 112 Stat. 770, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

“(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to relief under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100-647, set out below] (Internal Revenue Service Publication No. 1) and in any collection-related notices.”

EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS
WITH INTERNAL REVENUE SERVICE

Pub. L. 105-206, title III, §3502, July 22, 1998, 112 Stat. 770, provided that: "The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100-647, set out below] (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

"(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service; and

"(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986."

DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION

Pub. L. 105-206, title III, §3503, July 22, 1998, 112 Stat. 771, provided that:

"(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100-647, set out below] (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

"(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day."

DISCLOSURE TO TAXPAYERS

Pub. L. 105-206, title III, §3508, July 22, 1998, 112 Stat. 772, provided that: "The Secretary of the Treasury or the Secretary's delegate shall ensure that any instructions booklet accompanying an individual Federal income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof."

INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS

Pub. L. 105-206, title III, §3705, July 22, 1998, 112 Stat. 777, provided that:

"(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that—

"(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

"(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact; and

"(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number.

"(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure

under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

"(c) TELEPHONE HELPLINE IN SPANISH.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, that taxpayer questions on telephone helplines of the Internal Revenue Service are answered in Spanish.

"(d) OTHER TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, on telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to an Internal Revenue Service employee during normal business hours. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide assistance to the taxpayer.

"(e) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act [July 22, 1998].

"(2) SUBSECTION (c).—Subsection (c) shall take effect on January 1, 2000.

"(3) SUBSECTION (d).—Subsection (d) shall take effect on January 1, 2000.

"(4) UNIQUE IDENTIFYING NUMBER.—Any requirement under this section to provide a unique identifying number shall take effect 6 months after the date of the enactment of this Act [July 22, 1998]."

LISTING OF LOCAL INTERNAL REVENUE SERVICE
TELEPHONE NUMBERS AND ADDRESSES

Pub. L. 105-206, title III, §3709, July 22, 1998, 112 Stat. 779, provided that: "The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in a telephone book for that area."

STUDY OF NONCOMPLIANCE WITH INTERNAL REVENUE
LAWS BY TAXPAYERS

Pub. L. 105-206, title III, §3803, July 22, 1998, 112 Stat. 783, provided that: "Not later than 1 year after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury and the Commissioner of Internal Revenue shall jointly conduct a study, in consultation with the Joint Committee on Taxation, of the non-compliance with internal revenue laws by taxpayers (including willful noncompliance and noncompliance due to tax law complexity or other factors) and report the findings of such study to Congress."

TAX LAW COMPLEXITY ANALYSIS; COMMISSIONER STUDY

Pub. L. 105-206, title IV, §4022(a), July 22, 1998, 112 Stat. 785, provided that:

"(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year after 1998 an analysis of the sources of complexity in administration of the Federal tax laws. Such analysis may include an analysis of—

"(A) questions frequently asked by taxpayers with respect to return filing;

"(B) common errors made by taxpayers in filling out their returns;

"(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service;

"(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain;

"(E) areas in which revenue officers make frequent errors interpreting or applying the law;

"(F) the impact of recent legislation on complexity; and

"(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to com-

plete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

“(2) REPORT.—The Commissioner shall not later than March 1 of each year report the results of the analysis conducted under paragraph (1) for the preceding year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include any recommendations—

“(A) for reducing the complexity of the administration of Federal tax laws; and

“(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.”

NATIONAL COMMISSION ON RESTRUCTURING INTERNAL REVENUE SERVICE

Pub. L. 104-52, title VI, §637, Nov. 19, 1995, 109 Stat. 509, as amended by Pub. L. 104-134, title II, §2904(a), Apr. 26, 1996, 110 Stat. 1321-333; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §643(a)-(e)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-365, provided that:

“(a) FINDINGS.—The Congress finds the following:

“(1) While the budget for the Internal Revenue Service (hereafter referred to as the ‘IRS’) has risen from \$2.5 billion in fiscal year 1979 to \$7.3 billion in fiscal year 1996, tax returns processing has not become significantly faster, tax collection rates have not significantly increased, and the accuracy and timeliness of taxpayer assistance has not significantly improved.

“(2) To date, the Tax Systems Modernization (TSM) program has cost the taxpayers \$2.5 billion, with an estimated cost of \$8 billion. Despite this investment, modernization efforts were recently described by the GAO as ‘chaotic’ and ‘ad hoc’.

“(3) While the IRS maintains that TSM will increase efficiency and thus revenues, Congress has had to appropriate additional funds in recent years for compliance initiatives in order to increase tax revenues.

“(4) Because TSM has not been implemented, the IRS continues to rely on paper returns, processing a total of 14 billion pieces of paper every tax season. This results in an extremely inefficient system.

“(5) This lack of efficiency reduces the level of customer service and impedes the ability of the IRS to collect revenue.

“(6) The present status of the IRS shows the need for the establishment of a Commission which will examine the organization of IRS and recommend actions to expedite the implementation of TSM and improve service to taxpayers.

“(b) COMPOSITION OF THE COMMISSION.—

“(1) ESTABLISHMENT.—To carry out the purposes of this section, there is established a National Commission on Restructuring the Internal Revenue Service (in this section referred to as the ‘Commission’).

“(2) COMPOSITION.—The Commission shall be composed of seventeen members, as follows:

“(A) Five members appointed by the President, two from the executive branch of the Government, two from private life, and one from an organization that represents a substantial number of Internal Revenue Service employees.

“(B) Four members appointed by the Majority Leader of the Senate, one from Members of the Senate and three from private life.

“(C) Two members appointed by the Minority Leader of the Senate, one from Members of the Senate and one from private life.

“(D) Four members appointed by the Speaker of the House of Representatives, one from Members of the House of Representatives and three from private life.

“(E) Two members appointed by the Minority Leader of the House of Representatives, one from Members of the House of Representatives and one from private life.

“The Commissioner of the Internal Revenue Service shall be an ex officio member of the Commission.

“(3) CO-CHAIRS.—The Commission shall elect Co-Chairs from among its members.

“(4) MEETING; QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Co-Chairs or a majority of its members. Nine members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

“(5) APPOINTMENT; INITIAL MEETING.—

“(A) APPOINTMENT.—It is the sense of the Congress that members of the Committee [Commission] should be appointed not more than 60 days after the date of the enactment of this section [Nov. 19, 1995].

“(B) INITIAL MEETING.—If, after 60 days from the date of the enactment of this section, seven or more members of the Commission have been appointed, members who have been appointed may meet and select Co-Chairs who thereafter shall have the authority to begin the operations of the Commission, including the hiring of staff.

“(c) FUNCTIONS OF COMMISSION.—

“(1) IN GENERAL.—The functions of the Commission shall be—

“(A) to conduct, for a period of not to exceed 15 months from the date of its first meeting, the review described in paragraph (2), and

“(B) to submit to the Congress a final report of the results of the review, including recommendations for restructuring the IRS.

“(2) REVIEW.—The Commission shall review—

“(A) the present practices of the IRS, especially with respect to—

“(i) its organizational structure;

“(ii) its paper processing and return processing activities;

“(iii) its infrastructure; and

“(iv) the collection process;

“(B) requirements for improvement in the following areas:

“(i) making returns processing ‘paperless’;

“(ii) modernizing IRS operations;

“(iii) improving the collections process without major personnel increases or increased funding;

“(iv) improving taxpayer accounts management;

“(v) improving the accuracy of information requested by taxpayers in order to file their returns; and

“(vi) changing the culture of the IRS to make the organization more efficient, productive, and customer-oriented;

“(C) whether the IRS could be replaced with a quasi-governmental agency with tangible incentives and internally managing its programs and activities and for modernizing its activities, and

“(D) whether the IRS could perform other collection, information, and financial service functions of the Federal Government.

“(d) POWERS OF THE COMMISSION.—

“(1) IN GENERAL.—(A) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section—

“(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

“(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may deem advisable.

“(B) Subpoenas issued under subparagraph (A)(ii) may be issued under the signature of the Co-Chairs of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Co-Chairs,

subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

“(2) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this section.

“(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Co-Chairs.

“(4) ASSISTANCE FROM FEDERAL AGENCIES.—(A) The Secretary of the Treasury is authorized on a non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission’s functions.

“(B) The Administrator of General Services shall provide to the Commission on a nonreimbursable basis such administrative support services as the Commission may request.

“(C) In addition to the assistance set forth in subparagraphs (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

“(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

“(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this section.

“(e) STAFF OF THE COMMISSION.—

“(1) IN GENERAL.—The Co-Chairs, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

“(2) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(f) COMPENSATION AND TRAVEL EXPENSES.—

“(1) COMPENSATION.—(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day dur-

ing which that member is engaged in the actual performance of the duties of the Commission.

“(B) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

“(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

“(g) FINAL REPORT OF COMMISSION; TERMINATION.—

“(1) FINAL REPORT.—Not later than 15 months after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in subsection (c)(2).

“(2) TERMINATION.—(A) The Commission, and all the authorities of this section, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under paragraph (1).

“(B) The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

“(h) AUTHORIZATION OF APPROPRIATIONS.—Such sums as may be necessary are authorized to be appropriated for the activities of the Commission.

“(i) APPROPRIATIONS.—Notwithstanding any other provision of this Act, \$1,000,000 shall be available from fiscal year 1996 funds appropriated to the Internal Revenue Service, ‘Information systems’ account, for the activities of the Commission, to remain available until expended.”

[Pub. L. 104-208, div. A, title I, §101(f) [title VI, §643(f)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-366, provided that: “The amendments made by this section [amending section 637 of Pub. L. 104-52, set out above] shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996 [Pub. L. 104-52].”]

[Pub. L. 104-134, title II, §2904(b), Apr. 26, 1996, 110 Stat. 1321-333, provided that: “The amendments made by this section [amending section 637 of Pub. L. 104-52, set out above] shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996 [Pub. L. 104-52].”]

FEES FOR SERVICES RENDERED

Pub. L. 103-329, title I, §3, Sept. 30, 1994, 108 Stat. 2388, as amended by Pub. L. 104-19, title I, July 27, 1995, 109 Stat. 227; Pub. L. 109-115, div. A, title II, §209, Nov. 30, 2005, 119 Stat. 2439, provided that: “The Secretary of the Treasury may establish new fees or raise existing fees for services provided by the Internal Revenue Service to increase receipts, where such fees are authorized by another law. The Secretary of the Treasury may spend the new or increased fee receipts to supplement appropriations made available to the Internal Revenue Service appropriations accounts in fiscal years 1995 and thereafter: *Provided*, That the Secretary shall base such fees on the costs of providing specified services to persons paying such fees: *Provided further*, That the Secretary shall provide quarterly reports to the Congress on the collection of such fees and how they are being expended by the Service.”

DISCLOSURE OF RIGHTS OF TAXPAYERS

Pub. L. 100-647, title VI, §6227, Nov. 10, 1988, 102 Stat. 3731, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [Nov. 10, 1988], prepare a statement which sets forth in simple and nontechnical terms—

“(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the ‘Service’) during an audit;

“(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

“(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

“(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

“(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

“(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.”

FEEs FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS

Pub. L. 100-203, title X, §10511, Dec. 22, 1987, 101 Stat. 1330-446, as amended by Pub. L. 101-508, title XI, §11319(a), Nov. 5, 1990, 104 Stat. 1388-460; Pub. L. 103-465, title VII, §743, Dec. 8, 1994, 108 Stat. 5011; Pub. L. 104-117, §2, Mar. 20, 1996, 110 Stat. 828, related to program requiring the payment of user fees for certain requests to the Internal Revenue Service, prior to repeal by Pub. L. 108-89, title II, §202(b)(2), Oct. 1, 2003, 117 Stat. 1133.

STUDY OF TAX INCENTIVES FOR EXPENDITURES REQUIRED BY OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND MINING HEALTH AND SAFETY ADMINISTRATION

Pub. L. 95-600, title V, §552, Nov. 6, 1978, 92 Stat. 2891, authorized the Secretary of the Treasury to conduct an investigation into the appropriateness of providing additional tax incentives for expenditures required by the Occupational Safety and Health Act, section 651 et seq. of Title 29, Labor, and the Mining Safety and Health Administration of the Department of Labor and to submit a report on such investigation to Congress before Apr. 1, 1979, together with any legislative recommendations.

STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES

Pub. L. 95-600, title V, §553, Nov. 6, 1978, 92 Stat. 2891, authorized the Secretary of the Treasury to make a study of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations and to submit a report on such study to Congress no later than six months from Nov. 6, 1978, together with any recommendations.

STUDY AND INVESTIGATION OF INTERNAL REVENUE CODE PROVISIONS WHICH IMPEDE OR DISCOURAGE RECYCLING OF SOLID WASTE MATERIALS; PRESIDENTIAL AND CONGRESSIONAL REPORT

Pub. L. 94-568, §4, Oct. 20, 1976, 90 Stat. 2698, provided that the Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency, make a complete study of all provisions of the Internal Revenue Code of 1954 which impeded or discouraged the recycling of solid waste materials and to report to the President and Congress, not later than Apr. 20, 1977, his findings, together with specific legisla-

tive proposals designed to increase and encourage the recycling of solid waste materials and detailed revenue cost estimates.

EX. ORD. NO. 13051. INTERNAL REVENUE SERVICE MANAGEMENT BOARD

Ex. Ord. No. 13051, June 24, 1997, 62 F.R. 34609, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 31 U.S.C. 301 and 26 U.S.C. 7801(a), and in order to establish a permanent oversight board to assist the Secretary of the Treasury (“Secretary”) in ensuring effective management of the Internal Revenue Service, it is hereby ordered as follows:

SECTION 1. *Establishment.* (a) There is hereby established within the Department of the Treasury the Internal Revenue Service Management Board (“Board”).

(b) The Board shall consist of:

(1) the Deputy Secretary of the Treasury, who shall serve as Chair of the Board;

(2) the Assistant Secretary of the Treasury (Management) and the Chief Financial Officer, who shall serve as Vice Chairs;

(3) the Assistant Secretary of the Treasury (Tax Policy);

(4) the Under Secretary of the Treasury (Enforcement);

(5) the Deputy Assistant Secretary of the Treasury (Departmental Finance and Management);

(6) the Deputy Assistant Secretary of the Treasury (Information Systems)/Chief Information Officer;

(7) the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison);

(8) the General Counsel for the Department of the Treasury;

(9) the Director, Office of Security, Department of the Treasury;

(10) the Senior Procurement Executive for the Department of the Treasury;

(11) the Commissioner of Internal Revenue;

(12) the Deputy Commissioner of Internal Revenue;

(13) the Associate Commissioner of Internal Revenue for Modernization/Chief Information Officer of the Internal Revenue Service;

(14) the Deputy Director for Management, Office of Management and Budget;

(15) the Administrator for Federal Procurement Policy, Office of Management and Budget;

(16) a representative of the Office of the Vice President designated by the Vice President;

(17) a representative of the Office of Management and Budget designated by the Director of such office;

(18) a representative of the Office of Personnel Management designated by the Director of such office;

(19) representatives of such other Government agencies as may be determined from time to time by the Secretary of the Treasury, designated by the head of such agency; and

(20) such other officers or employees of the Department of the Treasury as may be designated by the Secretary.

(c) A member of the Board described in paragraphs (16) through (20) of subsection (b) may be removed by the official who designated such member.

(d) The Board may seek the views, consistent with 18 U.S.C. 205, of Internal Revenue Service employee representatives on matters considered by the Board under section 3 of this order.

SEC. 2. *Structure.* There shall be an Executive Committee of the full Board, the members of which shall be appointed by the Secretary.

SEC. 3. *Functions.* (a) The Board shall directly support the Secretary’s oversight of the management and operation of the Internal Revenue Service. This includes:

(1) working through the Deputy Secretary, assisting the Secretary on the full range of high-level management issues and concerns affecting the Internal Revenue Service, particularly those that have a significant impact on operations, modernization, and customer service.

(2) acting through the Executive Committee, serving as the primary review for strategic decisions concerning modernization of the Internal Revenue Service, including modernization direction, strategy, significant reorganization plans, performance metrics, budgetary issues, major capital investments, and compensation of personnel.

(b) The Board shall meet at least monthly and shall prescribe such bylaws or procedures as the Board deems appropriate.

(c) The Board shall prepare semiannual reports to the President and to the Congress, which shall be transmitted by the Secretary of the Treasury.

SEC. 4. Administration. To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Board administrative services, facilities, staff, and such other financial support services as may be necessary for the performance of its functions under this order.

SEC. 5. Judicial Review. This order is intended only to improve the internal management of the Internal Revenue Service and is not intended, and shall not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

WILLIAM J. CLINTON.

EX. ORD. NO. 13789. IDENTIFYING AND REDUCING TAX REGULATORY BURDENS

Ex. Ord. No. 13789, Apr. 21, 2017, 82 F.R. 19317, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. The Federal tax system should be simple, fair, efficient, and pro-growth. The purposes of tax regulations should be to bring clarity to the already complex Internal Revenue Code (title 26, United States Code) and to provide useful guidance to taxpayers. Contrary to these purposes, numerous tax regulations issued over the last several years have effectively increased tax burdens, impeded economic growth, and saddled American businesses with onerous fines, complicated forms, and frustration. Immediate action is necessary to reduce the burden existing tax regulations impose on American taxpayers and thereby to provide tax relief and useful, simplified tax guidance.

SEC. 2. Addressing Tax Regulatory Burdens. (a) In furtherance of the policy described in section 1 of this order, the Secretary of the Treasury (Secretary) shall immediately review all significant tax regulations issued by the Department of the Treasury on or after January 1, 2016, and, in consultation with the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, identify in an interim report to the President all such regulations that:

- (i) impose an undue financial burden on United States taxpayers;
- (ii) add undue complexity to the Federal tax laws; or
- (iii) exceed the statutory authority of the Internal Revenue Service.

This interim report shall be completed no later than 60 days from the date of this order. In conducting the review required by this subsection, earlier determinations of whether a regulation is significant pursuant to Executive Order 12866 of September 30, 1993, as amended (Regulatory Planning and Review), shall not be controlling.

(b) No later than 150 days from the date of this order, the Secretary shall prepare and submit a report to the President that recommends specific actions to mitigate the burden imposed by regulations identified in the interim report required under subsection (a) of this section. The Secretary shall also publish this report in the Federal Register upon submitting it to the President. The Secretary shall take appropriate steps to cause the

effective date of such regulations to be delayed or suspended, to the extent permitted by law, and to modify or rescind such regulations as appropriate and consistent with law, including, if necessary, through notice and comment rulemaking. The Secretary shall submit for publication in the Federal Register a summary of the actions taken in response to the report no later than 10 days following the finalization of such actions. Should all such actions not be finalized within 180 days following the submission of the report to the President, the Secretary shall submit for publication in the Federal Register an initial report summarizing the actions taken to that point.

(c) To ensure that future tax regulations adhere to the policy described in section 1 of this order, the Secretary and the Director of the Office of Management and Budget shall review and, if appropriate, reconsider the scope and implementation of the existing exemption for certain tax regulations from the review process set forth in Executive Order 12866 and any successor order.

(d) The Secretary shall cause section 32.1.5.4.7.5.3 of the Internal Revenue Manual to be revised, if necessary to fulfill the directives in subsection (c) of this section.

SEC. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 7802. Internal Revenue Service Oversight Board

(a) Establishment

There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the “Oversight Board”).

(b) Membership

(1) Composition

The Oversight Board shall be composed of nine members, as follows:

(A) six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) one member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

(C) one member shall be the Commissioner of Internal Revenue.

(D) one member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications and terms

(A) Qualifications

Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely

on the basis of their professional experience and expertise in one or more of the following areas:

- (i) Management of large service organizations.
- (ii) Customer service.
- (iii) Federal tax laws, including tax administration and compliance.
- (iv) Information technology.
- (v) Organization development.
- (vi) The needs and concerns of taxpayers.
- (vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

(B) Terms

Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

- (i) two members shall be appointed for a term of 3 years,
- (ii) two members shall be appointed for a term of 4 years, and
- (iii) two members shall be appointed for a term of 5 years.

(C) Reappointment

An individual who is described in subparagraph (A) or (D) of paragraph (1) may be appointed to no more than two 5-year terms on the Oversight Board.

(D) Vacancy

Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(3) Ethical considerations

(A) Financial disclosure

During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

(B) Restrictions on post-employment

For purposes of section 207(c) of title 18, United States Code, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

(C) Members who are special Government employees

If an individual appointed under subparagraph (A) or (D) of paragraph (1) is a special

Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

(i) Restriction on representation

In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

(I) the Oversight Board or the Internal Revenue Service on any matter;

(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service; or

(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

(ii) Compensation for services provided by another

For purposes of section 203 of such title—

(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

(D) Waiver

The President may, only at the time the President nominates the member of the Oversight Board described in paragraph (1)(D), waive for the term of the member any appropriate provision of chapter 11 of title 18, United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

(4) Quorum

Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

(5) Removal

(A) In general

Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed at the will of the President.

(B) Secretary and Commissioner

An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

(6) Claims**(A) In general**

Members of the Oversight Board who are described in subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

(B) Effect on other law

This paragraph shall not be construed—

(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

(ii) to affect any other right or remedy against the United States under applicable law; or

(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

(c) General responsibilities**(1) Oversight****(A) In general**

The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

(B) Mission of IRS

As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

(C) Confidentiality

The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(2) Exceptions

The Oversight Board shall have no responsibilities or authority with respect to—

(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

(C) specific procurement activities of the Internal Revenue Service, or

(D) except as provided in subsection (d)(3), specific personnel actions.

(d) Specific responsibilities

The Oversight Board shall have the following specific responsibilities:

(1) Strategic plans

To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

(A) mission and objectives, and standards of performance relative to either, and

(B) annual and long-range strategic plans.

(2) Operational plans

To review the operational functions of the Internal Revenue Service, including—

(A) plans for modernization of the tax system,

(B) plans for outsourcing or managed competition, and

(C) plans for training and education.

(3) Management

To—

(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner;

(B) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service; and

(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

(4) Budget

To—

(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner;

(B) submit such budget request to the Secretary of the Treasury; and

(C) ensure that the budget request supports the annual and long-range strategic plans.

(5) Taxpayer protection

To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

(e) Board personnel matters**(1) Compensation of members****(A) In general**

Each member of the Oversight Board who—

(i) is described in subsection (b)(1)(A); or

(ii) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be compensated at a rate of \$30,000 per year. All other members shall serve without compensation for such service.

(B) Chairperson

In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of \$50,000 per year.

(2) Travel expenses**(A) In general**

The members of the Oversight Board shall be allowed travel expenses, including per

diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Oversight Board and, with the advance approval of the Chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

(B) Report

The Oversight Board shall include in its annual report under subsection (f)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

(3) Staff

(A) In general

The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

(B) Detail of Government employees

Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

(4) Procurement of temporary and intermittent services

The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) Administrative matters

(1) Chair

(A) Term

The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

(B) Powers

Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

- (i) establishing committees;
- (ii) setting meeting places and times;
- (iii) establishing meeting agendas; and
- (iv) developing rules for the conduct of business.

(2) Meetings

The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

(3) Reports

(A) Annual

The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(B) Additional report

Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 93-406, title II, § 1051(a), Sept. 2, 1974, 88 Stat. 951; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), (B), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, § 2(f)(2), Sept. 13, 1982, 96 Stat. 1059; Pub. L. 100-647, title VI, § 6235(a), Nov. 10, 1988, 102 Stat. 3737; Pub. L. 104-168, title I, § 101(a), (b)(2), July 30, 1996, 110 Stat. 1453, 1455; Pub. L. 105-206, title I, § 1101(a), July 22, 1998, 112 Stat. 691; Pub. L. 106-554, § 1(a)(7) [title III, § 319(27)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (b)(3)(A), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, as amended. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5 and Tables.

AMENDMENTS

2000—Subsec. (b)(2)(B)(ii). Pub. L. 106-554 substituted a comma for semicolon before “and”.

1998—Pub. L. 105-206 amended section catchline and text of section generally, substituting present provisions for provisions which: in subsec. (a), declared that there shall be in the Department of the Treasury a Commissioner of Internal Revenue, appointed by the President, with such duties and powers as prescribed by Secretary of the Treasury; in subsec. (b), established Office of Employee Plans and Exempt Organizations to carry out functions with respect to organizations exempt from tax and with respect to plans to which part I of subchapter D of chapter 1 applied; in subsec. (c), established Office for Taxpayer Services such as telephone, walk-in, and taxpayer educational services, and design and production of forms; and in subsec. (d), established Office of Taxpayer Advocate and set forth functions of Office and responsibilities of Commissioner regarding response to recommendations of Office. See section 7803 of this title.

1996—Pub. L. 104-168, § 101(b)(2), substituted “Commissioners; Taxpayer Advocate.” for “Commissioner (Employee Plans and Exempt Organizations)” in section catchline.

Subsec. (d). Pub. L. 104-168, § 101(a), added subsec. (d). 1988—Subsec. (c). Pub. L. 100-647 added subsec. (c).

1982—Subsec. (b). Pub. L. 97-258 redesignated existing provisions as par. (1), added par. (1) heading, and added par. (2). Par. (2) is based on provisions that appeared in section 1037 of former Title 31, Money and Finance, prior to enactment of Title 31 by Pub. L. 97-258.

1976—Subsec. (a). Pub. L. 94-455, § 1906(b)(13)(B), substituted “Secretary of the Treasury” for “Secretary” after “prescribed by the”.

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

1974—Pub. L. 93-406 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title I, § 1101(d), July 22, 1998, 112 Stat. 697, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4946 and 6103 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].

“(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act [July 22, 1998].

“(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title I, § 101(c), July 30, 1996, 110 Stat. 1456, provided that: “The amendments made by this section [amending this section and section 7811 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, § 6235(c), Nov. 10, 1988, 102 Stat. 3737, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date 180 days after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-406, title II, § 1051(d), Sept. 2, 1974, 88 Stat. 951, provided that: “The amendments made by this section [amending this section and sections 5108 and 5109 of Title 5, Government Organization and Employees] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 2, 1974].”

§ 7803. Commissioner of Internal Revenue; other officials

(a) Commissioner of Internal Revenue

(1) Appointment

(A) In general

There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

(B) Term

The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

(C) Vacancy

Any individual appointed as Commissioner of Internal Revenue during a term as defined

in subparagraph (B) shall be appointed for the remainder of that term.

(D) Removal

The Commissioner may be removed at the will of the President.

(E) Reappointment

The Commissioner may be appointed to serve more than one term.

(2) Duties

The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Execution of duties in accord with taxpayer rights

In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including—

(A) the right to be informed,

(B) the right to quality service,

(C) the right to pay no more than the correct amount of tax,

(D) the right to challenge the position of the Internal Revenue Service and be heard,

(E) the right to appeal a decision of the Internal Revenue Service in an independent forum,

(F) the right to finality,

(G) the right to privacy,

(H) the right to confidentiality,

(I) the right to retain representation, and

(J) the right to a fair and just tax system.

(4) Consultation with Board

The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

(b) Chief Counsel for the Internal Revenue Service

(1) Appointment

There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

(2) Duties

The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall

perform such duties as may be prescribed by the Secretary, including the duty—

(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees;

(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice;

(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service;

(D) to represent the Commissioner in cases before the Tax Court; and

(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Persons to whom Chief Counsel reports

The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that—

(A) the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to—

- (i) legal advice or interpretation of the tax law not relating solely to tax policy;
- (ii) tax litigation; and

(B) the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

(4) Chief Counsel personnel

All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

(c) Office of the Taxpayer Advocate

(1) Establishment

(A) In general

There is established in the Internal Revenue Service an office to be known as the "Office of the Taxpayer Advocate".

(B) National Taxpayer Advocate

(i) In general

The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the "National Taxpayer Advocate". The National

Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

(ii) Appointment

The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(iii) Qualifications

An individual appointed under clause (ii) shall have—

- (I) a background in customer service as well as tax law; and
- (II) experience in representing individual taxpayers.

(iv) Restriction on employment

An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

(2) Functions of office

(A) In general

It shall be the function of the Office of the Taxpayer Advocate to—

- (i) assist taxpayers in resolving problems with the Internal Revenue Service;
- (ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;
- (iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and
- (iv) identify potential legislative changes which may be appropriate to mitigate such problems.

(B) Annual reports

(i) Objectives

Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive

analysis, in addition to statistical information.

(ii) Activities

Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness;

(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811;

(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems;

(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action;

(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory;

(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction;

(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b);

(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems;

(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; and

(XI) include such other information as the National Taxpayer Advocate may deem advisable.

(iii) Report to be submitted directly

Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer

or employee of the Department of the Treasury, or the Office of Management and Budget.

(iv) Coordination with report of Treasury Inspector General for Tax Administration

To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

(C) Other responsibilities

The National Taxpayer Advocate shall—

(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates;

(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;

(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and

(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

(D) Personnel actions

(i) In general

The National Taxpayer Advocate shall have the responsibility and authority to—

(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; and

(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

(ii) Consultation

The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

(3) Responsibilities of Commissioner

The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

(4) Operation of local offices

(A) In general

Each local taxpayer advocate—

(i) shall report to the National Taxpayer Advocate or delegate thereof;

(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate;

(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and

(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

(B) Maintenance of independent communications

Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

(d) Additional duties of the Treasury Inspector General for Tax Administration

(1) Annual reporting

The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

(A) an evaluation of the compliance of the Internal Revenue Service with—

(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees;

(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted;

(iii) required procedures under section 6320 upon the filing of a notice of a lien;

(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and

(v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers;

(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return;

(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension;

(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service;

(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998;

(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and

(G) information regarding any administrative or civil actions with respect to viola-

tions of the fair debt collection provisions of section 6304, including—

(i) a summary of such actions initiated since the date of the last report; and

(ii) a summary of any judgments or awards granted as a result of such actions.

(2) Semiannual reports

(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

(i) the number of taxpayer complaints during the reporting period;

(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

(iii) a summary of the status of such complaints and allegations; and

(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

(3) Other responsibilities

The Treasury Inspector General for Tax Administration shall—

(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code;

(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1); and

(C) not later than December 31, 2010, submit a written report to Congress on the implementation of section 6103(k)(10).

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 92-310, title II, § 230(e), June 6, 1972, 86 Stat. 209; Pub. L. 94-455, title XIX, § 1906(a)(58), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1833, 1834; Pub. L. 105-206, title I, § 1102(a), July 22, 1998, 112 Stat. 697; Pub. L. 110-176, § 1(a), Jan. 4, 2008, 121 Stat. 2532; Pub. L. 110-428, § 2(c), Oct. 15, 2008, 122 Stat. 4840; Pub. L. 114-113, div. Q, title IV, § 401(a), Dec. 18, 2015, 129 Stat. 3117.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service and the Senior Executive Service, referred to in subsec. (c)(1)(B)(ii), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Section 5 of the Inspector General Act of 1978, referred to in subsec. (d)(1), (2)(A), is section 5 of Pub. L. 95-452, which is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 1203, 1204, and 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998, referred to in subsec. (d)(1)(A)(i), (v), (E), are sections 1203, 1204, and 3707 of Pub. L. 105–206, which are set out as notes under sections 7804, 7804, and 6651, respectively, of this title.

Section 6227 of the Omnibus Taxpayer Bill of Rights, referred to in subsec. (d)(3)(B), is section 6227 of Pub. L. 100–647, which is set out as a note under section 7801 of this title.

AMENDMENTS

2015—Subsec. (a)(3), (4). Pub. L. 114–113 added par. (3) and redesignated former par. (3) as (4).

2008—Subsec. (a)(1). Pub. L. 110–176 amended par. (1) generally, substituting provisions relating to appointment, consisting of subpars. (A) to (E), for similar provisions, consisting of subpars. (A) to (D).

Subsec. (d)(3)(C). Pub. L. 110–428 added subpar. (C).

1998—Pub. L. 105–206 amended section catchline and text generally, substituting present provisions for provisions which: in subsec. (a), authorized appointment of persons for administration and enforcement of internal revenue laws; in subsec. (b), directed Secretary to determine and designate posts of duty of employees in field service, and authorized Secretary to order such employees to duty within and outside District of Columbia; and in subsec. (c), directed Secretary to issue notice and demand for failure to account for and pay over money or property collected in connection with internal revenue laws, and deemed amount so demanded to be imposed and assessed upon the officer or employee upon the date of such notice and demand. See section 7804 of this title.

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

Subsecs. (c), (d). Pub. L. 94–455, § 1906(a)(58), redesignated subsec. (d) as (c).

1972—Subsec. (c). Pub. L. 92–310 repealed subsec. (c) which related to bonds of officers and employees.

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. Q, title IV, § 401(b), Dec. 18, 2015, 129 Stat. 3117, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–428 applicable to disclosures made after Dec. 31, 2008, see section 2(d) of Pub. L. 110–428, set out as a note under section 6103 of this title.

Pub. L. 110–176, § 1(b), Jan. 4, 2008, 121 Stat. 2532, provided that: “The amendment made by this section [amending this section] shall apply as if included in the amendment made by section 1102(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105–206].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title I, § 1102(f), July 22, 1998, 112 Stat. 705, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 6212, 6323, 6343, 7611, and 7811 of this title, and section 5109 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [July 22, 1998].

“(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

“(3) NATIONAL TAXPAYER ADVOCATE.—Notwithstanding section 7803(c)(1)(B)(iv) of such Code, as added by this section, in appointing the first National Taxpayer Advocate after the date of the enactment of this Act, the Secretary of the Treasury—

“(A) shall not appoint any individual who was an officer or employee of the Internal Revenue Service at any time during the 2-year period ending on the date of appointment; and

“(B) need not consult with the Internal Revenue Service Oversight Board if the Oversight Board has not been appointed.

“(4) CURRENT OFFICERS.—

“(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of such Code, as added by this section, shall begin as of the date of such appointment.

“(B) Clauses (ii), (iii), and (iv) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.”

§ 7804. Other personnel

(a) Appointment and supervision

Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

(b) Posts of duty of employees in field service or traveling

Unless otherwise prescribed by the Secretary—

(1) Designation of post of duty

The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

(2) Detail of personnel from field service

The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

(c) Delinquent Internal Revenue officers and employees

If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the

amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.

(Aug. 16, 1954, ch. 736, 68A Stat. 916; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title I, §1104(a), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Pub. L. 105-206 amended section catchline and text generally, substituting present provisions for provisions which had declared: in subsec. (a), that provisions of Reorganization Plans No. 26 of 1950 and No. 1 of 1952 should apply to all functions vested by this title, or by any act amending this title in any officer, employee, or agency of the Department; and in subsec. (b), that nothing in such Reorganization Plans should be considered to impair existing rights and remedies, that for the purpose of any action to recover tax all statutes, rules, and regulations referring to collector of internal revenue, principal officer for internal revenue district, or Secretary, should be deemed to refer to officer whose acts gave rise to such action, and that venue of any such action should be the same as under existing law.

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

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title I, §1104(c), July 22, 1998, 112 Stat. 710, provided that: “The amendments made by this section [amending this section and section 6344 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

TERMINATION OF EMPLOYMENT FOR MISCONDUCT

Pub. L. 105-206, title I, §1203, July 22, 1998, 112 Stat. 720, as amended by Pub. L. 108-357, title VIII, §881(d), Oct. 22, 2004, 118 Stat. 1627; Pub. L. 114-113, div. Q, title IV, §407(a), Dec. 18, 2015, 129 Stat. 3120, provided that:

“(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee’s official duties. Such termination shall be a removal for cause on charges of misconduct.

“(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

“(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer’s home, personal belongings, or business assets;

“(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

“(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

“(A) any right under the Constitution of the United States; or

“(B) any civil right established under—

“(i) title VI or VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq., 2000e et seq.];

“(ii) title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

“(iii) the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621 et seq.];

“(iv) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

“(v) section 501 or 504 of the Rehabilitation Act of 1973 [29 U.S.C. 791, 794]; or

“(vi) title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.];

“(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

“(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

“(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

“(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

“(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

“(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

“(10) performing, delaying, or failing to perform (or threatening to perform, delay, or fail to perform) any official action (including any audit) with respect to a taxpayer for purpose of extracting personal gain or benefit or for a political purpose.

“(c) DETERMINATION OF COMMISSIONER.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

“(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

“(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

“(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.”

[Pub. L. 114-113, div. Q, title IV, §407(b), Dec. 18, 2015, 129 Stat. 3120, provided that: “The amendment made by this section [amending section 1203 of Pub. L. 105-206, set out above] shall take effect on the date of the enactment of this Act [Dec. 18, 2015].”]

EMPLOYEE TRAINING PROGRAM

Pub. L. 105-206, title I, §1205, July 22, 1998, 112 Stat. 722, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [July 22, 1998], the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

“(b) CONTENTS.—The plan submitted under subsection (a) shall—

- “(1) detail a comprehensive employee training program to ensure adequate customer service training;
- “(2) detail a schedule for training and the fiscal years during which the training will occur;
- “(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;
- “(4) review the organizational design of customer service;
- “(5) provide for the implementation of a performance development system; and
- “(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.”

CATALOGING COMPLAINTS

Pub. L. 105-206, title III, §3701, July 22, 1998, 112 Stat. 776, provided that: “In collecting data for the report required under section 1211 of the Taxpayer Bill of Rights 2 (Public Law 104-168) [set out below], the Secretary of the Treasury or the Secretary’s delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.”

USE OF PSEUDONYMS BY INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105-206, title III, §3706, July 22, 1998, 112 Stat. 778, provided that:

“(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

- “(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety; and
- “(2) such use is approved by the employee’s supervisor before the pseudonym is used.

“(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act [July 22, 1998].”

REPORTS ON MISCONDUCT OF IRS EMPLOYEES

Pub. L. 104-168, title XII, §1211, July 30, 1996, 110 Stat. 1474, provided that: “On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

- “(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and
- “(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).”

TAXPAYERS’ RIGHTS, COURTESY AND CROSS-CULTURAL RELATIONS TRAINING

Pub. L. 109-115, div. A, title II, §202, Nov. 30, 2005, 119 Stat. 2438, which provided that the Internal Revenue Service was to maintain a training program to ensure that Internal Revenue Service employees were trained in taxpayers’ rights, in dealing courteously with taxpayers, and in cross-cultural relations, was from the Department of the Treasury Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108-447, div. H, title II, §202, Dec. 8, 2004, 118 Stat. 3240.

Pub. L. 108-199, div. F, title II, §202, Jan. 23, 2004, 118 Stat. 318.

Pub. L. 108-7, div. J, title I, §102, Feb. 20, 2003, 117 Stat. 437.

Pub. L. 107-67, title I, §102, Nov. 12, 2001, 115 Stat. 523.

Pub. L. 106-554, §1(a)(3) [title I, §102], Dec. 21, 2000, 114 Stat. 2763, 2763A-132.

Pub. L. 106-58, title I, §102, Sept. 29, 1999, 113 Stat. 437.

Pub. L. 105-277, div. A, §101(h) [title I, §102], Oct. 21, 1998, 112 Stat. 2681-480, 2681-488.

Pub. L. 105-61, title I, §102, Oct. 10, 1997, 111 Stat. 1281.

Pub. L. 104-208, div. A, title I, §101(f) [title I, §102], Sept. 30, 1996, 110 Stat. 3009-314, 3009-323.

Pub. L. 104-52, title I, §2, Nov. 19, 1995, 109 Stat. 474.

Pub. L. 103-329, title I, §2, Sept. 30, 1994, 108 Stat. 2388.

Pub. L. 103-123, title I, §2, Oct. 28, 1993, 107 Stat. 1232.

Pub. L. 102-393, title I, §2, Oct. 6, 1992, 106 Stat. 1735.

BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105-206, title I, §1204, July 22, 1998, 112 Stat. 722, provided that:

“(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

- “(1) to evaluate employees; or
- “(2) to impose or suggest production quotas or goals with respect to such employees.

“(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

“(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

“(d) TECHNICAL AND CONFORMING AMENDMENT.—[Repealed section 6231 of Pub. L. 100-647, set out below.]

“(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act [July 22, 1998].”

Pub. L. 100-647, title VI, §6231, Nov. 10, 1988, 102 Stat. 3734, prohibited Internal Revenue Service use of records of tax enforcement results to evaluate employees or to impose or suggest production quotas or goals, and required quarterly certification that results had not been used in prohibited manner, prior to repeal by Pub. L. 105-206, title I, §1204(d), July 22, 1998, 112 Stat. 722.

SENSE OF CONGRESS AS TO INCREASED INTERNAL REVENUE SERVICE FUNDING FOR TAXPAYER ASSISTANCE AND ENFORCEMENT

Pub. L. 100-203, title X, §10622, Dec. 22, 1987, 101 Stat. 1330-452, provided that:

“(a) FINDINGS.—The Congress hereby finds that—

“(1) the Internal Revenue Service estimates that the amount of taxes owed for 1986 will exceed the amount of taxes collected for such year by \$100 billion;

“(2) the current taxpayer compliance rate stands at 81.5 percent;

“(3) the tax gap can be significantly reduced by enhancing taxpayer assistance services and enforcement; and

“(4) the Appropriations Committee of the House of Representatives, in its fiscal year 1988 Internal Revenue Service appropriation, took a step in the direction of providing additional funding for taxpayer assistance and enforcement efforts.

“(b) It is the sense of the Congress that:

“(1) The Congress increase outlays for the Internal Revenue Service in fiscal year 1989 and fiscal year 1990 in the areas of taxpayer assistance and enforcement by \$7 billion in fiscal year 1989 for a revenue total of \$3.2 billion and by \$8 billion in fiscal year 1990 for a revenue total of \$4.4 billion. The net revenue increase would be \$2.5 billion in fiscal year 1989 and \$3.6 billion in fiscal year 1990, or a net revenue increase over the House Appropriations Committee recommendations of \$4 billion in fiscal year 1989 and \$1.3 billion in fiscal year 1990.

“(2) The Internal Revenue Service offer improved taxpayer assistance and enforcement efforts by using the aforementioned outlays in areas recommended by, or consistent with the recommendations of, the ‘Dorgan Task Force Report’. Taxpayer assistance efforts would include providing expanded taxpayer education programs, instituting pilot programs of tax-mobiles in rural areas, and upgrading the quality of telephone assistance. Taxpayer enforcement efforts would include raising the audit rate from 1.1 percent toward 2.5 percent, restoring resources to criminal investigations, and the collection of delinquent accounts.

“(3) The Congress should undertake an experimental multiyear authorization and 2-year appropriation for the Internal Revenue Service consistent with the recommendations in Public Law 100-119, section 201 (Increasing the Statutory Limit on the Public Debt) [2 U.S.C. 621 note].

“(4) Increased funding should be provided for compilation and analysis of statistics of income and research.

The Internal Revenue Service must issue a report on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The report must utilize more current data than has been utilized recently. The report must be issued by April 15, 1989. The Internal Revenue Service must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.”

TAX COUNSELING FOR THE ELDERLY

Pub. L. 95-600, title I, §163, Nov. 6, 1978, 92 Stat. 2810, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) TRAINING AND TECHNICAL ASSISTANCE.—

“(1) AGREEMENTS.—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

“(2) OTHER ASSISTANCE.—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

“(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers’ work;

“(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

“(C) technical materials and publications to be used by such volunteers.

“(b) POWERS OF THE SECRETARY.—In carrying out his responsibilities under this section, the Secretary is authorized—

“(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

“(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

“(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

“(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

“(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

“(c) EMPLOYMENT OF VOLUNTEERS.—

“(1) IN GENERAL.—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

“(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1986 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1986.

“(e) DEFINITIONS.—For purposes of this section—

“(1) The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(2) The term ‘elderly individual’ means an individual who has attained the age of 60 years as of the close of his taxable year.

“(3) The term ‘Federal income tax return’ means any return required under chapter 61 of the Internal Revenue Code of 1986 with respect to the tax imposed on an individual under chapter 1 of such Code.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section \$2,500,000 for the fiscal year ending September 30, 1979, and \$3,500,000 for the fiscal year ending September 30, 1980.”

§ 7805. Rules and regulations

(a) Authorization

Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) Retroactivity of regulations

(1) In general

Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

(A) The date on which such regulation is filed with the Federal Register.

(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

(2) Exception for promptly issued regulations

Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of

the enactment of the statutory provision to which the regulation relates.

(3) Prevention of abuse

The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

(4) Correction of procedural defects

The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

(5) Internal regulations

The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

(6) Congressional authorization

The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

(7) Election to apply retroactively

The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

(8) Application to rulings

The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.

(c) Preparation and distribution of regulations, forms, stamps, and other matters

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) Manner of making elections prescribed by Secretary

Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall prescribe.

(e) Temporary regulations

(1) Issuance

Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) 3-year duration

Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

(f) Review of impact of regulations on small business

(1) Submissions to Small Business Administration

After publication of any proposed or temporary regulation by the Secretary, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the im-

pact of such regulation on small business. Not later than the date 4 weeks after the date of such submission, the Chief Counsel for Advocacy shall submit comments on such regulation to the Secretary.

(2) Consideration of comments

In prescribing any final regulation which supersedes a proposed or temporary regulation which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration—

(A) the Secretary shall consider the comments of the Chief Counsel for Advocacy on such proposed or temporary regulation, and

(B) the Secretary shall discuss any response to such comments in the preamble of such final regulation.

(3) Submission of certain final regulations

In the case of the promulgation by the Secretary of any final regulation (other than a temporary regulation) which does not supersede a proposed regulation, the requirements of paragraphs (1) and (2) shall apply; except that—

(A) the submission under paragraph (1) shall be made at least 4 weeks before the date of such promulgation, and

(B) the consideration (and discussion) required under paragraph (2) shall be made in connection with the promulgation of such final regulation.

(Aug. 16, 1954, ch. 736, 68A Stat. 917; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, § 43(b), July 18, 1984, 98 Stat. 558; Pub. L. 100-647, title VI, § 6232(a), Nov. 10, 1988, 102 Stat. 3734; Pub. L. 101-508, title XI, § 11621(a), Nov. 5, 1990, 104 Stat. 1388-503; Pub. L. 104-168, title XI, § 1101(a), July 30, 1996, 110 Stat. 1468; Pub. L. 105-206, title III, § 3704, July 22, 1998, 112 Stat. 777.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-206 struck out “by regulations or forms” before “prescribe”.

1996—Subsec. (b). Pub. L. 104-168 struck out “or rulings” after “regulations” in heading and amended text generally. Prior to amendment, text read as follows: “The Secretary may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.”

1990—Subsec. (f). Pub. L. 101-508 substituted heading for one which read “Impact of regulations on small business reviewed” and amended text generally. Prior to amendment, text read as follows: “After the publication of any proposed regulation by the Secretary and before the promulgation of any final regulation by the Secretary which does not supersede a proposed regulation, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond.”

1988—Subsecs. (e), (f). Pub. L. 100-647 added subsecs. (e) and (f).

1984—Pub. L. 98-369 added subsec. (d).

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

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XI, § 1101(b), July 30, 1996, 110 Stat. 1469, provided that: “The amendment made by

subsection (a) [amending this section] shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11621(b), Nov. 5, 1990, 104 Stat. 1388-504, provided that: “The amendment made by subsection (a) [amending this section] shall apply to regulations issued after the date which is 30 days after the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6232(b), Nov. 10, 1988, 102 Stat. 3735, provided that: “The amendments made by this section [amending this section] shall apply to any regulation issued after the date which is 10 days after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

INTERNET AVAILABILITY

Pub. L. 105-206, title II, §2003(d), July 22, 1998, 112 Stat. 725, provided that: “In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary’s delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary’s delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database at approximately the same time such guidance is available to the public in paper form.”

§ 7806. Construction of title

(a) Cross references

The cross references in this title to other portions of the title, or other provisions of law, where the word “see” is used, are made only for convenience, and shall be given no legal effect.

(b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

(Aug. 16, 1954, ch. 736, 68A Stat. 917.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Aug. 16, 1954.

§ 7807. Rules in effect upon enactment of this title

(a) Interim provision for administration of title

Until regulations are promulgated under any provision of this title which depends for its ap-

plication upon the promulgation of regulations (or which is to be applied in such manner as may be prescribed by regulations) all instructions, rules or regulations which are in effect immediately prior to the enactment of this title shall, to the extent such instructions, rules, or regulations could be prescribed as regulations under authority of such provision, be applied as if promulgated as regulations under such provision.

(b) Provisions of this title corresponding to prior internal revenue laws

(1) Reference to law applicable to prior period

Any provision of this title which refers to the application of any portion of this title to a prior period (or which depends upon the application to a prior period of any portion of this title) shall, when appropriate and consistent with the purpose of such provision, be deemed to refer to (or depend upon the application of) the corresponding provision of the Internal Revenue Code of 1939 or of such other internal revenue laws as were applicable to the prior period.

(2) Elections or other acts

If an election or other act under the provisions of the Internal Revenue Code of 1939 would, if this title had not been enacted, be given effect for a period subsequent to the date of enactment of this title, and if corresponding provisions are contained in this title, such election or other act shall be given effect under the corresponding provisions of this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 917.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

§ 7808. Depositaries for collections

The Secretary is authorized to designate one or more depositaries in each State for the deposit and safe-keeping of the money collected by virtue of the internal revenue laws; and the receipt of the proper officer of such depositary to the proper officer or employee of the Treasury Department for the money deposited by him shall be a sufficient voucher for such Treasury officer or employee in the settlement of his accounts.

(Aug. 16, 1954, ch. 736, 68A Stat. 918; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7809. Deposit of collections

(a) General rule

Except as provided in subsections (b) and (c) and in sections 6306, 7651, 7652, 7654, and 7810, the

gross amount of all taxes and revenues received under the provisions of this title, and collections of whatever nature received or collected by authority of any internal revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary as internal revenue collections, by the officer or employee receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer of the United States, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Secretary.

(b) Deposit funds

In accordance with instructions of the Secretary, there shall be deposited with the Treasurer of the United States in a deposit fund account—

(1) Sums offered in compromise

Sums offered in compromise under the provisions of section 7122;

(2) Sums offered for purchase of real estate

Sums offered for the purchase of real estate under the provisions of section 7506;

(3) Surplus proceeds in sales under levy

Surplus proceeds in any sale under levy, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the levy and sale; and

(4) Surplus proceeds in sales of redeemed property

Surplus proceeds in any sale under section 7506 of real property redeemed by the United States, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs of sale.

Upon the acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn from such deposit fund account and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Secretary shall refund to the maker of such offer the amount thereof.

(c) Deposit of certain receipts

Moneys received in payment for—

(1) Work¹ or services performed pursuant to section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations);

(2) work or services performed (including materials supplied) pursuant to section 7516 (relating to the supplying of training and training aids on request);

(3) other work or services performed for a State or a department or agency of the Federal Government (subject to all provisions of law and regulations governing disclosure of in-

formation) in supplying copies of, or data from, returns, statements, or other documents filed under authority of this title or records maintained in connection with the administration and enforcement of this title; and

(4) work or services performed (including materials supplied) pursuant to section 6110 (relating to public inspection of written determinations),

shall be deposited in a separate account which may be used to reimburse appropriations which bore all or part of the costs of such work or services, or to refund excess sums when necessary.

(d) Deposit of funds for law enforcement agency account

(1) In general

In the case of any amounts recovered as the result of information provided to the Internal Revenue Service by State and local law enforcement agencies which substantially contributed to such recovery, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

(2) Deposit in Treasury as internal revenue collections

If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.

(Aug. 16, 1954, ch. 736, 68A Stat. 918; Pub. L. 87-870, §3(b), Oct. 23, 1962, 76 Stat. 1161; Pub. L. 89-719, title I, §112(b), Nov. 2, 1966, 80 Stat. 1146; Pub. L. 94-455, title XII, §1202(h)(5), title XIX, §§1906(a)(59), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1688, 1833, 1834; Pub. L. 94-528, §2(d), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 100-690, title VII, §7602(b), Nov. 18, 1988, 102 Stat. 4507; Pub. L. 108-357, title VIII, §881(a)(2)(A), Oct. 22, 2004, 118 Stat. 1626.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 inserted “6306,” before “7651”.

1988—Subsec. (d). Pub. L. 100-690 added subsec. (d).

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(59), (b)(13)(A), struck out “4735, 4762” after “and in sections”, and “or his delegate” after “Secretary” in two places.

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

Subsec. (c)(1). Pub. L. 94-455, §1202(h)(5), substituted “section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)” for “section 7515 (relating to special statistical studies and compilations for other services on request)” after “performed pursuant to”.

Subsec. (c)(4). Pub. L. 94-528 added par. (4).

1966—Subsecs. (a), (b)(4). Pub. L. 89-719 inserted reference to section 7810 in subsec. (a) and added subsec. (b)(4).

1962—Subsec. (a). Pub. L. 87-870, §3(b)(1), substituted “subsections (b) and (c) and in” for “subsection (b),”.

Subsec. (c). Pub. L. 87-870, §3(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 applicable to information first provided more than 90 days after Nov. 18, 1988,

¹ So in original. Probably should not be capitalized.

see section 7602(e) of Pub. L. 100-690, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Pub. L. 94-528, §2(e), Oct. 17, 1976, 90 Stat. 2484, provided that: "The amendments made by this section [amending this section and provisions set out as notes under sections 6334, 6851, and 7609 of this title] shall take effect on the date of the enactment of the Tax Reform Act of 1976 [Oct. 4, 1976]."

Amendment by section 1202(h)(5) of Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 100-690, title VII, §7602(f), Nov. 18, 1988, 102 Stat. 4508, provided that: "There is authorized to be appropriated from the account referred to in section 7809(d) of the Internal Revenue Code of 1986 such sums as may be necessary to make the payments authorized by section 7624 of such Code."

§ 7810. Revolving fund for redemption of real property

(a) Establishment of fund

There is established a revolving fund, under the control of the Secretary, which shall be available without fiscal year limitation for all expenses necessary for the redemption (by the Secretary) of real property as provided in section 7425(d) and section 2410 of title 28 of the United States Code. There are authorized to be appropriated from time to time such sums (not to exceed \$10,000,000 in the aggregate) as may be necessary to carry out the purposes of this section.

(b) Reimbursement of fund

The fund shall be reimbursed from the proceeds of a subsequent sale of real property redeemed by the United States in an amount equal to the amount expended out of such fund for such redemption.

(c) System of accounts

The Secretary shall maintain an adequate system of accounts for such fund and prepare annual reports on the basis of such accounts.

(Added Pub. L. 89-719, title I, §112(a), Nov. 2, 1966, 80 Stat. 1145; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, §443, July 18, 1984, 98 Stat. 816.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369 substituted "\$10,000,000" for "\$1,000,000".

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

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

§ 7811. Taxpayer Assistance Orders

(a) Authority to issue

(1) In general

Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if—

(A) the National Taxpayer Advocate determines the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary; or

(B) the taxpayer meets such other requirements as are set forth in regulations prescribed by the Secretary.

(2) Determination of hardship

For purposes of paragraph (1), a significant hardship shall include—

(A) an immediate threat of adverse action;

(B) a delay of more than 30 days in resolving taxpayer account problems;

(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or

(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

(3) Standard where administrative guidance not followed

In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a Taxpayer Assistance Order in the manner most favorable to the taxpayer.

(b) Terms of a Taxpayer Assistance Order

The terms of a Taxpayer Assistance Order may require the Secretary within a specified time period—

(1) to release property of the taxpayer levied upon, or

(2) to cease any action, take any action as permitted by law, or refrain from taking any action, with respect to the taxpayer under—

(A) chapter 64 (relating to collection),

(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

(C) chapter 78 (relating to discovery of liability and enforcement of title), or

(D) any other provision of law which is specifically described by the National Taxpayer Advocate in such order.

(c) Authority to modify or rescind

Any Taxpayer Assistance Order issued by the National Taxpayer Advocate under this section may be modified or rescinded—

(1) only by the National Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

(2) only if a written explanation of the reasons for the modification or rescission is provided to the National Taxpayer Advocate.

(d) Suspension of running of period of limitation

The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the National Taxpayer Advocate's decision with respect to such application, and

(2) any period specified by the National Taxpayer Advocate in a Taxpayer Assistance Order issued pursuant to such application.

(e) Independent action of National Taxpayer Advocate

Nothing in this section shall prevent the National Taxpayer Advocate from taking any action in the absence of an application under subsection (a).

(f) National Taxpayer Advocate

For purposes of this section, the term “National Taxpayer Advocate” includes any designee of the National Taxpayer Advocate.

(g) Application to persons performing services under a qualified tax collection contract

Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.

(Added Pub. L. 100-647, title VI, § 6230(a), Nov. 10, 1988, 102 Stat. 3733; amended Pub. L. 104-168, title I, §§ 101(b)(1), 102(a), (b), July 30, 1996, 110 Stat. 1455, 1456; Pub. L. 105-206, title I, § 1102(c), (d)(1)(C)–(G), (2), (3), July 22, 1998, 112 Stat. 703, 704; Pub. L. 106-554, § 1(a)(7) [title III, § 319(28)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648; Pub. L. 108-357, title VIII, § 881(c), Oct. 22, 2004, 118 Stat. 1626.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108-357 added subsec. (g).

2000—Subsec. (a)(3). Pub. L. 106-554, § 1(a)(7) [title III, § 319(28)], substituted “Taxpayer Assistance Order” for “taxpayer assistance order”.

Subsec. (d)(1). Pub. L. 106-554, § 1(a)(7) [title III, § 319(29)], substituted “National Taxpayer Advocate's” for “Ombudsman's”.

1998—Subsec. (a). Pub. L. 105-206, § 1102(c), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Taxpayer Advocate may issue a Taxpayer Assistance Order if, in the determination of the Taxpayer Advocate, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.”

Subsec. (b)(2)(D). Pub. L. 105-206, § 1102(d)(1)(C), substituted “National Taxpayer Advocate” for “Taxpayer Advocate”.

Subsec. (c). Pub. L. 105-206, § 1102(d)(1)(D), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” wherever appearing.

Subsec. (d)(1). Pub. L. 105-206, § 1102(d)(2), which directed amendment of par. (1) by substituting “National Taxpayer Advocate's” for “Taxpayer Advocate's”, could not be executed because the words “Taxpayer Advocate's” did not appear.

Subsec. (d)(2). Pub. L. 105-206, § 1102(d)(1)(E), substituted “National Taxpayer Advocate” for “Taxpayer Advocate”.

Subsec. (e). Pub. L. 105-206, § 1102(d)(1)(F), (3), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in heading and text.

Subsec. (f). Pub. L. 105-206, § 1102(d)(1)(G), (3), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in heading and in two places in text.

1996—Subsec. (a). Pub. L. 104-168, § 101(b)(1), substituted “the Office of the Taxpayer Advocate” for “the Office of the Ombudsman” and substituted “Taxpayer Advocate” for “Ombudsman” in two places.

Subsec. (b). Pub. L. 104-168, § 102(a)(1), inserted “with- in a specified time period” after “the Secretary”.

Subsec. (b)(2). Pub. L. 104-168, § 102(a)(2), inserted “take any action as permitted by law,” after “cease any action.”

Subsec. (b)(2)(D). Pub. L. 104-168, § 101(b)(1)(B), substituted “Taxpayer Advocate” for “Ombudsman”.

Subsec. (c). Pub. L. 104-168, § 102(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, a service center director, a compliance center director, a regional director of appeals, or any superior of any such person.”

Subsecs. (d)(2) to (f). Pub. L. 104-168, § 101(b)(1)(B), substituted “Taxpayer Advocate” for “Ombudsman” wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 101(b)(1) of Pub. L. 104-168 effective July 30, 1996, see section 101(c) of Pub. L. 104-168, set out as a note under section 7802 of this title.

Pub. L. 104-168, title I, § 102(c), July 30, 1996, 110 Stat. 1456, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE

Pub. L. 100-647, title VI, § 6230(d), Nov. 10, 1988, 102 Stat. 3734, provided that: “The amendments made by this section [enacting this section] shall take effect on January 1, 1989.”

REGULATIONS

Pub. L. 100-647, title VI, § 6230(c), Nov. 10, 1988, 102 Stat. 3734, provided that: “The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act [Nov. 10, 1988] in order to carry out the purposes of section 7811 of the 1986 Code (as added by this section) and to ensure taxpayers uniform access to administrative procedures.”

Subchapter B—Effective Date and Related Provisions

Sec.

7851. Applicability of revenue laws.

7852. Other applicable rules.

§ 7851. Applicability of revenue laws**(a) General rules**

Except as otherwise provided in any section of this title—

(1) Subtitle A

(A) Chapters 1, 2, 4,¹ and 6 of this title shall apply only with respect to taxable years beginning after December 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1

¹ See References in Text note below.

(except sections 143 and 144) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

(B) Chapters 3 and 5¹ of this title shall apply with respect to payments and transfers occurring after December 31, 1954, and as to such payments and transfers sections 143 and 144 and chapter 7 of the Internal Revenue Code of 1939 are hereby repealed.

(C) Any provision of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953), or in terms of taxable years ending after a specific date (occurring after December 31, 1953), shall apply to taxable years ending after such specific date. Each such provision shall, in the case of a taxable year subject to the Internal Revenue Code of 1939, be deemed to be included in the Internal Revenue Code of 1939, but shall be applicable only to taxable years ending after such specific date. The provisions of the Internal Revenue Code of 1939 superseded by provisions of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953) shall be deemed to be included in subtitle A of this title, but shall be applicable only to the period prior to the taking effect of the corresponding provision of subtitle A.

(D) Effective with respect to taxable years ending after March 31, 1954, and subject to tax under chapter 1 of the Internal Revenue Code of 1939—

(i) Sections 13(b)(3), 26(b)(2)(C), 26(h) (1)(C) (including the comma and the word “and” immediately preceding such section), 26(i)(3), 108(k), 207(a)(1)(C), 207(a)(3)(C), and the last sentence of section 362(b)(3) of such Code are hereby repealed; and

(ii) Sections 13(b)(2), 26(b)(2)(B), 26(h) (1)(B), 26(i)(2), 207(a)(1)(B), 207(a)(3)(B), 421(a)(1)(B), and the second sentence of section 362(b)(3) of such Code are hereby amended by striking out “and before April 1, 1954” (and any accompanying punctuation) wherever appearing therein.

(2) Subtitle B

(A) Chapter 11 of this title shall apply with respect to estates of decedents dying after the date of enactment of this title, and with respect to such estates chapter 3 of the Internal Revenue Code of 1939 is hereby repealed.

(B) Chapter 12 of this title shall apply with respect to the calendar year 1955 and all calendar years thereafter, and with respect to such years chapter 4 of the Internal Revenue Code of 1939 is hereby repealed.

(3) Subtitle C

Subtitle C of this title shall apply only with respect to remuneration paid after December 31, 1954, except that chapter 22 of such subtitle shall apply only with respect to remuneration paid after December 31, 1954, which is for services performed after such date. Chapter 9 of the Internal Revenue Code of 1939 is hereby repealed with respect to remuneration paid after December 31, 1954, except that subchapter B of such chapter (and subchapter E of such chapter to the extent it relates to subchapter B) shall remain in force and effect with respect to

remuneration paid after December 31, 1954, for services performed on or before such date.

(4) Subtitle D

Subtitle D of this title shall take effect on January 1, 1955. Subtitles B and C of the Internal Revenue Code of 1939 (except chapters 7, 9, 15, 26, and 28, subchapter B of chapter 25, and parts VII and VIII of subchapter A of chapter 27 of such code) are hereby repealed effective January 1, 1955. Provisions having the same effect as section 6416(b)(2)(H),¹ and so much of section 4082(c)¹ as refers to special motor fuels, shall be considered to be included in the Internal Revenue Code of 1939 effective as of May 1, 1954. Section 2450(a) of the Internal Revenue Code of 1939 (as amended by the Excise Tax Reduction Act of 1954) applies to the period beginning on April 1, 1954, and ending on December 31, 1954.

(5) Subtitle E

Subtitle E shall take effect on January 1, 1955, except that the provisions in section 5411 permitting the use of a brewery under regulations prescribed by the Secretary for the purpose of producing and bottling soft drinks, section 5554, and chapter 53 shall take effect on the day after the date of enactment of this title. Subchapter B of chapter 25, and part VIII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective on the day after the date of enactment of this title. Chapters 15 and 26, and part VII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective January 1, 1955.

(6) Subtitle F

(A) General rule

The provisions of subtitle F shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title. The provisions of subtitle F shall apply with respect to any tax imposed by the Internal Revenue Code of 1939 only to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B) Assessment, collection, and refunds

Notwithstanding the provisions of subparagraph (A), and notwithstanding any contrary provision of subchapter A of chapter 63 (relating to assessment), chapter 64 (relating to collection), or chapter 65 (relating to abate-ments, credits, and refunds) of this title, the provisions of part II of subchapter A of chapter 28 and chapters 35, 36, and 37 (except section 3777) of subtitle D of the Internal Revenue Code of 1939 shall remain in effect until January 1, 1955, and shall also be applicable to the taxes imposed by this title. On and after January 1, 1955, the provisions of subchapter A of chapter 63, chapter 64, and chapter 65 (except section 6405) of this title shall be applicable to all internal revenue taxes (whether imposed by this title or by the Internal Revenue Code of 1939), notwithstanding any contrary provision of part II of subchapter A of chapter 28, or of chapter 35, 36, or 37, of the Internal Revenue Code

of 1939. The provisions of section 6405 (relating to reports of refunds and credits) shall be applicable with respect to refunds or credits allowed after the date of enactment of this title, and section 3777 of the Internal Revenue Code of 1939 is hereby repealed with respect to such refunds and credits.

(C) Taxes imposed under the 1939 Code

After the date of enactment of this title, the following provisions of subtitle F shall apply to the taxes imposed by the Internal Revenue Code of 1939, notwithstanding any contrary provisions of such code:

- (i) Chapter 73, relating to bonds.
- (ii) Chapter 74, relating to closing agreements and compromises.
- (iii) Chapter 75, relating to crimes and other offenses, but only insofar as it relates to offenses committed after the date of enactment of this title, and in the case of such offenses, section 6531, relating to periods of limitation on criminal prosecution, shall be applicable. The penalties (other than penalties which may be assessed) provided by the Internal Revenue Code of 1939 shall not apply to offenses, committed after the date of enactment of this title, to which chapter 75 of this title is applicable.
- (iv) Chapter 76, relating to judicial proceedings.
- (v) Chapter 77, relating to miscellaneous provisions, except that section 7502 shall apply only if the mailing occurs after the date of enactment of this title, and section 7503 shall apply only if the last date referred to therein occurs after the date of enactment of this title.
- (vi) Chapter 78, relating to discovery of liability and enforcement of title.
- (vii) Chapter 79, relating to definitions.
- (viii) Chapter 80, relating to application of internal revenue laws, effective date, and related provisions.

(D) Chapter 28 and subtitle D of 1939 Code

Except as otherwise provided in subparagraphs (B) and (C), the provisions of chapter 28 and of subtitle D of the Internal Revenue Code of 1939 shall remain in effect with respect to taxes imposed by the Internal Revenue Code of 1939.

(7) Other provisions

If the effective date of any provision of the Internal Revenue Code of 1986 is not otherwise provided in this section or in any other section of this title, such provision shall take effect on the day after the date of enactment of this title. If the repeal of any provision of the Internal Revenue Code of 1939 is not otherwise provided by this section or by any other section of this title, such provision is hereby repealed effective on the day after the date of enactment of this title.

(b) Effect of repeal of Internal Revenue Code of 1939

(1) Existing rights and liabilities

The repeal of any provision of the Internal Revenue Code of 1939 shall not affect any act

done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; but all rights and liabilities under such code shall continue, and may be enforced in the same manner, as if such repeal had not been made.

(2) Existing offices

The repeal of any provision of the Internal Revenue Code of 1939 shall not abolish, terminate, or otherwise change—

- (A) any internal revenue district,
- (B) any office, position, board, or committee, or
- (C) the appointment or employment of any officer or employee,

existing immediately preceding the enactment of this title, the continuance of which is not manifestly inconsistent with any provision of this title, but the same shall continue unless and until changed by lawful authority.

(3) Existing delegations of authority

Any delegation of authority made pursuant to the provisions of Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952, including any redelegation of authority made pursuant to any such delegation of authority, and in effect under the Internal Revenue Code of 1939 immediately preceding the enactment of this title shall, notwithstanding the repeal of such code, remain in effect for purposes of this title, unless distinctly inconsistent or manifestly incompatible with the provisions of this title. The preceding sentence shall not be construed as limiting in any manner the power to amend, modify, or revoke any such delegation or redelegation of authority.

(c) Crimes and forfeitures

All offenses committed, and all penalties or forfeitures incurred, under any provision of law hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.

(d) Periods of limitation

All periods of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this title had not been enacted.

(e) Reference to other provisions

For the purpose of applying the Internal Revenue Code of 1939 or the Internal Revenue Code of 1986 to any period, any reference in either such code to another provision of the Internal Revenue Code of 1939 or the Internal Revenue Code of 1986 which is not then applicable to such period shall be deemed a reference to the corresponding provision of the other code which is then applicable to such period.

(Aug. 16, 1954, ch. 736, 68A Stat. 919; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Chapter 4 of this title, referred to in subsec. (a)(1)(A), was repealed by Pub. L. 101-508, title XI, § 11801(a)(37), Nov. 5, 1990, 104 Stat. 1388-521.

The date of enactment of this title, referred to in subsecs. (a)(1)(A), (5), (6)(A) to (C), (7), (b)(2), (3), is Aug. 16, 1954.

Various provisions of the Internal Revenue Code of 1939, referred to in text and described below, have corresponding provisions appearing in the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, subsec. (e) of this section for provision that references in the 1986 Code to a provision in the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), (D), was comprised of sections 1 to 482 of former Title 26, Internal Revenue Code. Sections 1 to 33 were repealed by subsec. (a)(1)(A) of this section, section 34 was repealed by act Feb. 25, 1944, ch. 63, title I, § 106(c)(2), 58 Stat. 31, sections 35 to 184 were repealed by subsec. (a)(1)(A) of this section, section 185 was repealed by act Feb. 25, 1944, ch. 63, title I, § 107(a), 58 Stat. 31, sections 201 to 263 were repealed by subsec. (a)(1)(A) of this section, section 264 was repealed by act Oct. 21, 1942, ch. 619, title I, § 159(e), 56 Stat. 860, sections 265 to 362 were repealed by subsec. (a)(1)(A) of this section, section 363 was repealed by act Oct. 21, 1942, ch. 619, title I, § 170(a), 56 Stat. 878, sections 371 to 482 were repealed by subsec. (a)(1)(A) of this section.

Sections 143 and 144 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), (B), were classified to sections 143 and 144 of former Title 26, Internal Revenue Code.

Chapter 2 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), was comprised of sections 500 to 784 of former Title 26, Internal Revenue Code. Sections 500 to 511 and 650 to 706 were repealed by subsec. (a)(1)(A) of this section, sections 600 to 605 were repealed by act Nov. 8, 1945, ch. 453, title II, § 202, 59 Stat. 574, sections 710 to 736, 740, 742 to 744, 750, 751, 760, 761 and 780 to 784 were repealed by act Nov. 8, 1945, ch. 453, title I, § 122(a), 59 Stat. 568, section 741 was repealed by act Oct. 21, 1942, ch. 619, title II, § 224(b), 228(b), 56 Stat. 920, 925, section 752 was repealed by act Oct. 21, 1942, ch. 619, title II, § 229(a)(1), 56 Stat. 931, eff. as of Oct. 8, 1940.

Section 3801 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), was classified to section 3801 of former Title 26, Internal Revenue Code. Section 3801 was repealed by subsec. (a)(1)(A) of this section.

Chapter 5 of this title, referred to in subsec. (a)(1)(B), was repealed by Pub. L. 105-34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978.

Chapter 7 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(B), (4), was comprised of sections 1250 to 1254 of former Title 26, Internal Revenue Code.

The Internal Revenue Code of 1939, referred to in subsecs. (a)(1)(C), (4), (6)(A) to (C), (C)(iii), (D), (7), (b)(1) to (3), (e), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code.

Sections 13(b)(3), 26(b)(2)(C), 26(h)(1)(C), 26(i)(3), 108(k), 207(a)(1)(C), 207(a)(3)(C), and the last sentence of section 362(b)(3), referred to in subsec. (a)(1)(D)(i), were classified to former sections 13(b)(3), 26(b)(2)(C), (h)(1)(C), (i)(3), 108(k), 207(a)(1)(C), (3)(C), and 362(b)(3) of former Title 26, Internal Revenue Code. Sections 13(b)(3), 26(b)(2)(C), (h)(1)(C), (i)(3), 108(k), 207(a)(1)(C), (3)(C), and 362(b)(3) were repealed by subsec. (a)(1)(d)(i) of this section.

Sections 13(b)(2), 26(b)(2)(B), 26(h)(1)(B), 26(i)(2), 207(a)(1)(B), 207(a)(3)(B), 421(a)(1)(B), and the second sentence of section 362(b)(3), referred to in subsec. (a)(1)(D)(ii), were classified to sections 13(b)(2),

26(b)(2)(B), (h)(1)(B), (i)(2), 207(a)(1)(B), (3)(B), 421(a)(1)(B), and 362(b)(3) of former Title 26, Internal Revenue Code.

Chapter 3 of the Internal Revenue Code of 1939, referred to in subsec. (a)(2)(A), was comprised of sections 800 to 951 of former Title 26, Internal Revenue Code.

Chapter 4 of the Internal Revenue Code of 1939, referred to in subsec. (a)(2)(B), was comprised of sections 1000 to 1031 of former Title 26, Internal Revenue Code.

Chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a)(3), (4), was comprised of sections 1400 to 1636 of former Title 26, Internal Revenue Code. Subchapters B and E of chapter 9 of the Internal Revenue Code of 1939 were comprised of sections 1500 to 1538, and 1630 to 1636, respectively, of former Title 26.

Subtitles B and C of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), were comprised of chapters 6 to 28, sections 1200 to 3361, and chapters 29 to 33A, sections 3400 to 3540, respectively, of former Title 26, Internal Revenue Code. Sections 1200 to 1207 of former Title 26 were repealed by act Nov. 8, 1945, ch. 453, title II, § 201, 59 Stat. 574. Sections 1250 to 1254, 1400 to 1627, 1631 to 1805, 1807 to 2300, 2302 to 2362, 2400 to 2475, 2477 to 2905, 2908 to 3150, 3152, 3153, 3155 to 3195, 3206 to 3212, 3220 to 3301, 3303 to 3335, 3350 to 3409, 3412 to 3451, and 3453 to 3508 of former Title 26, were repealed by subsec. (a)(4) of this section. Sections 1300 and 1301 were repealed by act June 10, 1952, ch. 390, 66 Stat. 133. Section 1630 was repealed by act Aug. 27, 1949, ch. 517, § 4(b), 63 Stat. 668. Section 1806 was repealed by act Mar. 11, 1947, ch. 117, § 8(c), 61 Stat. 13. Section 2301 was repealed by act Mar. 16, 1950, ch. 61, § 1, 64 Stat. 20. Sections 2380 to 2390, and 3215 to 3217 were repealed by act Oct. 21, 1942, ch. 619, title VI, § 619, 56 Stat. 979. Section 2476 was repealed by act Apr. 30, 1946, ch. 244, title V, § 506(b), 60 Stat. 157. Sections 2906 and 3302 were repealed by act Feb. 21, 1950, ch. 36, § 7, 64 Stat. 8. Section 2907 was repealed by act July 22, 1941, ch. 314, 55 Stat. 602. Sections 3151 and 3154 were repealed by act Aug. 27, 1949, ch. 498, § 6, 63 Stat. 626. Sections 3200 to 3202 were repealed by act Mar. 16, 1950, ch. 61, § 2, 64 Stat. 20. Sections 3340 to 3343 were repealed by act Apr. 30, 1946, ch. 244, title V, § 507(b), 60 Stat. 157. Section 3411 was repealed by act Oct. 20, 1951, ch. 521, title IV, § 488(a), 65 Stat. 536. Section 3452 was repealed by act Sept. 20, 1941, ch. 412, title V, § 501, 55 Stat. 706. Sections 3520 to 3528 expired by their own terms on Apr. 26, 1941. Section 3540 was repealed by act Nov. 8, 1945, ch. 453, title III, § 301, 59 Stat. 575.

Chapter 15 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2000 to 2199 of former Title 26, Internal Revenue Code. Chapter 15 was repealed by subsec. (a)(5) of this section.

Chapter 26 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2800 to 3195 of former Title 26, Internal Revenue Code. Sections 2800 to 2905, 2908 to 3150, 3152, 3153, 3155 to 3195 were repealed by subsec. (a)(5) of this section. Section 2906 was repealed by act Feb. 21, 1950, ch. 36, § 7, 64 Stat. 8. Section 2907 was repealed by act July 22, 1941, ch. 314, § 3, 55 Stat. 602. Sections 3151 and 3154 were repealed by act Aug. 23, 1949, ch. 498, § 6, 63 Stat. 626.

Chapter 28 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (6)(B), (D), was comprised of sections 3300 to 3361 of former Title 26, Internal Revenue Code. Part II of subchapter A of chapter 27 of the Internal Revenue Code of 1939 was comprised of sections 3310 to 3314 of former Title 26.

Subchapter B of chapter 25 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2720 to 2734 of former Title 26, Internal Revenue Code. Subchapter B of chapter 25 of the Internal Revenue Code of 1939 was repealed by subsec. (a)(5) of this section.

Parts VII and VIII of subchapter A of chapter 27 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), were comprised of sections 3250 to 3255 and 3260 to 3266, respectively, of former Title 26, Internal Revenue Code. Parts VII and VIII of subchapter A of chapter 27 of the Internal Revenue Code of 1939 were repealed by subsec. (a)(5) of this section.

Section 6416(b)(2)(H), referred to in subsec. (a)(4), was repealed by Pub. L. 98-369, div. A, title VII, § 735(c)(13)(B), July 18, 1984, 98 Stat. 984.

Section 4082, referred to in subsec. (a)(4), was amended generally by Pub. L. 99-514, title XVII, § 1703(a), Oct. 22, 1986, 100 Stat. 2775, and, as so amended, did not contain a subsec. (c). Subsequently, section 4082 was amended generally by Pub. L. 103-66, title XIII, § 13242(a), Aug. 10, 1993, 107 Stat. 517, and, as so amended, contains a subsec. (c) relating to regulations. Section 4082 was further amended by Pub. L. 104-188, title I, § 1801(a), Aug. 20, 1996, 110 Stat. 1891, which added a subsec. (c), relating to exception to dyeing requirements, and redesignated former subsec. (c), relating to regulations, as (d).

Section 2450(a) of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), was classified to section 2450 of former Title 26, Internal Revenue Code. Section 2450 was repealed by subsec. (a)(4) of this section.

The Excise Tax Reduction Act of 1954, referred to in subsec. (a)(4), is act Mar. 31, 1954, ch. 126, 68 Stat. 37.

Subtitle D of the Internal Revenue Code of 1939, referred to in subsec. (a)(6)(B), (D), was comprised of chapters 34 to 38, sections 3600 to 3781 of former Title 26, Internal Revenue Code. Chapters 35, 36, and 37 of subtitle D of the Internal Revenue Code of 1939 were comprised of sections 3640 to 3647, 3650 to 3762, and 3770 to 3781, respectively, of former Title 26.

Section 3777 of the Internal Revenue Code of 1939, referred to in subsec. (a)(6)(B), was classified to section 3777 of former Title 26, Internal Revenue Code. Section 3777 was repealed by subsec. (a)(6)(B) of this section.

Reorganization Plan Numbered 26 of 1950, referred to in subsec. (b)(3), is Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, which is set out in the Appendix to Title 5, Government Organization and Employees.

Reorganization Plan Numbered 1 of 1952, referred to in subsec. (b)(3), is Reorg. Plan No. 1 of 1952, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, which is set out in Appendix to Title 5.

AMENDMENTS

1986—Subsecs. (a)(7), (e). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1976—Subsec. (a)(5). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7852. Other applicable rules

(a) Separability clause

If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) Reference in other laws to Internal Revenue Code of 1939

Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1939 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of this title.

(c) Items not to be twice included in income or deducted therefrom

Except as otherwise distinctly expressed or manifestly intended, the same item (whether of income, deduction, credit, or otherwise) shall not be taken into account both in computing a tax under subtitle A of this title and a tax under chapter 1 or 2 of the Internal Revenue Code of 1939.

(d) Treaty obligations

(1) In general

For purposes of determining the relationship between a provision of a treaty and any law of the United States affecting revenue, neither the treaty nor the law shall have preferential status by reason of its being a treaty or law.

(2) Savings clause for 1954 treaties

No provision of this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 16, 1954.

(e) Privacy Act of 1974

The provisions of subsections (d)(2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 922; Pub. L. 94-455, title XII, § 1202(g), Oct. 4, 1976, 90 Stat. 1688; Pub. L. 100-647, title I, § 1012(aa)(1)(A), Nov. 10, 1988, 102 Stat. 3531.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b), is act Feb. 10, 1939, ch. 2, 53 Stat. 1. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

Chapters 1 and 2 of the Internal Revenue Code of 1939, referred to in subsec. (c), are chapters 1 and 2 of former Title 26, Internal Revenue Code. For history of such chapters, see References in Text note set out under section 7851 of this title.

The Privacy Act of 1974, referred to in subsec. (e), is Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and enacted notes set out under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “No provision of this title shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of enactment of this title.”

1976—Subsec. (e). Pub. L. 94-455 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, § 1012(aa)(1)(B), Nov. 10, 1988, 102 Stat. 3531, provided that: “Section 7852(d)(1) of the 1986 Code, as added by subparagraph (A), shall apply to any taxable period with respect to which the time for assessment of any deficiency has not expired by reason of any law or rule of law before the date of the enactment of this Act [Nov. 10, 1988].”

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

APPLICATION OF SUBSEC. (d) TO PUB. L. 87-834

Pub. L. 87-834, §31, Oct. 16, 1962, 76 Stat. 1069, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Section 7852(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to treaty obligations) shall not apply in respect of any amendment made by this Act [see Short Title of 1962 Amendments note set out under section 1 of this title]."

Subchapter C—Provisions Affecting More Than One Subtitle

Sec.	
7871.	Indian tribal governments treated as States for certain purposes.
7872.	Treatment of loans with below-market interest rates.
7873.	Income derived by Indians from exercise of fishing rights.
7874.	Rules relating to expatriated entities and their foreign parents.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §801(b), Oct. 22, 2004, 118 Stat. 1566, added item 7874.

1988—Pub. L. 100-647, title III, §3041(b), Nov. 10, 1988, 102 Stat. 3641, added item 7873.

1984—Pub. L. 98-369, div. A, title I, §172(b), July 18, 1984, 98 Stat. 703, added item 7872.

§ 7871. Indian tribal governments treated as States for certain purposes

(a) General rule

An Indian tribal government shall be treated as a State—

(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

(2) subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

(A) chapter 31 (relating to tax on special fuels),

(B) chapter 32 (relating to manufacturers excise taxes),

(C) subchapter B of chapter 33 (relating to communications excise tax), or

(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

(3) for purposes of section 164 (relating to deduction for taxes);

(4) subject to subsection (c), for purposes of section 103 (relating to State and local bonds);

(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

(6) for purposes of—

(A) section 105(e) (relating to accident and health plans),

(B) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities), and

(C) section 454(b)(2) (relating to discount obligations); and

(7) for purposes of—

(A) chapter 41 (relating to tax on excess expenditures to influence legislation), and

(B) subchapter A of chapter 42 (relating to private foundations).

(b) Additional requirements for excise tax exemptions

Paragraph (2) of subsection (a) shall apply with respect to any transaction only if, in addition to any other requirement of this title applicable to similar transactions involving a State or political subdivision thereof, the transaction involves the exercise of an essential governmental function of the Indian tribal government.

(c) Additional requirements for tax-exempt bonds

(1) In general

Subsection (a) of section 103 shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

(2) No exemption for private activity bonds

Except as provided in paragraph (3), subsection (a) of section 103 shall not apply to any private activity bond (as defined in section 141(a)) issued by an Indian tribal government (or subdivision thereof).

(3) Exception for certain private activity bonds

(A) In general

In the case of an obligation to which this paragraph applies—

(i) paragraph (2) shall not apply,

(ii) such obligation shall be treated for purposes of this title as a qualified small issue bond, and

(iii) section 146 shall not apply.

(B) Obligations to which paragraph applies

This paragraph shall apply to any obligation issued as part of an issue if—

(i) 95 percent or more of the net proceeds of the issue are to be used for the acquisition, construction, reconstruction, or improvement of property which is of a character subject to the allowance for depreciation and which is part of a manufacturing facility (as defined in section 144(a)(12)(C)),

(ii) such issue is issued by an Indian tribal government or a subdivision thereof,

(iii) 95 percent or more of the net proceeds of the issue are to be used to finance property which—

(I) is to be located on land which, throughout the 5-year period ending on the date of issuance of such issue, is part

of the qualified Indian lands of the issuer, and

(II) is to be owned and operated by such issuer,

(iv) such obligation would not be a private activity bond without regard to subparagraph (C),

(v) it is reasonably expected (at the time of issuance of the issue) that the employment requirement of subparagraph (D)(i) will be met with respect to the facility to be financed by the net proceeds of the issue, and

(vi) no principal user of such facility will be a person (or group of persons) described in section 144(a)(6)(B).

For purposes of clause (iii), section 150(a)(5) shall apply.

(C) Private activity bond rules to apply

An obligation to which this paragraph applies (other than an obligation described in paragraph (1)) shall be treated for purposes of this title as a private activity bond.

(D) Employment requirements

(i) In general

The employment requirements of this subparagraph are met with respect to a facility financed by the net proceeds of an issue if, as of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt private activity bonds issued to provide financing for the establishment which includes such facility is not more than 20 times greater than the aggregate wages (as defined by section 3121(a)) paid during the preceding calendar year to individuals (who are enrolled members of the Indian tribe of the issuer or the spouse of any such member) for services rendered at such establishment.

(ii) Failure to meet requirements

(I) In general

If, as of the close of any calendar year in the testing period, the requirements of this subparagraph are not met with respect to an establishment, section 103 shall cease to apply to interest received or accrued (on all private activity bonds issued to provide financing for the establishment) after the close of such calendar year.

(II) Exception

Subclause (I) shall not apply if the requirements of this subparagraph would be met if the aggregate face amount of all tax-exempt private activity bonds issued to provide financing for the establishment and outstanding at the close of the 90th day after the close of the calendar¹ year were substituted in clause (i) for such bonds outstanding at the close of such calendar year.

(iii) Testing period

For purposes of this subparagraph, the term “testing period” means, with respect

to an issue, each calendar year which begins more than 2 years after the date of issuance of the issue (or, in the case of a refunding obligation, the date of issuance of the original issue).

(E) Definitions

For purposes of this paragraph—

(i) Qualified Indian lands

The term “qualified Indian lands” means land which is held in trust by the United States for the benefit of an Indian tribe.

(ii) Indian tribe

The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(iii) Net proceeds

The term “net proceeds” has the meaning given such term by section 150(a)(3).

(d) Treatment of subdivisions of Indian tribal governments as political subdivisions

For the purposes specified in subsection (a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a State if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

(e) Essential governmental function

For purposes of this section, the term “essential governmental function” shall not include any function which is not customarily performed by State and local governments with general taxing powers.

(f) Tribal economic development bonds

(1) Allocation of limitation

(A) In general

The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

(B) National limitation

There is a national tribal economic development bond limitation of \$2,000,000,000.

(2) Bonds treated as exempt from tax

In the case of a tribal economic development bond—

(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

(B) the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and

(C) section 146 shall not apply.

(3) Tribal economic development bond

(A) In general

For purposes of this section, the term “tribal economic development bond” means

¹ So in original. Probably should be “calendar”.

any bond issued by an Indian tribal government—

(i) the interest on which would be exempt from tax under section 103 if issued by a State or local government, and

(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

(B) Exceptions

Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

(C) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).

(Added Pub. L. 97-473, title II, §202(a), Jan. 14, 1983, 96 Stat. 2608; amended Pub. L. 98-21, title I, §122(c)(6), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98-369, div. A, title IV, §474(r)(41), title X, §1065(b), July 18, 1984, 98 Stat. 847, 1048; Pub. L. 99-514, title I, §§112(b)(4), 123(b)(3), title XIII, §1301(j)(6), (7), title XVIII, §§1878(i), 1899A(65), Oct. 22, 1986, 100 Stat. 2109, 2113, 2658, 2905, 2962; Pub. L. 100-203, title X, §10632(a), (b), Dec. 22, 1987, 101 Stat. 1330-455; Pub. L. 103-66, title XIII, §13222(d), Aug. 10, 1993, 107 Stat. 481; Pub. L. 111-5, div. B, title I, §1402(a), Feb. 17, 2009, 123 Stat. 351.)

REFERENCES IN TEXT

Section 4 of the Indian Gaming Regulatory Act, referred to in subsec. (f)(3)(B)(i), is classified to section 2703 of Title 25, Indians.

AMENDMENTS

2009—Subsec. (f). Pub. L. 111-5 added subsec. (f).

1993—Subsec. (a)(6)(B) to (D). Pub. L. 103-66 redesignated former subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: “section 162(e) (relating to appearances, etc., with respect to legislation).”.

1987—Subsec. (c)(2). Pub. L. 100-203, §10632(b)(2), substituted “Except as provided in paragraph (3), subsection (a)” for “Subsection (a)”.

Subsec. (c)(3). Pub. L. 100-203, §10632(b)(1), added par. (3).

Subsec. (e). Pub. L. 100-203, §10632(a), added subsec. (e).

1986—Subsec. (a)(4). Pub. L. 99-514, §1301(j)(6), substituted “(relating to State and local bonds)” for “(relating to interest on certain governmental obligations)”.

Subsec. (a)(6). Pub. L. 99-514, §123(b)(3), redesignated subpars. (C) to (E), as previously redesignated by section 112(b)(4) of Pub. L. 99-514, as (B) to (D), respectively, and struck out previously redesignated subpar. (B), which read as follows: “section 117(b)(2)(A) (relating to scholarships and fellowship grants).”.

Pub. L. 99-514, §112(b)(4), redesignated subpars. (B) to (F) as (A) to (E), respectively, and struck out former subpar. (A) which read as follows: “section 24(c)(4) (defining State for purposes of credit for contribution to candidates for public offices).”.

Pub. L. 99-514, §1878(i), made technical amendment to directory language of Pub. L. 98-369, §1065(b). See 1984 Amendment note below.

Subsec. (a)(6)(D). Pub. L. 99-514, §1899A(65), substituted “; and” for period at end.

Subsec. (c)(2). Pub. L. 99-514, §1301(j)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Subsection (a) of section 103 shall not apply to any of the following issued by an Indian tribal government (or subdivision thereof):

“(A) An industrial development bond (as defined in section 103(b)(2)).

“(B) An obligation described in section 103(i)(1)(A) (relating to scholarship bonds).

“(C) A mortgage subsidy bond (as defined in paragraph (1) of section 103A(b) without regard to paragraph (2) thereof).”

1984—Subsec. (a)(6)(A). Pub. L. 98-369, §474(r)(41), substituted “section 24(c)(4)” for “section 41(c)(4)”.

Subsec. (a)(6)(B) to (F). Pub. L. 98-369, §1065(b), as amended by Pub. L. 99-514, §1878(i), added subpars. (B), (D), and (F), and redesignated former subpars. (B) and (C) as (C) and (E), respectively.

1983—Subsec. (a)(6). Pub. L. 98-21 redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A), which referred to section 37(e)(9)(A) (relating to certain public retirement systems).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, §1402(c), Feb. 17, 2009, 123 Stat. 352, provided that: “The amendment made by subsection (a) [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009].”

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, §10632(c), Dec. 22, 1987, 101 Stat. 1330-457, provided that: “The amendments made by this section [amending this section] shall apply to obligations issued after October 13, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 112(b)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 123(b)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, but only in the case of scholarships and fellowships granted after Aug. 16, 1986, see section 151(d) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 1301(j)(6), (7) of Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Amendment by section 1878(i) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(41) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of

Pub. L. 98-369, set out as a note under section 21 of this title.

Pub. L. 98-369, div. A, title X, § 1065(c), July 18, 1984, 98 Stat. 1048, provided that: “The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1984.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to taxable years beginning after Dec. 31, 1983, except that if an individual's annuity starting date was deferred under section 105(d)(6) of this title as in effect on the day before Apr. 20, 1983, such deferral shall end on the first day of such individual's first taxable year beginning after Dec. 31, 1983, see section 122(d) of Pub. L. 98-21, set out as a note under section 22 of this title.

EFFECTIVE DATE

Pub. L. 97-473, title II, § 204, Jan. 14, 1983, 96 Stat. 2611, as amended by Pub. L. 98-369, div. A, title X, § 1065(a), July 18, 1984, 98 Stat. 1048; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this title [enacting this section, amending sections 41, 103, 164, 170, 2055, 2106, 2522, 4227, 4484, 6420, 6421, 6424, 6427, and 7701 of this title, and enacting provisions set out as a note under section 1 of this title]—

“(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 1 et seq.] (other than section 103 thereof), shall apply to taxable years beginning after December 31, 1982,

“(2) insofar as they relate to section 103 of such Code, shall apply to obligations issued after December 31, 1982,

“(3) insofar as they relate to chapter 11 of such Code [26 U.S.C. 2001 et seq.], shall apply to estates of decedents dying after December 31, 1982,

“(4) insofar as they relate to chapter 12 of such Code [26 U.S.C. 2501 et seq.], shall apply to gifts made after December 31, 1982, and

“(5) insofar as they relate to taxes imposed by subtitle D of such Code [26 U.S.C. 4041 et seq.], shall take effect on January 1, 1983.”

SHORT TITLE

For short title of title II of Pub. L. 97-473 as the “Indian Tribal Governmental Tax Status Act of 1982”, see Short Title of 1983 Amendments note set out under section 1 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 123(b)(3) of Pub. L. 99-514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 7872. Treatment of loans with below-market interest rates

(a) Treatment of gift loans and demand loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section ap-

plies and which is a gift loan or a demand loan, the forgone interest shall be treated as—

(A) transferred from the lender to the borrower, and

(B) retransferred by the borrower to the lender as interest.

(2) Time when transfers made

Except as otherwise provided in regulations prescribed by the Secretary, any forgone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

(b) Treatment of other below-market loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section applies and to which subsection (a)(1) does not apply, the lender shall be treated as having transferred on the date the loan was made (or, if later, on the first day on which this section applies to such loan), and the borrower shall be treated as having received on such date, cash in an amount equal to the excess of—

(A) the amount loaned, over

(B) the present value of all payments which are required to be made under the terms of the loan.

(2) Obligation treated as having original issue discount

For purposes of this title—

(A) In general

Any below-market loan to which paragraph (1) applies shall be treated as having original issue discount in an amount equal to the excess described in paragraph (1).

(B) Amount in addition to other original issue discount

Any original issue discount which a loan is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such loan (determined without regard to subparagraph (A)).

(c) Below-market loans to which section applies

(1) In general

Except as otherwise provided in this subsection and subsection (g), this section shall apply to—

(A) Gifts

Any below-market loan which is a gift loan.

(B) Compensation-related loans

Any below-market loan directly or indirectly between—

(i) an employer and an employee, or

(ii) an independent contractor and a person for whom such independent contractor provides services.

(C) Corporation-shareholder loans

Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

(D) Tax avoidance loans

Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

(E) Other below-market loans

To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), (C), or (F) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

(F) Loans to qualified continuing care facilities

Any loan to any qualified continuing care facility pursuant to a continuing care contract.

(2) \$10,000 de minimis exception for gift loans between individuals**(A) In general**

In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed \$10,000.

(B) De minimis exception not to apply to loans attributable to acquisition of income-producing assets

Subparagraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

(C) Cross reference

For limitation on amount treated as interest where loans do not exceed \$100,000, see subsection (d)(1).

(3) \$10,000 de minimis exception for compensation-related and corporate-shareholder loans**(A) In general**

In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed \$10,000.

(B) Exception not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(d) Special rules for gift loans**(1) Limitation on interest accrual for purposes of income taxes where loans do not exceed \$100,000****(A) In general**

For purposes of subtitle A, in the case of a gift loan directly between individuals, the amount treated as retransferred by the borrower to the lender as of the close of any year shall not exceed the borrower's net investment income for such year.

(B) Limitation not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(C) Special rule where more than 1 gift loan outstanding

For purposes of subparagraph (A), in any case in which a borrower has outstanding more than 1 gift loan, the net investment income of such borrower shall be allocated among such loans in proportion to the respective amounts which would be treated as retransferred by the borrower without regard to this paragraph.

(D) Limitation not to apply where aggregate amount of loans exceed \$100,000

This paragraph shall not apply to any loan made by a lender to a borrower for any day on which the aggregate outstanding amount of loans between the borrower and lender exceeds \$100,000.

(E) Net investment income

For purposes of this paragraph—

(i) In general

The term “net investment income” has the meaning given such term by section 163(d)(4).

(ii) De minimis rule

If the net investment income of any borrower for any year does not exceed \$1,000, the net investment income of such borrower for such year shall be treated as zero.

(iii) Additional amounts treated as interest

In determining the net investment income of a person for any year, any amount which would be included in the gross income of such person for such year by reason of section 1272 if such section applied to all deferred payment obligations shall be treated as interest received by such person for such year.

(iv) Deferred payment obligations

The term “deferred payment obligation” includes any market discount bond, short-term obligation, United States savings bond, annuity, or similar obligation.

(2) Special rule for gift tax

In the case of any gift loan which is a term loan, subsection (b)(1) (and not subsection (a)) shall apply for purposes of chapter 12.

(e) Definitions of below-market loan and forgone interest

For purposes of this section—

(1) Below-market loan

The term “below-market loan” means any loan if—

(A) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

(B) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

(2) Forgone interest

The term “forgone interest” means, with respect to any period during which the loan is outstanding, the excess of—

(A) the amount of interest which would have been payable on the loan for the period

if interest accrued on the loan at the applicable Federal rate and were payable annually on the day referred to in subsection (a)(2), over

(B) any interest payable on the loan properly allocable to such period.

(f) Other definitions and special rules

For purposes of this section—

(1) Present value

The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

(A) as of the date of the loan, and

(B) by using a discount rate equal to the applicable Federal rate.

(2) Applicable Federal rate

(A) Term loans

In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

(B) Demand loans

In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of forgone interest is being determined, compounded semiannually.

(3) Gift loan

The term “gift loan” means any below-market loan where the forgoing of interest is in the nature of a gift.

(4) Amount loaned

The term “amount loaned” means the amount received by the borrower.

(5) Demand loan

The term “demand loan” means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity.

(6) Term loan

The term “term loan” means any loan which is not a demand loan.

(7) Husband and wife treated as 1 person

A husband and wife shall be treated as 1 person.

(8) Loans to which section 483, 643(i), or 1274 applies

This section shall not apply to any loan to which section 483, 643(i), or 1274 applies.

(9) No withholding

No amount shall be withheld under chapter 24 with respect to—

(A) any amount treated as transferred or retransferred under subsection (a), and

(B) any amount treated as received under subsection (b).

(10) Special rule for term loans

If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

(11) Time for determining rate applicable to employee relocation loans

(A) In general

In the case of any term loan made by an employer to an employee the proceeds of which are used by the employee to purchase a principal residence (within the meaning of section 121), the determination of the applicable Federal rate shall be made as of the date the written contract to purchase such residence was entered into.

(B) Paragraph only to apply to cases to which section 217 applies

Subparagraph (A) shall only apply to the purchase of a principal residence in connection with the commencement of work by an employee or a change in the principal place of work of an employee to which section 217 applies.

(g) Exception for certain loans to qualified continuing care facilities

(1) In general

This section shall not apply for any calendar year to any below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of such year.

(2) \$90,000 limit

Paragraph (1) shall apply only to the extent that the aggregate outstanding amount of any loan to which such paragraph applies (determined without regard to this paragraph), when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which paragraph (1) applies, does not exceed \$90,000.

(3) Continuing care contract

For purposes of this section, the term “continuing care contract” means a written contract between an individual and a qualified continuing care facility under which—

(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

(B) the individual or individual's spouse—

(i) will first—

(I) reside in a separate, independent living unit with additional facilities outside such unit for the providing of meals and other personal care, and

(II) not require long-term nursing care, and

(ii) then will be provided long-term and skilled nursing care as the health of such individual or individual's spouse requires, and

(C) no additional substantial payment is required if such individual or individual's spouse requires increased personal care services or long-term and skilled nursing care.

(4) Qualified continuing care facility

(A) In general

For purposes of this section, the term “qualified continuing care facility” means 1 or more facilities—

- (i) which are designed to provide services under continuing care contracts, and
- (ii) substantially all of the residents of which are covered by continuing care contracts.

(B) Substantially all facilities must be owned or operated by borrower

A facility shall not be treated as a qualified continuing care facility unless substantially all facilities which are used to provide services which are required to be provided under a continuing care contract are owned or operated by the borrower.

(C) Nursing homes excluded

The term “qualified continuing care facility” shall not include any facility which is of a type which is traditionally considered a nursing home.

(5) Adjustment of limit for inflation

In the case of any loan made during any calendar year after 1986, the dollar amount in paragraph (2) shall be increased by an amount equal to—

- (A) such amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting “calendar year 1985” for “calendar year 2016” in subparagraph (A)(ii) thereof.

Any increase under the preceding sentence shall be rounded to the nearest multiple of \$100 (or, if such increase is a multiple of \$50, such increase shall be increased to the nearest multiple of \$100).

(6) Suspension of application

Paragraph (1) shall not apply for any calendar year to which subsection (h) applies.

(h) Exception for loans to qualified continuing care facilities

(1) In general

This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

(2) Continuing care contract

For purposes of this section, the term “continuing care contract” means a written contract between an individual and a qualified continuing care facility under which—

- (A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

(B) the individual or individual's spouse will be provided with housing, as appropriate for the health of such individual or individual's spouse—

- (i) in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), and
- (ii) in an assisted living facility or a nursing facility, as is available in the continuing care facility, and

(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

The Secretary shall issue guidance which limits such term to contracts which provide only facilities, care, and services described in this paragraph.

(3) Qualified continuing care facility

(A) In general

For purposes of this section, the term “qualified continuing care facility” means 1 or more facilities—

- (i) which are designed to provide services under continuing care contracts,
- (ii) which include an independent living unit, plus an assisted living or nursing facility, or both, and
- (iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

(B) Nursing homes excluded

The term “qualified continuing care facility” shall not include any facility which is of a type which is traditionally considered a nursing home.

(i) Regulations

(1) In general

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section,

(B) regulations for the purpose of assuring that the positions of the borrower and lender are consistent as to the application (or non-application) of this section, and

(C) regulations exempting from the application of this section any class of transactions the interest arrangements of which have no significant effect on any Federal tax liability of the lender or the borrower.

(2) Estate tax coordination

Under regulations prescribed by the Secretary, any loan which is made with donative intent and which is a term loan shall be taken

into account for purposes of chapter 11 in a manner consistent with the provisions of subsection (b).

(Added Pub. L. 98-369, div. A, title I, §172(a), July 18, 1984, 98 Stat. 699; amended Pub. L. 99-121, title II, §§201, 202, Oct. 11, 1985, 99 Stat. 511-513; Pub. L. 99-514, title V, §511(d)(1), title XVIII, §§1812(b)(2)-(4), 1854(c)(2)(B), Oct. 22, 1986, 100 Stat. 2248, 2834, 2879; Pub. L. 100-647, title I, §§1005(c)(15), 1018(u)(48), Nov. 10, 1988, 102 Stat. 3393, 3593; Pub. L. 104-188, title I, §§1602(b)(7), 1704(t)(58), 1906(c)(2), Aug. 20, 1996, 110 Stat. 1834, 1890, 1916; Pub. L. 105-34, title III, §312(d)(1), Aug. 5, 1997, 111 Stat. 839; Pub. L. 105-206, title VI, §6023(30), July 22, 1998, 112 Stat. 826; Pub. L. 106-554, §1(a)(7) [title III, §319(30)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648; Pub. L. 109-222, title II, §209(a), (b)(1), May 17, 2006, 120 Stat. 351, 352; Pub. L. 109-432, div. A, title IV, §425(a), Dec. 20, 2006, 120 Stat. 2974; Pub. L. 115-97, title I, §11002(d)(14), Dec. 22, 2017, 131 Stat. 2062.)

AMENDMENTS

2017—Subsec. (g)(5). Pub. L. 115-97 amended par. (5) generally. Prior to amendment, text read as follows:

“(A) IN GENERAL.—In the case of any loan made during any calendar year after 1986 to which paragraph (1) applies, the dollar amount in paragraph (2) shall be increased by the inflation adjustment for such calendar year. Any increase under the preceding sentence shall be rounded to the nearest multiple of \$100 (or, if such increase is a multiple of \$50, such increase shall be increased to the nearest multiple of \$100).

“(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

- “(i) the CPI for the preceding calendar year exceeds
- “(ii) the CPI for calendar year 1985.

For purposes of the preceding sentence, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.”

2006—Subsec. (g)(6). Pub. L. 109-222, §209(b)(1), added par. (6).

Subsec. (h). Pub. L. 109-222, §209(a), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 109-432 struck out heading and text of par. (4). Text read as follows: “This subsection shall not apply to any calendar year after 2010.”

Subsec. (i). Pub. L. 109-222, §209(a), redesignated subsec. (h) as (i).

2000—Subsec. (f)(3). Pub. L. 106-554 substituted “forgoing” for “foregoing”.

1998—Subsec. (f)(2)(B). Pub. L. 105-206 substituted “forgone” for “foregone”.

1997—Subsec. (f)(11)(A). Pub. L. 105-34 substituted “section 121” for “section 1034”.

1996—Subsec. (a)(1), (2). Pub. L. 104-188, §1704(t)(58)(A), substituted “forgone” for “foregone”.

Subsec. (e). Pub. L. 104-188, §1704(t)(58)(B), substituted “forgone” for “foregone” in heading.

Subsec. (e)(2). Pub. L. 104-188, §1704(t)(58), substituted “Forgone” for “Foregone” in heading and “forgone” for “foregone” in introductory provisions of text.

Subsec. (f)(8). Pub. L. 104-188, §1906(c)(2), inserted “, 643(i),” before “or 1274” in heading and text.

Subsec. (f)(12). Pub. L. 104-188, §1602(b)(7), struck out par. (12) which read as follows: “SPECIAL RULE FOR CERTAIN EMPLOYER SECURITY LOANS.—This section shall not apply to any loan between a corporation (or any member of the controlled group of corporations which includes such corporation) and an employee stock ownership plan described in section 4975(e)(7) to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan (as described in section 133(b)) to such corporation.”

1988—Subsec. (d)(1)(E)(i). Pub. L. 100-647, §1005(c)(15), directed substitution of “section 163(d)(4)” for “section 163(d)(3)”, which substitution had been previously made by Pub. L. 99-514, §511(d)(1).

Subsec. (f)(11), (12). Pub. L. 100-647, §1018(u)(48), redesignated former par. (11), Pub. L. 99-514, relating to special rule for certain employer security loans, as (12).

1986—Subsec. (d)(1)(E)(i). Pub. L. 99-514, §511(d)(1), substituted “section 163(d)(4)” for “section 163(d)(3)”.

Subsec. (f)(2)(B). Pub. L. 99-514, §1812(b)(4), inserted “, compounded semiannually” before the period at end.

Subsec. (f)(5). Pub. L. 99-514, §1812(b)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “The term ‘demand loan’ means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan which is not transferable and the benefits of the interest arrangements of which is conditioned on the future performance of substantial services by an individual.”

Subsec. (f)(9). Pub. L. 99-514, §1812(b)(2), amended par. (9) generally, inserting the subpar. (A) designation and adding subpar. (B).

Subsec. (f)(11). Pub. L. 99-514, §1854(c)(2)(B), added par. (11) relating to special rule for certain employer security loans.

1985—Subsec. (c)(1). Pub. L. 99-121, §201(c)(1), inserted “and subsection (g)” after “this subsection” in provisions preceding subpar. (A).

Subsec. (c)(1)(E). Pub. L. 99-121, §201(c)(2), substituted “(C), or (F)” for “or (C)”.

Subsec. (c)(1)(F). Pub. L. 99-121, §201(b), added subpar. (F).

Subsec. (f)(11). Pub. L. 99-121, §202, added par. (11) relating to time for determining rate applicable to employee relocation loans.

Subsecs. (g), (h). Pub. L. 99-121, §201(a), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §425(b), Dec. 20, 2006, 120 Stat. 2974, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 209 of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222].”

Amendment by Pub. L. 109-222 applicable to calendar years beginning after Dec. 31, 2005, with respect to loans made before, on, or after such date, see section 209(c) of Pub. L. 109-222, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1602(b)(7) of Pub. L. 104-188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104-188, set out as an Effective Date of Repeal note under former section 133 of this title.

Amendment by section 1906(c)(2) of Pub. L. 104-188 applicable to loans of cash or marketable securities made after Sept. 19, 1995, see section 1906(d)(3) of Pub. L. 104-188, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of

the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 511(d)(1) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 511(e) of Pub. L. 99-514, set out as a note under section 163 of this title.

Amendment by sections 1812(b)(2)–(4) and 1854(c)(2)(B) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-121, title II, §204(a), (b), Oct. 11, 1985, 99 Stat. 514, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) SECTION 201.—

“(1) IN GENERAL.—The amendments made by section 201 [amending this section] shall apply with respect to loans made after the date of enactment of this Act [Oct. 11, 1985].

“(2) SECTION 7872 NOT TO APPLY TO CERTAIN LOANS.—Section 7872 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall not apply to loans made on or before the date of the enactment of this Act [Oct. 11, 1985] to any qualified continuing care facility pursuant to a continuing care contract. For purposes of this paragraph, the terms ‘qualified continuing care facility’ and ‘continuing care contract’ have the meanings given such terms by section 7872(g) of such Code (as added by section 201).

“(b) SECTION 202.—The amendment made by section 202 [amending this section] shall apply to contracts entered into after June 30, 1985, in taxable years ending after such date.”

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §172(c), July 18, 1984, 98 Stat. 703, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section] shall apply to—

“(A) term loans made after June 6, 1984, and

“(B) demand loans outstanding after June 6, 1984.

“(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON JUNE 6, 1984, AND REPAYED WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

“(A) was outstanding on June 6, 1984, and

“(B) was repaid before the date 60 days after the date of the enactment of this Act [July 18, 1984].

“(3) EXCEPTION FOR CERTAIN EXISTING LOANS TO CONTINUING CARE FACILITIES.—Nothing in this subsection shall be construed to apply the amendments made by this section to any loan made before June 6, 1984, to a continuing care facility by a resident of such facility which is contingent on continued residence at such facility.

“(4) APPLICABLE FEDERAL RATE FOR PERIODS BEFORE JANUARY 1, 1985.—For periods before January 1, 1985, the applicable Federal rate under paragraph (2) of section 7872(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section, shall be 10 percent, compounded semiannually.

“(5) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after June 6, 1984, shall be treated as a loan made after such date.

“(6) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this subsection, the terms ‘demand loan’ and ‘term loan’ have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1986, as added by this section, but the second sentence of such paragraph (5) shall not apply.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

CERTAIN ISRAEL OR POLISH BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS

Pub. L. 99-514, title XVIII, §1812(b)(5), Oct. 22, 1986, 100 Stat. 2834, as amended by Pub. L. 101-179, title III, §307(a), Nov. 28, 1989, 103 Stat. 1314, provided that: “Section 7872 of the Internal Revenue Code of 1954 [now 1986] (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel or Poland if—

“(A) the obligation is payable in United States dollars, and

“(B) the obligation bears interest at an annual rate of not less than 4 percent.”

[Pub. L. 101-179, title III, §307(b), Nov. 28, 1989, 103 Stat. 1314, provided that: “The amendments made by this section [amending section 1812(b)(5) of Pub. L. 99-514, set out above] shall apply to obligations issued after the date of the enactment of this Act [Nov. 28, 1989].”]

§ 7873. Income derived by Indians from exercise of fishing rights

(a) In general

(1) Income and self-employment taxes

No tax shall be imposed by subtitle A on income derived—

(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

(2) Employment taxes

No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

(b) Definitions

For purposes of this section—

(1) Fishing rights-related activity

The term “fishing rights-related activity” means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

(2) Recognized fishing rights

The term “recognized fishing rights” means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

(3) Qualified Indian entity

(A) In general

The term “qualified Indian entity” means, with respect to an Indian tribe, any entity if—

(i) such entity is engaged in a fishing rights-related activity of such tribe,

(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

(B) Qualified Indian tribe

For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

(c) Special rules

(1) Distributions from qualified Indian entity

For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

(2) De minimis unrelated amounts may be excluded

If, but for this paragraph, all but a de minimis amount—

(A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to the benefits of paragraph (1) of subsection (a), or

(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph.

(Added Pub. L. 100-647, title III, § 3041(a), Nov. 10, 1988, 102 Stat. 3640.)

EFFECTIVE DATE

Pub. L. 100-647, title III, § 3044, Nov. 10, 1988, 102 Stat. 3642, provided that:

“(a) **EFFECTIVE DATE.**—The amendments made by this subtitle [subtitle E (§§ 3041-3044) of title III of Pub. L. 100-647, enacting this section and amending sections 1402 and 3121 of this title, section 71 of Title 25, Indians, and sections 409 and 411 of Title 42, The Public Health and Welfare] shall apply to all periods beginning before, on, or after the date of the enactment of this Act [Nov. 10, 1988].

“(b) **NO INFERENCE CREATED.**—Nothing in the amendments made by this subtitle shall create any inference as to the existence or non-existence or scope of any exemption from tax for income derived from fishing

rights secured as of March 17, 1988, by any treaty, law, or Executive Order.”

§ 7874. Rules relating to expatriated entities and their foreign parents

(a) Tax on inversion gain of expatriated entities

(1) In general

The taxable income of an expatriated entity for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

(2) Expatriated entity

For purposes of this subsection—

(A) In general

The term “expatriated entity” means—

(i) the domestic corporation or partnership referred to in subparagraph (B)(i) with respect to which a foreign corporation is a surrogate foreign corporation, and

(ii) any United States person who is related (within the meaning of section 267(b) or 707(b)(1)) to a domestic corporation or partnership described in clause (i).

(B) Surrogate foreign corporation

A foreign corporation shall be treated as a surrogate foreign corporation if, pursuant to a plan (or a series of related transactions)—

(i) the entity completes after March 4, 2003, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(ii) after the acquisition at least 60 percent of the stock (by vote or value) of the entity is held—

(I) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(II) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(iii) after the acquisition the expanded affiliated group which includes the entity does not have substantial business activities in the foreign country in which, or under the law of which, the entity is created or organized, when compared to the total business activities of such expanded affiliated group.

An entity otherwise described in clause (i) with respect to any domestic corporation or partnership trade or business shall be treated as not so described if, on or before March 4, 2003, such entity acquired directly or indirectly more than half of the properties held directly or indirectly by such corporation or more than half of the properties constituting such partnership trade or business, as the case may be.

(3) Coordination with subsection (b)

A corporation which is treated as a domestic corporation under subsection (b) shall not be treated as a surrogate foreign corporation for purposes of paragraph (2)(A).

(b) Inverted corporations treated as domestic corporations

Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting “80 percent” for “60 percent”.

(c) Definitions and special rules**(1) Expanded affiliated group**

The term “expanded affiliated group” means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting “more than 50 percent” for “at least 80 percent” each place it appears.

(2) Certain stock disregarded

There shall not be taken into account in determining ownership under subsection (a)(2)(B)(ii)—

(A) stock held by members of the expanded affiliated group which includes the foreign corporation, or

(B) stock of such foreign corporation which is sold in a public offering related to the acquisition described in subsection (a)(2)(B)(i).

(3) Plan deemed in certain cases

If a foreign corporation acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B)(ii) are met, such actions shall be treated as pursuant to a plan.

(4) Certain transfers disregarded

The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(5) Special rule for related partnerships

For purposes of applying subsection (a)(2)(B)(ii) to the acquisition of a trade or business of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

(6) Regulations

The Secretary shall prescribe such regulations as may be appropriate to determine whether a corporation is a surrogate foreign corporation, including regulations—

(A) to treat warrants, options, contracts to acquire stock, convertible debt interests, and other similar interests as stock, and

(B) to treat stock as not stock.

(d) Other definitions

For purposes of this section—

(1) Applicable period

The term “applicable period” means the period—

(A) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(B)(i), and

(B) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

(2) Inversion gain

The term “inversion gain” means the income or gain recognized by reason of the transfer during the applicable period of stock or other properties by an expatriated entity, and any income received or accrued during the applicable period by reason of a license of any property by an expatriated entity—

(A) as part of the acquisition described in subsection (a)(2)(B)(i), or

(B) after such acquisition if the transfer or license is to a foreign related person.

Subparagraph (B) shall not apply to property described in section 1221(a)(1) in the hands of the expatriated entity.

(3) Foreign related person

The term “foreign related person” means, with respect to any expatriated entity, a foreign person which—

(A) is related (within the meaning of section 267(b) or 707(b)(1)) to such entity, or

(B) is under the same common control (within the meaning of section 482) as such entity.

(e) Special rules**(1) Credits not allowed against tax on inversion gain**

Credits (other than the credit allowed by section 901) shall be allowed against the tax imposed by this chapter on an expatriated entity for any taxable year described in subsection (a) only to the extent such tax exceeds the product of—

(A) the amount of the inversion gain for the taxable year, and

(B) the highest rate of tax specified in section 11(b).

For purposes of determining the credit allowed by section 901, inversion gain shall be treated as from sources within the United States.

(2) Special rules for partnerships

In the case of an expatriated entity which is a partnership—

(A) subsection (a)(1) shall apply at the partner rather than the partnership level,

(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

(i) the partner’s distributive share of inversion gain of the partnership for such taxable year, plus

(ii) gain recognized for the taxable year by the partner by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the surrogate foreign corporation, and

(C) the highest rate of tax specified in the rate schedule applicable to the partner

under this chapter shall be substituted for the rate of tax referred to in paragraph (1).

(3) Coordination with section 172 and minimum tax

Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of subsection (a).

(4) Statute of limitations

(A) In general

The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(B)(i) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(B) Pre-inversion year

For purposes of subparagraph (A), the term “pre-inversion year” means any taxable year if—

- (i) any portion of the applicable period is included in such taxable year, and
- (ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(B)(i) is completed.

(f) Special rule for treaties

Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.

(g) Regulations

The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

- (1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or
- (2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.

(Added Pub. L. 108-357, title VIII, § 801(a), Oct. 22, 2004, 118 Stat. 1562; amended Pub. L. 109-135, title IV, § 403(u), Dec. 21, 2005, 119 Stat. 2628; Pub. L. 115-97, title I, § 13001(b)(1)(C), Dec. 22, 2017, 131 Stat. 2096.)

AMENDMENTS

2017—Subsec. (e)(1)(B). Pub. L. 115-97 substituted “section 11(b)” for “section 11(b)(1)”.

2005—Subsec. (a)(3). Pub. L. 109-135 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply to any entity which is treated as a domestic corporation under subsection (b).”

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section

13001(c)(1) of Pub. L. 115-97, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 801(c), Oct. 22, 2004, 118 Stat. 1566, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years ending after March 4, 2003.”

Subtitle G—The Joint Committee on Taxation

Chapter		Sec. ¹
91.	Organization and membership of the Joint Committee	8001
92.	Powers and duties of the Joint Committee	8021

AMENDMENTS

1976—Pub. L. 94-455, title XIX, § 1907(b)(1), Oct. 4, 1976, 90 Stat. 1836, struck out “Internal Revenue” in heading of subtitle G.

CHAPTER 91—ORGANIZATION AND MEMBERSHIP OF THE JOINT COMMITTEE

Sec.	
8001.	Authorization.
8002.	Membership.
8003.	Election of chairman and vice chairman.
8004.	Appointment and compensation of staff.
8005.	Payment of expenses.

§ 8001. Authorization

There shall be a joint congressional committee known as the Joint Committee on Taxation (hereinafter in this subtitle referred to as the “Joint Committee”).

(Aug. 16, 1954, ch. 736, 68A Stat. 925; Pub. L. 94-455, title XIX, § 1907(a)(1), Oct. 4, 1976, 90 Stat. 1835.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “Internal Revenue” after “Committee on”.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, § 1907(c), Oct. 4, 1976, 90 Stat. 1836, provided that: “The amendments made by this section [amending this section and sections 8004, 8021, and 8023 of this title and enacting provisions set out below] shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act [Oct. 4, 1976].”

REFERENCES TO JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Pub. L. 94-455, title XIX, § 1907(a)(5), Oct. 4, 1976, 90 Stat. 1836, provided that: “All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.”

§ 8002. Membership

(a) Number and selection

The Joint Committee shall be composed of 10 members as follows:

¹ Section numbers editorially supplied.

(1) From Committee on Finance

Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

(2) From Committee on Ways and Means

Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

(b) Tenure of office**(1) General limitation**

No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the Committee by which he was chosen, except that—

(2) Exception

The members chosen by the Committee on Ways and Means who have been reelected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress.

(c) Vacancies

A vacancy in the Joint Committee—

(1) Effect

Shall not affect the power of the remaining members to execute the functions of the Joint Committee; and

(2) Manner of filling

Shall be filled in the same manner as the original selection, except that—

(A) Adjournment or recess of Congress

In case of a vacancy during an adjournment or recess of Congress for a period of more than 2 weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee; and

(B) Expiration of Congress

In the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint Committee may designate a person who, immediately prior to such expiration, was a member of such Committee and who is reelected to the House of Representatives, to serve until his successor is chosen by such Committee.

(d) Allowances

The members shall serve without compensation in addition to that received for their services as members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session.

(Aug. 16, 1954, ch. 736, 68A Stat. 925.)

§ 8003. Election of chairman and vice chairman

The Joint Committee shall elect a chairman and vice chairman from among its members.

(Aug. 16, 1954, ch. 736, 68A Stat. 926.)

§ 8004. Appointment and compensation of staff

Except as otherwise provided by law, the Joint Committee shall have power to appoint and fix the compensation of the Chief of Staff of the Joint Committee and such experts and clerical, stenographic, and other assistants as it deems advisable.

(Aug. 16, 1954, ch. 736, 68A Stat. 926; Pub. L. 94-455, title XIX, § 1907(a)(2), Oct. 4, 1976, 90 Stat. 1835.)

AMENDMENTS

1976—Pub. L. 94-455 substituted “compensation of the Chief of Staff of the Joint Committee” for “compensation of a clerk” after “appoint and fix the”.

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 1907(c) of Pub. L. 94-455, set out as a note under section 8001 of this title.

§ 8005. Payment of expenses

The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman.

(Aug. 16, 1954, ch. 736, 68A Stat. 926.)

CHAPTER 92—POWERS AND DUTIES OF THE JOINT COMMITTEE

Sec.	
8021.	Powers.
8022.	Duties.
8023.	Additional powers to obtain data.

§ 8021. Powers**(a) To obtain data and inspect income returns**

For powers of the Joint Committee to obtain and inspect income returns, see section 6103(f).

(b) Relating to hearings and sessions

The Joint Committee, or any subcommittee thereof, is authorized—

(1) To hold

To hold hearings and to sit and act at such places and times;

(2) To require attendance of witnesses and production of books

To require by subpoena (to be issued under the signature of the chairman or vice chairman) or otherwise the attendance of such witnesses and the production of such books, papers, and documents;

(3) To administer oaths

To administer such oaths; and

(4) To take testimony

To take such testimony;

as it deems advisable.

(c) To procure printing and binding

The Joint Committee, or any subcommittee thereof, is authorized to have such printing and binding done as it deems advisable.

(d) To make expenditures

The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.

(e) Investigations

The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a committee or subcommittee) for investigations of the Internal Revenue Service by the Government Accountability Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the Government Accountability Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

(f) Relating to joint reviews**(1) In general**

The Chief of Staff, and the staff of the Joint Committee, shall provide such assistance as is required for joint reviews described in paragraph (2).

(2) Joint reviews

Before June 1 of each calendar year after 1998 and before 2005, there shall be a joint review of the strategic plans and budget for the Internal Revenue Service and such other matters as the Chairman of the Joint Committee deems appropriate. Such joint review shall be held at the call of the Chairman of the Joint Committee and shall include two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives.

(Aug. 16, 1954, ch. 736, 68A Stat. 927; Pub. L. 94-455, title XIX, §1907(a)(3), Oct. 4, 1976, 90 Stat. 1835; Pub. L. 100-647, title I, §1018(s)(1), Nov. 10, 1988, 102 Stat. 3586; Pub. L. 105-206, title IV, §4001(a), July 22, 1998, 112 Stat. 783; Pub. L. 108-311, title III, §321(a), Oct. 4, 2004, 118 Stat. 1182; Pub. L. 109-135, title IV, §412(rr)(5), Dec. 21, 2005, 119 Stat. 2640.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-135 substituted “Government Accountability Office” for “General Accounting Office” in two places.

2004—Subsec. (f)(2). Pub. L. 108-311 substituted “2005” for “2004”.

1998—Subsecs. (e), (f). Pub. L. 105-206 added subsecs. (e) and (f).

1988—Subsec. (a). Pub. L. 100-647 substituted “6103(f)” for “6103(d)”.

1976—Subsec. (d). Pub. L. 94-455 struck out par. (2) relating to limitation on cost of stenographic services in reporting hearings.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Gov-

ernmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title IV, §4001(b), July 22, 1998, 112 Stat. 784, provided that:

“(1) Subsection (e) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section [amending this section], shall apply to requests made after the date of the enactment of this Act [July 22, 1998].

“(2) Subsection (f) of such section shall take effect on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE 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 1907(c) of Pub. L. 94-455, set out as a note under section 8001 of this title.

TIME FOR JOINT REVIEW

Pub. L. 108-311, title III, §321(c), Oct. 4, 2004, 118 Stat. 1182, provided that: “The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.”

§ 8022. Duties

It shall be the duty of the Joint Committee—

(1) Investigation**(A) Operation and effects of law**

To investigate the operation and effects of the Federal system of internal revenue taxes;

(B) Administration

To investigate the administration of such taxes by the Internal Revenue Service or any executive department, establishment, or agency charged with their administration; and

(C) Other investigations

To make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary.

(2) Simplification of law**(A) Investigation of methods**

To investigate measures and methods for the simplification of such taxes, particularly the income tax; and

(B) Publication of proposals

To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes.

(3) Reports

(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

(B) Subject to amounts specifically appropriated to carry out this subparagraph, to report, at least once each Congress, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

(C) To report, for each calendar year after 1998 and before 2005, to the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to the matters addressed in the joint review referred to in section 8021(f)(2).

(4) Cross reference

For duties of the Joint Committee relating to refunds of income and estate taxes, see section 6405.

(Aug. 16, 1954, ch. 736, 68A Stat. 927; Pub. L. 105-206, title IV, § 4002(a), July 22, 1998, 112 Stat. 784; Pub. L. 108-311, title III, § 321(b), Oct. 4, 2004, 118 Stat. 1182.)

AMENDMENTS

2004—Par. (3)(C). Pub. L. 108-311 substituted “2005” for “2004” and “with respect to the matters addressed in the joint review referred to in section 8021(f)(2).” for “with respect to—

“(i) strategic and business plans for the Internal Revenue Service;

“(ii) progress of the Internal Revenue Service in meeting its objectives;

“(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

“(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

“(v) progress of the Internal Revenue Service on technology modernization; and

“(vi) the annual filing season.”

1998—Par. (3). Pub. L. 105-206 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendation as it may deem advisable.”

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title IV, § 4002(b), July 22, 1998, 112 Stat. 784, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION

Pub. L. 105-206, title IV, § 4022(b), July 22, 1998, 112 Stat. 785, provided that:

“(1) IN GENERAL.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

“(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference; and

“(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

“(2) TAX COMPLEXITY ANALYSIS.—For purposes of this subsection, the term ‘tax complexity analysis’ means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

“(A) includes—

“(i) an estimate of the number of taxpayers affected by the provision; and

“(ii) if applicable, the income level of taxpayers affected by the provision; and

“(B) should include (if determinable)—

“(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required;

“(ii) the extent to which taxpayers would be required to keep additional records;

“(iii) the estimated cost to taxpayers to comply with the provision;

“(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance;

“(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service; and

“(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

“(3) LEGISLATION SUBJECT TO POINT OF ORDER IN HOUSE OF REPRESENTATIVES.—[Amended the Rules of the House of Representatives, which are not classified to the Code.]

“(4) EFFECTIVE DATE.—This subsection shall apply to legislation considered on and after January 1, 1999.”

TAX REVISION STUDY

Pub. L. 94-455, title V, § 507, Oct. 4, 1976, 90 Stat. 1569, mandated a full and complete study by the Joint Committee on Taxation with respect to simplifying the tax laws and the feasibility of a reduction of tax rates; a report of such study with recommendations was to be submitted to the committees of Congress before July 1, 1977.

STUDY OF EXPANDED PARTICIPATION IN INDIVIDUAL RETIREMENT ACCOUNTS

Pub. L. 94-455, title XV, § 1509, Oct. 4, 1976, 90 Stat. 1741, directed Joint Committee on Taxation to carry out study with respect to broadening class of individuals eligible to claim deduction for retirement savings under section 219 or 220 of this title, and to report its findings to Committee on Ways and Means of the House

of Representatives and to Committee on Finance of the Senate.

TAX INCENTIVES STUDY

Pub. L. 94-455, title XXI, §2133, Oct. 4, 1976, 90 Stat. 1925, mandated a study by the Joint Committee on Taxation, in consultation with the Treasury, of the cost effectiveness of different kinds of tax incentives, including an analysis of the most effective way to use tax cuts to provide economic stimulus; such report with its recommendations was to be submitted to the Committees of Congress no later than Sept. 30, 1977.

§ 8023. Additional powers to obtain data

(a) Securing of data

The Joint Committee or the Chief of Staff of the Joint Committee, upon approval of the Chairman or Vice Chairman, is authorized to secure directly from the Internal Revenue Service, or the office of the Chief Counsel for the Internal Revenue Service, or directly from any executive department, board, bureau, agency, independent establishment, or instrumentality of the Government, information, suggestions, rulings, data, estimates, and statistics, for the purpose of making investigations, reports, and studies relating to internal revenue taxation. In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return.

(b) Furnishing of data

The Internal Revenue Service, the office of the Chief Counsel for the Internal Revenue Service, executive departments, boards, bureaus, agencies, independent establishments, and instrumentalities are authorized and directed to furnish such information, suggestions, rulings, data, estimates, and statistics directly to the Joint Committee or to the Chief of Staff of the Joint Committee, upon request made pursuant to this section.

(c) Application of subsections (a) and (b)

Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection.

(Aug. 16, 1954, ch. 736, 68A Stat. 928; Pub. L. 86-368, §2(b), Sept. 22, 1959, 73 Stat. 648; Pub. L. 94-455, title XII, §1210(c), title XIX, §1907(a)(4), Oct. 4, 1976, 90 Stat. 1711, 1835.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c), is Aug. 16, 1954, the date of enactment of act Aug. 16, 1954, ch. 736, 68A Stat. 4, which enacted this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1210(c), inserted provision that in investigation by Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return.

Subsec. (c). Pub. L. 94-455, §1907(a)(4), substituted “any” for “Reorganization Plan Numbered 26 of 1950 or to any other” after “without regard to” and “the date of the enactment of this subsection” for “February 28, 1951” after “before, or after”.

1959—Subsec. (a). Pub. L. 86-368, §2(b)(1), substituted “or the office of the Chief Counsel for the Internal Revenue Service” for “(including the Assistant General Counsel of the Treasury Department serving as the Chief Counsel of the Internal Revenue Service)”.

Subsec. (b). Pub. L. 86-368, §2(b)(2), substituted “, the office of the Chief Counsel for the Internal Revenue Service” for “(including the Assistant General Counsel of the Treasury Department serving as the Chief Counsel of the Internal Revenue Service)”.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1210(d)(2), Oct. 4, 1976, 90 Stat. 1711, provided that: “The amendment made by subsection (c) [amending this section] shall take effect on January 1, 1977.”

Amendment by section 1907(a)(4) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1907(c) of Pub. L. 94-455, set out as a note under section 8001 of this title.

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(b) of Pub. L. 86-368, set out as a note under section 7801 of this title.

Subtitle H—Financing of Presidential Election Campaigns

Chapter	Sec. ¹
95. Presidential election campaign fund	9001
96. Presidential primary matching payment account	9031

AMENDMENTS

1974—Pub. L. 93-443, title IV, §408(b), Oct. 15, 1974, 88 Stat. 1297, substituted “Presidential primary matching payment account” for “Presidential election campaign fund advisory board” in item for chapter 96.

1971—Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 562, added subtitle H.

CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

Sec.	
9001.	Short title.
9002.	Definitions.
9003.	Condition for eligibility for payments.
9004.	Entitlement of eligible candidates to payments.
9005.	Certification by Commission.

¹ Section numbers editorially supplied.

Sec.	
9006.	Payments to eligible candidates.
9007.	Examinations and audits; repayments.
9008.	Payments for presidential nominating conventions.
9009.	Reports to Congress; regulations.
9010.	Participation by Commission in judicial proceedings.
9011.	Judicial review.
9012.	Criminal penalties.
9013.	Effective date of chapter.

AMENDMENTS

1974—Pub. L. 93-443, title IV, §406(c), Oct. 15, 1974, 88 Stat. 1296, substituted “Payments for presidential nominating conventions” for “Information on proposed expenses” in item 9008.

§ 9001. Short title

This chapter may be cited as the “Presidential Election Campaign Fund Act”.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 563.)

ADOPTION OF GUIDELINES

Pub. L. 90-26, §5, June 13, 1967, 81 Stat. 58, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Funds which become available under the Presidential Election Campaign Fund Act of 1966 [section 6096 of this title and sections 971 to 973 of former Title 31, Money and Finance] shall be appropriated and disbursed only after the adoption by law of guidelines governing their distribution. Section 6096 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall become applicable only after the adoption by law of such guidelines.

“(b) Guidelines adopted in accordance with this section shall state expressly that they are intended to comply with this section.”

ADOPTION OF GUIDELINES: COMPLIANCE; EFFECTIVE DATE OF SECTION 6096 AND AMENDMENT OF SECTION 6096(a)

Pub. L. 92-178, title VIII, §802(b)(2), Dec. 10, 1971, 85 Stat. 573, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The enactment of Subtitle H of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by section 801 of this Act [this subtitle] is intended to comply with the provisions of section 5 (relating to the Presidential Election Campaign Fund Act of 1966) of the Act entitled ‘An Act to restore the investment credit and allowance of accelerated depreciation in the case of certain real property’, approved June 13, 1967 (Public Law 90-26, 81 Stat. 58) [set out above]. The provisions of section 6096 of the Internal Revenue Code of 1986 together with the amendments of such section made by subsection (a), shall be applicable only to taxable years ending on or after December 31, 1972.”

§ 9002. Definitions

For purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall

be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means, with respect to any presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term “candidate” means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election. The term “candidate” shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.

(3) The term “Commission” means the Federal Election Commission established by section 306(a)(1) of the Federal Election Campaign Act of 1971.

(4) The term “eligible candidates” means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

(5) The term “fund” means the Presidential Election Campaign Fund established by section 9006(a).

(6) The term “major party” means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(7) The term “minor party” means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(8) The term “new party” means, with respect to any presidential election, a political party which is neither a major party nor a minor party.

(9) The term “political committee” means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

(10) The term “presidential election” means the election of presidential and vice-presidential electors.

(11) The term “qualified campaign expense” means an expense—

(A) incurred (i) by the candidate of a political party for the office of President to fur-

ther his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both (ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, or (iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices.

(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Commission prescribes by rules or regulations.

(12) The term "expenditure report period" with respect to any presidential election means—

(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such presidential election under subparagraph (A).

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 563; amended Pub. L. 93-443, title IV, § 404(c)(1)–(3), Oct. 15, 1974, 88 Stat. 1292; Pub. L. 94-283, title I, § 115(c)(1), title III, § 306(a)(1), May 11, 1976, 90 Stat. 495, 499; Pub. L. 110-172, § 11(a)(42)(A), Dec. 29, 2007, 121 Stat. 2488.)

REFERENCES IN TEXT

Section 306(a)(1) of the Federal Election Campaign Act of 1971, referred to in par. (3), is classified to section 30106(a)(1) of Title 52, Voting and Elections.

AMENDMENTS

2007—Par. (3). Pub. L. 110-172 substituted "section 306(a)(1)" for "section 309(a)(1)".

1976—Par. (2). Pub. L. 94-283, § 306(a)(1), inserted provision that "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.

Par. (3). Pub. L. 94-283, § 115(c)(1), substituted "309(a)(1)" for "310(a)(1)".

1974—Par. (1). Pub. L. 93-443, § 404(c)(2), substituted "Commission" for "Comptroller General".

Par. (3). Pub. L. 93-443, § 404(c)(1), substituted definition of "Commission" for "Comptroller General".

Par. (11). Pub. L. 93-443, § 404(c)(3), substituted "Commission" for "Comptroller General" in third sentence.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-283, title III, § 306(c), May 11, 1976, 90 Stat. 501, provided that: "The amendments made by this section [amending this section and sections 9003, 9032, and 9033 of this title] shall take effect on the date of enactment of this Act [May 11, 1976]."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9003. Condition for eligibility for payments

(a) In general

In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

(1) agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates,

(2) agree to keep and furnish to the Commission such records, books, and other information as it may request, and

(3) agree to an audit and examination by the Commission under section 9007 and to pay any amounts required to be paid under such section.

(b) Major parties

In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Commission, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(d),¹ and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by

¹ So in original. Section 9006(d) redesignated 9006(c) by Pub. L. 94-283.

such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(c) Minor and new parties

In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a presidential election shall certify to the Commission, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and

(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(d) Withdrawal by candidate

In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.

(e) Closed captioning requirement

No candidate for the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner which ensures that the commercial contains or is accompanied by closed captioning of the oral content of the commercial to be broadcast in line 21 of the vertical blanking interval, or is capable of being viewed by deaf and hearing impaired individuals via any comparable successor technology to line 21 of the vertical blanking interval.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 564; amended Pub. L. 93-53, §6(c), July 1, 1973, 87 Stat. 139; Pub. L. 93-443, title IV,

§§404(c)(4), (5), 405(b), Oct. 15, 1974, 88 Stat. 1292, 1294; Pub. L. 94-283, title III, §306(a)(2), May 11, 1976, 90 Stat. 500; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 102-393, title V, §534(a), Oct. 6, 1992, 106 Stat. 1764.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102-393 added subsec. (e).

1976—Subsec. (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Pub. L. 94-283 added subsec. (d).

1974—Subsec. (a). Pub. L. 93-443, §§404(c)(4), 405(b), substituted “Commission” and “it” for “Comptroller General” and “he”, respectively, wherever appearing, struck out in par. (1) “with respect to which payment is sought” after “campaign expenses” and struck out par. (4) requirement for an agreement to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9008 of this title.

Subsecs. (b), (c). Pub. L. 93-443, §404(c)(5), substituted “Commission” for “Comptroller General” wherever appearing.

1973—Subsec. (b)(2). Pub. L. 93-53 substituted section “9006(d)” for “9006(c)”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-393, title V, §534(b), Oct. 6, 1992, 106 Stat. 1764, provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts made available under chapter 95 or 96 of the Internal Revenue Code of 1986 more than thirty days after the date of the enactment of this Act [Oct. 6, 1992].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-283 effective May 11, 1976, see section 306(c) of Pub. L. 94-283, set out as a note under section 9002 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-53 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 6(d) of Pub. L. 93-53, set out as a note under section 6096 of this title.

§ 9004. Entitlement of eligible candidates to payments

(a) In general

Subject to the provisions of this chapter—

(1) The eligible candidates of each major party in a presidential election shall be entitled to equal payments under section 9006 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under section 315(b)(1)(B) of the Federal Election Campaign Act of 1971.

(2)(A) The eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes

received by the candidates for President of the major parties in the preceding presidential election.

(B) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003(a) and (c), shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

(3) The eligible candidates of a minor party or a new party in a presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

(b) Limitations

The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a)(2) and (3) with respect to a presidential election shall not exceed an amount equal to the lower of—

(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

(c) Restrictions

The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

(2) to repay loans the proceeds of which were used to defray such qualified campaign ex-

penses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

(d) Expenditures from personal funds

In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(e) Definition of immediate family

For purposes of subsection (d), the term “immediate family” means a candidate’s spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 565; amended Pub. L. 93-443, title IV, §404(a), (b), Oct. 15, 1974, 88 Stat. 1291; Pub. L. 94-283, title III, §§301(a), 307(d), May 11, 1976, 90 Stat. 497, 501; Pub. L. 110-172, §11(a)(42)(B), Dec. 29, 2007, 121 Stat. 2488.)

REFERENCES IN TEXT

Section 315(b)(1)(B) of the Federal Election Campaign Act of 1971, referred to in subsec. (a)(1), is classified to section 30116(b)(1)(B) of Title 52, Voting and Elections.

AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110-172 substituted “section 315(b)(1)(B)” for “section 320(b)(1)(B)”.

1976—Subsec. (a)(1). Pub. L. 94-283, §307(d), substituted “section 320(b)(1)(B) of the Federal Election Campaign Act of 1971” for “section 608(c)(1)(B) of title 18, United States Code”.

Subsecs. (d), (e). Pub. L. 94-283, §301(a), added subsecs. (d) and (e).

1974—Subsec. (a)(1). Pub. L. 93-443, §404(a), substituted provision which limited aggregate amount of payments to eligible candidates to an amount not exceeding the expenditure limitations applicable to such candidates under section 608(c)(1)(B) of title 18 for prior provision which determined the amount by multiplying 15 cents by the total number of residents within the United States who attained the age of 18, determined by the Bureau of the Census, as of the first day of June of the year preceding the year of the presidential election.

Subsec. (a)(2)(A). Pub. L. 93-443, §404(b)(1), substituted “allowed” for “computed”.

Subsec. (a)(3). Pub. L. 93-443, §404(b)(2), substituted “allowed” for “computed” in first sentence.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-283, title III, §301(b), May 11, 1976, 90 Stat. 498, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of applying section 9004(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act [May 11, 1976] shall not be taken into account.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9005. Certification by Commission**(a) Initial certifications**

Not later than 10 days after the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003, the Commission shall certify to the Secretary of the Treasury for payment to such eligible candidates under section 9006 payment in full of amounts to which such candidates are entitled under section 9004.

(b) Finality of certifications and determinations

Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 9007 and judicial review under section 9011.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 566; amended Pub. L. 93-443, title IV, §§404(c)(6), (7), 405(a), Oct. 15, 1974, 88 Stat. 1292, 1293; Pub. L. 94-455, title XIX, §1906(b)(13)(C), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

1974—Pub. L. 93-443, §404(c)(6), substituted “Commission” for “Comptroller General” in section catchline.

Subsec. (a). Pub. L. 93-443, §405(a), substituted provision for certification by the Commission not later than 10 days after the candidates of a political party for President and Vice President have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003 of this title for prior provision for certification by the Comptroller General on the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 9007 of this title.

Subsec. (b). Pub. L. 93-443, §404(c)(7), substituted “Commission” for “Comptroller General” wherever appearing and “it” for “him”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9006. Payments to eligible candidates**(a) Establishment of campaign fund**

There is hereby established on the books of the Treasury of the United States a special fund to be known as the “Presidential Election Campaign Fund”. The Secretary of the Treasury shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise ap-

propriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

(b) Payments from the fund

Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary of the Treasury shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

(c) Insufficient amounts in fund

If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. In any case in which the Secretary determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(i)(2), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 567; amended Pub. L. 93-53, §6(b), July 1, 1973, 87 Stat. 138; Pub. L. 93-443, title IV, §§403(a), 404(c)(8), Oct. 15, 1974, 88 Stat. 1291, 1292; Pub. L. 94-283, title III, §302, May 11, 1976, 90 Stat. 498; Pub. L. 94-455, title XIX, §§1906(b)(13)(A), (B), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 110-172, §11(a)(43), Dec. 29, 2007, 121 Stat. 2488; Pub. L. 113-94, §2(b)(1), Apr. 3, 2014, 128 Stat. 1085.)

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-94 substituted “section 9008(i)(2),” for “section 9008(b)(3),”.

2007—Pub. L. 110-172, which directed substitution of “Commission” for “Comptroller General” wherever appearing, could not be executed, because “Comptroller General” did not appear subsequent to amendment by Pub. L. 93-443, §404(c)(8). See 1974 Amendment note below.

1976—Subsecs. (a), (b). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

Pub. L. 94-283, §302(a), redesignated subsec. (c) as (b). Former subsec. (b), directing that moneys remaining in the fund after a Presidential election be transferred to the general fund of the Treasury, was struck out.

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

Pub. L. 94-283, § 302(a), (b), redesignated subsec. (d) as (c) and inserted provision that moneys not be made available from other sources for the purpose of making payments whenever the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsec. (b), section 9008(b)(3), and section 9037(b). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 94-283, § 302(a), redesignated subsec. (d) as (c).

1974—Subsec. (a). Pub. L. 93-443, § 403(a), substituted “from time to time” for “as provided by Appropriation Acts” and appropriated moneys for the Campaign Fund for each fiscal year out of the general fund of the Treasury.

Subsecs. (c), (d). Pub. L. 93-443, § 404(c)(8), substituted “Commission” for “Comptroller General” wherever appearing.

1973—Subsec. (a). Pub. L. 93-53 struck out second sentence requiring the Secretary to maintain in the fund (1) a separate account for the candidates of each major party, each minor party, and each new party for which a specific designation is made under section 6096 for payment into an account in the fund and (2) a general account for which no specific designation is made, and in the last sentences, substituted “transfer to the fund”, “Presidential”, and “to the fund by individuals under section 6096”, for “transfer to each account in the fund”, “presidential”, and “to such account by individuals under section 6096 for payment into such account of the fund”, respectively.

Subsec. (b). Pub. L. 93-53 substituted “Presidential” for “presidential”.

Subsec. (c). Pub. L. 93-53 substituted provisions for payment “out of the fund”, for such payment “out of the specific account in the fund” and struck out penultimate sentence limiting payments to eligible candidates from the account designated for them to the amounts in such account at the time of payment.

Subsec. (d). Pub. L. 93-53 substituted provisions for payments to eligible candidates when there are insufficient amounts in the fund, for former provisions respecting transfers from general account to separate accounts to remedy insufficient moneys to satisfy any unpaid entitlement of the eligible candidates.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

ADDITIONAL APPROPRIATIONS TO CAMPAIGN FUND

Pub. L. 93-443, title IV, § 403(b), Oct. 15, 1974, 88 Stat. 1291, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “In addition to the amounts appropriated to the Presidential Election Campaign Fund established under section 9006 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to payments to eligible candidates) by the last sentence of subsection (a) of such section (as amended by subsection (a) of this section), there is appropriated to such fund an amount equal to the sum of the amounts designated for payment under section 6096 of such Code (relating to designation by individuals to the Presidential Election Campaign Fund) before January 1, 1975, not otherwise taken into account under the provisions of such section 9006, as amended by this section.”

[Provision effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.]

DESIGNATION TO THE PRESIDENTIAL ELECTION CAMPAIGN FUND

Designation made under section 6096 of this title (as in effect for taxable years beginning before Jan. 1, 1973) for the account of the candidates of any specified political party treated solely as a designation to the Presidential Election Campaign Fund, see section 6(d) of Pub. L. 93-53, set out as a note under section 6096 of this title.

§ 9007. Examinations and audits; repayments

(a) Examinations and audits

After each presidential election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

(b) Repayments

(1) If the Commission determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, it shall so notify such candidates, and such candidates shall pay to the Secretary of the Treasury an amount equal to such portion.

(2) If the Commission determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, it shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(3) If the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(4) If the Commission determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used to defray such qualified campaign expenses,

it shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

(c) Notification

No notification shall be made by the Commission under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

(d) Deposit of repayments

All payments received by the Secretary of the Treasury under subsection (b) shall be deposited by him in the general fund of the Treasury.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 568; amended Pub. L. 93-53, §6(c), July 1, 1973, 87 Stat. 139; Pub. L. 93-443, title IV, §404(c)(9)-(11), Oct. 15, 1974, 88 Stat. 1292; Pub. L. 94-283, title III, §307(e), May 11, 1976, 90 Stat. 502; Pub. L. 94-455, title XIX, §1906(b)(13)(B), (C), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

Subsec. (b)(3). Pub. L. 94-283 substituted “9006(c)” for “9006(d)”.

Subsec. (d). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

1974—Subsec. (a). Pub. L. 93-443, §404(c)(9), substituted “Commission” for “Comptroller General”.

Subsec. (b). Pub. L. 93-443, §404(c)(10), substituted “Commission” and “it” for “Comptroller General” and “he”, respectively, wherever appearing.

Subsec. (c). Pub. L. 93-443, §404(c)(11), substituted “Commission” for “Comptroller General”.

1973—Subsec. (b)(3). Pub. L. 93-53 substituted section “9006(d)” for “9006(c)”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-53 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 6(d) of Pub. L. 93-53, set out as a note under section 6096 of this title.

§ 9008. Payments for presidential nominating conventions**(a) Establishment of accounts**

The Secretary shall maintain in the fund, in addition to any account which he maintains under section 9006(a), a separate account for the national committee of each major party and minor party. The Secretary shall deposit in each such account an amount equal to the amount which each such committee may receive under subsection (b). Such deposits shall be drawn from amounts designated by individuals under section 6096 and shall be made before any transfer is made to any account for any eligible candidate under section 9006(a).

(b) Entitlement to payments from the fund**(1) Major parties**

Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed \$4,000,000.

(2) Minor parties

Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate,

shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding presidential election.

(3) Payments

Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

(4) Limitation

Payments to the national committee of a major party or minor party under this subsection, from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

(5) Adjustment of entitlements

The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section 315(b) and section 315(d) of the Federal Election Campaign Act of 1971 are adjusted pursuant to the provisions of section 315(c) of such Act.

(c) Use of funds

No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention. Such payments shall be used only—

(1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses.

(d) Limitation of expenditures**(1) Major parties**

Except as provided by paragraph (3), the national committee of a major party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under subsection (b)(1).

(2) Minor parties

Except as provided by paragraph (3), the national committee of a minor party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under subsection (b)(1).

(3) Exception

The Commission may authorize the national committee of a major party or minor party to make expenditures which, in the aggregate, exceed the limitation established by paragraph (1) or paragraph (2) of this subsection. Such authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee.

(4) Provision of legal or accounting services

For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.

(e) Availability of payments

The national committee of a major party or minor party may receive payments under subsection (b)(3) beginning on July 1 of the calendar year immediately preceding the calendar year in which a presidential nominating convention of the political party involved is held.

(f) Transfer to the fund

If, after the close of a presidential nominating convention and after the national committee of the political party involved has been paid the amount which it is entitled to receive under this section, there are moneys remaining in the account of such national committee, the Secretary shall transfer the moneys so remaining to the fund.

(g) Certification by Commission

Any major party or minor party may file a statement with the Commission in such form and manner and at such times as it may require, designating the national committee of such party. Such statement shall include the information required by section 303(b) of the Federal Election Campaign Act of 1971, together with such additional information as the Commission may require. Upon receipt of a statement filed under the preceding sentences, the Commission promptly shall verify such statement according to such procedures and criteria as it may establish and shall certify to the Secretary for payment in full to any such committee of amounts to which such committee may be entitled under subsection (b). Such certifications shall be subject to an examination and audit which the Commission shall conduct no later than December 31, of the calendar year in which the presidential nominating convention involved is held.

(h) Repayments

The Commission shall have the same authority to require repayments from the national committee of a major party or a minor party as it has with respect to repayments from any eli-

gible candidate under section 9007(b). The provisions of section 9007(c) and section 9007(d) shall apply with respect to any repayment required by the Commission under this subsection.

(i) Termination of payments for conventions; use of amounts for pediatric research initiative

Effective on the date of the enactment of the Gabriella Miller Kids First Research Act—

(1) the entitlement of any major party or minor party to a payment under this section shall terminate; and

(2) all amounts in each account maintained for the national committee of a major party or minor party under this section shall be transferred to a fund in the Treasury to be known as the “10-Year Pediatric Research Initiative Fund”, which shall be available only for the purpose provided in section 402A(a)(2) of the Public Health Service Act, and only to the extent and in such amounts as are provided in advance in appropriation Acts.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 569; amended Pub. L. 93-443, title IV, §406(a), Oct. 15, 1974, 88 Stat. 1294; Pub. L. 94-283, title III, §§303, 307(a), May 11, 1976, 90 Stat. 498, 501; Pub. L. 96-187, title II, §202, Jan. 8, 1980, 93 Stat. 1368; Pub. L. 98-355, §1(a), (b), July 11, 1984, 98 Stat. 394; Pub. L. 113-94, §2(a), Apr. 3, 2014, 128 Stat. 1085.)

REFERENCES IN TEXT

Sections 303 and 315 of the Federal Election Campaign Act of 1971, referred to in subsecs. (b)(5) and (g), are classified to sections 30103 and 30116, respectively, of Title 52, Voting and Elections.

The date of the enactment of the Gabriella Miller Kids First Research Act, referred to in subsec. (i), is the date of enactment of Pub. L. 113-94, which was approved Apr. 3, 2014.

Section 402A(a)(2) of the Public Health Service Act, referred to in subsec. (i)(2), is classified to section 282a(a)(2) of Title 42, The Public Health and Welfare.

AMENDMENTS

2014—Subsec. (i). Pub. L. 113-94 added subsec. (i).

1984—Subsec. (b)(1). Pub. L. 98-355, §1(a), substituted “\$4,000,000” for “\$3,000,000”.

Subsec. (b)(5). Pub. L. 98-355, §1(b), substituted “section 315(b) and section 315(d)” for “section 320(b) and section 320(d)” and “section 315(c)” for “section 320(c)”.

1980—Subsec. (b)(1). Pub. L. 96-187 substituted “\$3,000,000” for “\$2,000,000”.

1976—Subsec. (b)(5). Pub. L. 94-283, §307(a), substituted “section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971 are adjusted pursuant to the provisions of section 320(c) of such Act” for “section 608(c) and section 608(f) of title 18, United States Code, are adjusted pursuant to the provisions of section 608(d) of such title”.

Subsec. (d)(4). Pub. L. 94-283, §303, added par. (4).

1974—Pub. L. 93-443 substituted provisions respecting payments for presidential nominating conventions for prior provisions respecting information on proposed expenses, subsec. (a) relating to reports by candidates, and subsec. (b) to publication of summaries.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-355, §1(c), July 11, 1984, 98 Stat. 394, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 1984.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9009. Reports to Congress; regulations**(a) Reports**

The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

- (1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;
- (2) the amounts certified by it under section 9005 for payment to the eligible candidates of each political party; and
- (3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc.

The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this chapter.

(c) Review of regulations

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term “legislative days” does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term “rule or regulation” means a provision or series of interrelated provisions stating a single separable rule of law.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 569; amended Pub. L. 93-443, title IV, §§ 404(c)(12), (13), 406(b)(1), 409, Oct. 15, 1974, 88 Stat. 1292, 1293, 1296, 1303; Pub. L. 94-283, title III, §304(a), May 11, 1976, 90 Stat. 498; Pub. L. 113-94, §2(c)(1), Apr. 3, 2014, 128 Stat. 1085.)

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113-94, §2(c)(1)(A), inserted “and” at end.

Subsec. (a)(3). Pub. L. 113-94, §2(c)(1)(B), which directed substitution of period for semicolon at end, was executed by substituting period for “; and” at end, to reflect the probable intent of Congress.

Subsec. (a)(4) to (6). Pub. L. 113-94, §2(c)(1)(C), struck out pars. (4) to (6) which read as follows:

“(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

“(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

“(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.”

1976—Subsec. (c)(2). Pub. L. 94-283, §304(a)(1), inserted provision for accelerated consideration by the House of Representatives of resolutions relating to rules or regulations reported out by committees of the House.

Subsec. (c)(4). Pub. L. 94-283, §304(a)(2), added par. (4).

1974—Subsec. (a). Pub. L. 93-443, §§ 404(c)(12), 406(b)(1), substituted “Commission” for “Comptroller General” wherever appearing and “it” for “him” and added pars. (4) to (6).

Subsec. (b). Pub. L. 93-443, §§ 404(c)(13), 409(b), substituted “Commission”, “it” and “it” for “Comptroller General”, “he” and “him”, respectively, and inserted “in accordance with the provisions of subsection (c)” after “regulations”.

Subsec. (c). Pub. L. 93-443, §409(a), added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 168 of House Document No. 103-7.

§ 9010. Participation by Commission in judicial proceedings**(a) Appearance by counsel**

The Commission is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) Recovery of certain payments

The Commission is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts deter-

mined to be payable to the Secretary of the Treasury as a result of examination and audit made pursuant to section 9007.

(c) Declaratory and injunctive relief

The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Commission an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

(d) Appeal

The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 569; amended Pub. L. 93-443, title IV, §404(c)(14)-(18), Oct. 15, 1974, 88 Stat. 1293; Pub. L. 94-455, title XIX, §1906(b)(13)(C), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, §402(28)(E), Nov. 8, 1984, 98 Stat. 3359.)

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-620 struck out provision requiring the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

1976—Subsec. (b). Pub. L. 94-455 substituted “to the Secretary of the Treasury” for “to the Secretary”.

1974—Pub. L. 93-443, §404(c)(14), substituted “Commission” for “Comptroller General” in section catchline.

Subsec. (a). Pub. L. 93-443, §404(c)(15), substituted “Commission” for “Comptroller General”, “its” for “his”, and “it” for “he” wherever appearing.

Subsecs. (b), (c). Pub. L. 93-443, §404(c)(16), (17), substituted “Commission” for “Comptroller General” wherever appearing.

Subsec. (d). Pub. L. 93-443, §404(c)(18), substituted “Commission” and “it” for “Comptroller General” and “he”.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9011. Judicial review

(a) Review of certification, determination, or other action by the Commission

Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any pe-

tition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

(b) Suits to implement chapter

(1) The Commission, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or contrue¹ any provision of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 570; amended Pub. L. 93-443, title IV, §404(c)(19)-(21), Oct. 15, 1974, 88 Stat. 1293; Pub. L. 98-620, title IV, §402(28)(F), Nov. 8, 1984, 98 Stat. 3359.)

AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-620 struck out provision requiring the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

1974—Subsec. (a). Pub. L. 93-443, §404(c)(19), (20), substituted “Commission” for “Comptroller General” in heading and wherever appearing in text.

Subsec. (b). Pub. L. 93-443, §404(c)(21), substituted “Commission” for “Comptroller General”.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

§ 9012. Criminal penalties

(a) Excess expenses

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year or both. In the case of a violation by an authorized committee, any officer

¹ So in original. Probably should be “construe”.

or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(b) Contributions

(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

(3) Any person who violates paragraph (1) or (2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(c) Unlawful use of payments

(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(d) False statements, etc.

(1) It shall be unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter; or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(e) Kickbacks and illegal payments

(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

(f) Unauthorized expenditures and contributions

(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding \$1,000.

(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c) which is exempt from tax under section 501(a) in communicating to its members the views of that organization.

(3) Any political committee which violates paragraph (1) shall be fined not more than \$5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(g) Unauthorized disclosure of information

(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 570; amended Pub. L. 93-53, §6(c), July 1, 1973, 87 Stat. 139; Pub. L. 93-443, title IV, §§404(c)(22), 406(b)(2)-(6), Oct. 15, 1974, 88 Stat. 1293, 1296; Pub. L. 94-283, title III, §307(f), May 11, 1976, 90 Stat. 502; Pub. L. 94-455, title XIX, §1906(b)(13)(C), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 113-94, §2(c)(2), Apr. 3, 2014, 128 Stat. 1086.)

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as added by section 801

of Pub. L. 92-178, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-94, §2(c)(2)(A), struck out at end “It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under section 9008(d), unless the incurring of such expenses is authorized by the Commission under section 9008(d)(3).”

Subsec. (c)(2), (3). Pub. L. 113-94, §2(c)(2)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “It shall be unlawful for the national committee of a major party or minor party which receives any payment under section 9008(b)(3) to use, or authorize the use of, such payment for any purpose other than a purpose authorized by section 9008(c).”

Subsec. (e)(1). Pub. L. 113-94, §2(c)(2)(C), struck out at end “It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense incurred by such committee with respect to a presidential nominating convention.”

Subsec. (e)(3). Pub. L. 113-94, §2(c)(2)(D), struck out “, or in connection with any expense incurred by the national committee of a major party or minor party with respect to a presidential nominating convention” after “authorized committees”.

1976—Subsec. (b)(1). Pub. L. 94-283 substituted “9006(c)” for “9006(d)”.

Subsec. (e)(3). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

1974—Subsec. (a). Pub. L. 93-443, §406(b)(2), (3), struck out “campaign” before “expenses” in heading and inserted in par. (1) provision making it unlawful for a national committee of a major or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of applicable expenditure limitation unless authorized by the Commission.

Subsec. (c)(2), (3). Pub. L. 93-443, §406(b)(4), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 93-443, §404(c)(22), substituted “Commission” for “Comptroller General” wherever appearing and “it” for “him”.

Subsec. (e)(1). Pub. L. 93-443, §406(b)(6), inserted provision making it unlawful for a national committee of a major or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense of such committee with respect to a presidential nominating convention.

Subsec. (e)(3). Pub. L. 93-443, §406(b)(6), inserted requirement of payment, by any person accepting any kickback or illegal payment in connection with any expense incurred by the national committee of a major or minor party with respect to a presidential nominating convention, to the Secretary for deposit in the general fund of the Treasury.

1973—Subsec. (b)(1). Pub. L. 93-53 substituted section “9006(d)” for “9006(c)”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-53 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 6(d) of Pub. L. 93-53, set out as a note under section 6096 of this title.

§ 9013. Effective date of chapter

The provisions of this chapter shall take effect on January 1, 1973.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572.)

PRIOR PROVISIONS

A prior section 9021, added by Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572, established Presidential Election Campaign Fund Advisory Board, prior to repeal by Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297. For effective date of repeal see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

Sec.	
9031.	Short title.
9032.	Definitions.
9033.	Eligibility for payments.
9034.	Entitlement of eligible candidates to payments.
9035.	Qualified campaign expense limitations.
9036.	Certification by Commission.
9037.	Payments to eligible candidates.
9038.	Examinations and audits; repayments.
9039.	Reports to Congress; regulations.
9040.	Participation by Commission in judicial proceedings.
9041.	Judicial review.
9042.	Criminal penalties.

PRIOR PROVISIONS

A prior chapter 96, relating to the Presidential Election Campaign Fund Advisory Board, consisted of section 9021, added by Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572, providing for the establishment and composition of the Advisory Board and the compensation and status of members, and was repealed by Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297. Section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections, provided that the amendments made by section 408(c) shall apply with respect to taxable years beginning after Dec. 31, 1974.

AMENDMENTS

1976—Pub. L. 94-283, title III, §305(b), May 11, 1976, 90 Stat. 499, substituted “limitations” for “limitation” in item 9035.

§ 9031. Short title

This chapter may be cited as the “Presidential Primary Matching Payment Account Act”.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297.)

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9032. Definitions

For purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee

which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, (B) receives contributions or incurs qualified campaign expenses, or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf. The term “candidate” shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

(3) The term “Commission” means the Federal Election Commission established by section 306(a)(1) of the Federal Election Campaign Act of 1971.

(4) Except as provided by section 9034(a), the term “contribution”—

(A) means a gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such gift, subscription, loan, advance, or deposit of money, or anything of value, is made, for the purpose of influencing the result of a primary election,

(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose,

(C) means funds received by a political committee which are transferred to that committee from another committee, and

(D) means the payment by any person other than a candidate, or his authorized committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge, but

(E) does not include—

(i) except as provided in subparagraph (D), the value of personal services rendered to or for the benefit of a candidate by an individual who receives no compensation for rendering such service to or for the benefit of the candidate, or

(ii) payments under section 9037.

(5) The term “matching payment account” means the Presidential Primary Matching Payment Account established under section 9037(a).

(6) The term “matching payment period” means the period beginning with the beginning of the calendar year in which a general election for the office of President of the

United States will be held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, ending on the earlier of (A) the date such party nominates its candidate for the office of President of the United States, or (B) the last day of the last national convention held by a major party during such calendar year.

(7) The term “primary election” means an election, including a runoff election or a nominating convention or caucus held by a political party, for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President of the United States.

(8) The term “political committee” means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any person for election to the office of President of the United States.

(9) The term “qualified campaign expense” means a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value—

(A) incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, and

(B) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or the committee.

(10) The term “State” means each State of the United States and the District of Columbia.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1297; amended Pub. L. 94-283, title I, § 115(c)(2), title III, § 306(b)(1), May 11, 1976, 90 Stat. 495, 500; Pub. L. 110-172, § 11(a)(42)(C), Dec. 29, 2007, 121 Stat. 2488.)

REFERENCES IN TEXT

Section 306(a)(1) of the Federal Election Campaign Act of 1971, referred to in par. (3), is classified to section 30106(a)(1) of Title 52, Voting and Elections.

AMENDMENTS

2007—Par. (3). Pub. L. 110-172 substituted “section 306(a)(1)” for “section 309(a)(1)”.

1976—Par. (2). Pub. L. 94-283, § 306(b)(1), inserted provision that “candidate” shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

Par. (3). Pub. L. 94-283, § 115(c)(2), substituted “309(a)(1)” for “310(a)(1)”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 306(b)(1) of Pub. L. 94-283 effective May 11, 1976, see section 306(c) of Pub. L. 94-283, set out as a note under section 9002 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9033. Eligibility for payments**(a) Conditions**

To be eligible to receive payments under section 9037, a candidate shall, in writing—

- (1) agree to obtain and furnish to the Commission any evidence it may request of qualified campaign expenses,
- (2) agree to keep and furnish to the Commission any records, books, and other information it may request, and
- (3) agree to an audit and examination by the Commission under section 9038 and to pay any amounts required to be paid under such section.

(b) Expense limitation; declaration of intent; minimum contributions

To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

- (1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the limitations on such expenses under section 9035,
- (2) the candidate is seeking nomination by a political party for election to the office of President of the United States,
- (3) the candidate has received matching contributions which in the aggregate, exceed \$5,000 in contributions from residents of each of at least 20 States, and
- (4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed \$250.

(c) Termination of payments**(1) General rule**

Except as provided by paragraph (2), no payment shall be made to any individual under section 9037—

- (A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or
- (B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

(2) Qualified campaign expenses; payments to Secretary

Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to re-

ceive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

(3) Calculation of voting percentage

For purposes of paragraph (1)(B), if the primary elections involved are held in more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

(4) Reestablishment of eligibility

(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a).

(B) Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1299; amended Pub. L. 94-283, title III, § 305(c), 306(b)(2), May 11, 1976, 90 Stat. 499, 500.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-283, § 305(c), substituted “limitations” for “limitation”.

Subsec. (c). Pub. L. 94-283, § 306(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 306(b)(2) of Pub. L. 94-283 effective May 11, 1976, see section 306(c) of Pub. L. 94-283, set out as a note under section 9002 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9034. Entitlement of eligible candidates to payments**(a) In general**

Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to

which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds \$250. For purposes of this subsection and section 9033(b), the term “contribution” means a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) Limitations

The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section 315(b)(1)(A) of the Federal Election Campaign Act of 1971.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1299; amended Pub. L. 94-283, title III, §307(b), May 11, 1976, 90 Stat. 501; Pub. L. 110-172, §11(a)(42)(D), Dec. 29, 2007, 121 Stat. 2488.)

REFERENCES IN TEXT

Section 315(b)(1)(A) of the Federal Election Campaign Act of 1971, referred to in subsec. (b), is classified to section 30116(b)(1)(A) of Title 52, Voting and Elections.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-172 substituted “section 315(b)(1)(A)” for “section 320(b)(1)(A)”.

1976—Subsec. (b). Pub. L. 94-283 substituted “section 320(b)(1)(A) of the Federal Election Campaign Act of 1971” for “section 608(c)(1)(A) of title 18, United States Code”.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9035. Qualified campaign expense limitations

(a) Expenditure limitations

No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 315(b)(1)(A) of the Federal Election Campaign Act of 1971, and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000.

(b) Definition of immediate family

For purposes of this section, the term “immediate family” means a candidate’s spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1300; amended Pub. L. 94-283, title III, §§305(a), 307(c), May 11, 1976, 90 Stat. 499, 501; Pub. L. 113-295, div. A, title II, §220(z), Dec. 19, 2014, 128 Stat. 4037.)

REFERENCES IN TEXT

Section 315 of The Federal Election Campaign Act of 1971, referred to in subsec. (a), is classified to section 30116 of Title 52, Voting and Elections.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295 substituted “section 315(b)(1)(A)” for “section 320(b)(1)(A)”.

1976—Pub. L. 94-283 substituted “limitations” for “limitation” in section catchline, designated existing provisions as subsec. (a), inserted “Expenditure limitations” as heading of subsec. (a) as so redesignated and substituted “section 320(b)(1)(A) of the Federal Election Campaign Act of 1971, and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000” for “section 608(c)(1)(A) of title 18, United States Code”, and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-283, title III, §305(d), May 11, 1976, 90 Stat. 499, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of applying section 9035(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act [May 11, 1976] shall not be taken into account.”

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9036. Certification by Commission

(a) Initial certifications

Not later than 10 days after a candidate establishes his eligibility under section 9033 to receive payments under section 9037, the Commission shall certify to the Secretary for payment to such candidate under section 9037 payment in full of amounts to which such candidate is entitled under section 9034. The Commission shall make such additional certifications as may be necessary to permit candidates to receive payments for contributions under section 9037.

(b) Finality of determinations

Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, are final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 9038 and judicial review under section 9041.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1300.)

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9037. Payments to eligible candidates

(a) Establishment of account

The Secretary shall maintain in the Presidential Election Campaign Fund established by

section 9006(a), in addition to any account which he maintains under such section, a separate account to be known as the Presidential Primary Matching Payment Account. The Secretary shall deposit into the matching payment account, for use by the candidate of any political party who is eligible to receive payments under section 9033, the amount available after the Secretary determines that amounts for payments under section 9006(c) and for payments under section 9008(i)(2) are available for such payments.

(b) Payments from the matching payment account

Upon receipt of a certification from the Commission under section 9036, but not before the beginning of the matching payment period, the Secretary shall promptly transfer the amount certified by the Commission from the matching payment account to the candidate. In making such transfers to candidates of the same political party, the Secretary shall seek to achieve an equitable distribution of funds available under subsection (a), and the Secretary shall take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1300; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 113-94, §2(b)(2), Apr. 3, 2014, 128 Stat. 1085.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-94 substituted “section 9008(i)(2)” for “section 9008(b)(3)”.

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” in three places.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9038. Examinations and audits; repayments

(a) Examinations and audits

After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037.

(b) Repayments

(1) If the Commission determines that any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under section 9034, it shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the amount of excess payments.

(2) If the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses,

it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

(3) Amounts received by a candidate from the matching payment account may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the matching payment account.

(c) Notification

No notification shall be made by the Commission under subsection (b) with respect to a matching payment period more than 3 years after the end of such period.

(d) Deposit of repayments

All payments received by the Secretary under subsection (b) shall be deposited by him in the matching payment account.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1300; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (b)(1), (2), (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9039. Reports to Congress; regulations

(a) Reports

The Commission shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees,

(2) the amounts certified by it under section 9036 for payment to each eligible candidate, and

(3) the amount of payments, if any, required from candidates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc.

The Commission is authorized to prescribe rules and regulations in accordance with the

provisions of subsection (c), to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under this chapter.

(c) Review of regulations

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term “legislative days” does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term “rule or regulation” means a provision or series of interrelated provisions stating a single separable rule of law.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1301; amended Pub. L. 94-283, title III, § 304(b), May 11, 1976, 90 Stat. 499.)

AMENDMENTS

1976—Subsec. (c)(2). Pub. L. 94-283, § 304(b)(1), inserted provision for accelerated consideration by the House of Representatives of resolutions relating to rules or regulations reported out by committees of the House.

Subsec. (c)(4). Pub. L. 94-283, § 304(b)(2), added par. (4).

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 168 of House Document No. 103-7.

§ 9040. Participation by Commission in judicial proceedings

(a) Appearance by counsel

The Commission is authorized to appear in and defend against any action instituted under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) Recovery of certain payments

The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of an examination and audit made pursuant to section 9038.

(c) Injunctive relief

The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate to implement any provision of this chapter.

(d) Appeal

The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1302; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9041. Judicial review

(a) Review of agency action by the Commission

Any agency action by the Commission made under the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

(b) Review procedures

The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1302.)

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub.

L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

§ 9042. Criminal penalties

(a) Excess campaign expenses

Any person who violates the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to any expenditure in violation of the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

(b) Unlawful use of payments

(1) It is unlawful for any person who receives any payment under section 9037, or to whom any portion of any such payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray qualified campaign expenses, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(c) False statements, etc.

(1) It is unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this chapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter, or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(d) Kickbacks and illegal payments

(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate, or his authorized committees, who receives payments under section 9037.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Sec-

retary for deposit in the matching payment account, an amount equal to 125 percent of the kickback or payment received.

(Added Pub. L. 93-443, title IV, § 408(c), Oct. 15, 1974, 88 Stat. 1302.)

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of Title 52, Voting and Elections.

Subtitle I—Trust Fund Code

§ 9500. Short title

This subtitle may be cited as the “Trust Fund Code of 1981”.

(Added Pub. L. 97-119, title I, § 103(a), Dec. 29, 1981, 95 Stat. 1636.)

CHAPTER 98—TRUST FUND CODE

Subchapter	Sec. ¹
A. Establishment of Trust Funds	9501
B. General provisions	9601

Subchapter A—Establishment of Trust Funds

Sec.	
9501.	Black Lung Disability Trust Fund.
9502.	Airport and Airway Trust Fund.
9503.	Highway Trust Fund.
9504.	Sport Fish Restoration and Boating Trust Fund.
9505.	Harbor Maintenance Trust Fund.
9506.	Inland Waterways Trust Fund.
9507.	Hazardous Substance Superfund.
9508.	Leaking Underground Storage Tank Trust Fund.
9509.	Oil Spill Liability Trust Fund.
9510.	Vaccine Injury Compensation Trust Fund.
9511.	Patient-Centered Outcomes Research Trust Fund.

CODIFICATION

The amendment by section 8033(b) of Pub. L. 99-509, which provided for adding item 9507 to the table of sections for subchapter A, did not take effect pursuant to section 8033(c)(2)(C) of Pub. L. 99-509 and the enactment of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499).

AMENDMENTS

2010—Pub. L. 111-148, title VI, § 6301(e)(1)(B), Mar. 23, 2010, 124 Stat. 743, added item 9511.

2005—Pub. L. 109-59, title XI, § 11115(b)(2)(E), Aug. 10, 2005, 119 Stat. 1950, substituted “Sport Fish Restoration and Boating” for “Aquatic Resources” in item 9504.

1998—Pub. L. 105-178, title IX, § 9011(b)(3), June 9, 1998, 112 Stat. 508, struck out item 9511 “National Recreational Trails Trust Fund”.

1991—Pub. L. 102-240, title VIII, § 8003(c), Dec. 18, 1991, 105 Stat. 2206, added item 9511.

1987—Pub. L. 100-203, title IX, § 9202(b), Dec. 22, 1987, 101 Stat. 1330-331, added item 9510.

1986—Pub. L. 99-662, title XIV, §§ 1403(c), 1405(c), Nov. 17, 1986, 100 Stat. 4270, 4271, added items 9505 and 9506. Pub. L. 99-509, title VIII, § 8033(c)(2)(C), Oct. 21, 1986, 100 Stat. 1962, added item 9509.

Pub. L. 99-499, title V, §§ 517(d), 522(b), Oct. 17, 1986, 100 Stat. 1774, 1781, added items 9507 and 9508.

1984—Pub. L. 98-369, div. A, title X, § 1016(d), July 18, 1984, 98 Stat. 1020, added item 9504.

¹ Section numbers editorially supplied.

1983—Pub. L. 97-424, title V, § 531(d), Jan. 6, 1983, 96 Stat. 2192, added item 9503.

1982—Pub. L. 97-248, title II, § 281(c)(1), Sept. 3, 1982, 96 Stat. 566, struck out “Establishment of” before “Black Lung” in item 9501 and added item 9502.

§ 9501. Black Lung Disability Trust Fund

(a) Creation of Trust Fund

(1) In general

There is established in the Treasury of the United States a trust fund to be known as the “Black Lung Disability Trust Fund”, consisting of such amounts as may be appropriated or credited to the Black Lung Disability Trust Fund.

(2) Trustees

The trustees of the Black Lung Disability Trust Fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services.

(b) Transfer of certain taxes; other receipts

(1) Transfer to Black Lung Disability Trust Fund of amounts equivalent to certain taxes

There are hereby appropriated to the Black Lung Disability Trust Fund amounts equivalent to the taxes received in the Treasury under section 4121 or subchapter B of chapter 42.

(2) Certain repaid amounts, etc.

The following amounts shall be credited to the Black Lung Disability Trust Fund:

(A) Amounts repaid or recovered under subsection (b) of section 424 of the Black Lung Benefits Act (including interest thereon).

(B) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of the Black Lung Benefits Act.

(C) Amounts paid into the Black Lung Disability Trust Fund by a trust described in section 501(c)(21).

(c) Repayable advances

(1) Authorization

There are authorized to be appropriated to the Black Lung Disability Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d).

(2) Repayment with interest

Repayable advances made to the Black Lung Disability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that monies are available in the Black Lung Disability Trust Fund for such purposes.

(3) Rate of interest

Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity com-

parable to the anticipated period during which the advance will be outstanding.

(d) Expenditures from Trust Fund

Amounts in the Black Lung Disability Trust Fund shall be available, as provided by appropriation Acts, for—

(1) the payment of benefits under section 422 of the Black Lung Benefits Act in any case in which the Secretary of Labor determines that—

(A) the operator liable for the payment of such benefits—

(i) has not commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary of Labor, or

(ii) has not made a payment within 30 days after that payment is due,

except that, in the case of a claim filed on or after the date of the enactment of the Black Lung Benefits Revenue Act of 1981, amounts will be available under this subparagraph only for benefits accruing after the date of such initial determination, or

(B) there is no operator who is liable for the payment of such benefits,

(2) the payment of obligations incurred by the Secretary of Labor with respect to all claims of miners of their survivors in which the miner's last coal mine employment was before January 1, 1970,

(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary of Labor for claims under part C of the Black Lung Benefits Act which were paid before April 1, 1978, except that the Black Lung Disability Trust Fund shall not be obligated to pay or reimburse any such amounts which are attributable to periods of eligibility before January 1, 1974,

(4) the repayment of, and the payment of interest on, repayable advances to the Black Lung Disability Trust Fund,

(5) the payment of all expenses of administration on or after March 1, 1978—

(A) incurred by the Department of Labor or the Department of Health and Human Services under part C of the Black Lung Benefits Act (other than under section 427(a) or 433), or

(B) incurred by the Department of the Treasury in administering subchapter B of chapter 32 and in carrying out its responsibilities with respect to the Black Lung Disability Trust Fund,

(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970, and

(7) the reimbursement of operators and insurers for amounts paid by such operators and insurers (other than amounts paid as penalties, interest, or attorney fees) at any time in satisfaction (in whole or in part) of any claim denied (within the meaning of section 402(i) of the Black Lung Benefits Act) before

March 1, 1978, and which is or has been approved in accordance with the provisions of section 435¹ of the Black Lung Benefits Act.

For purposes of the preceding sentence, any reference to section 402(i), 422, or 435¹ of the Black Lung Benefits Act shall be treated as a reference to such section as in effect immediately after the enactment of this section.

(Added Pub. L. 97-119, title I, §103(a), Dec. 29, 1981, 95 Stat. 1636; amended Pub. L. 97-248, title II, §281(c)(2), Sept. 3, 1982, 96 Stat. 566.)

REFERENCES IN TEXT

The Black Lung Benefits Act, referred to in subsecs. (b)(2)(A), (B) and (d), is title IV of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 792, as amended. Part C of the Act is classified generally to part C (§931 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. Sections 402(i), 422, 423, 424(b), 427(a), 431, 432, and 433 of the Act are classified to sections 902(i), 932, 933, 934(b), 937(a), 941, 942, and 943, respectively, of Title 30. Section 435 of the Act was classified to section 945 of Title 30, prior to repeal by Pub. L. 107-275, §2(c)(1), Nov. 2, 2002, 116 Stat. 1926. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The date of enactment of the Black Lung Benefits Revenue Act of 1981, referred to in subsec. (d)(1)(A), is the date of enactment of Pub. L. 97-119, which was approved Dec. 29, 1981.

The enactment of this section, referred to in subsec. (d), probably means the date of enactment of Pub. L. 97-119, which enacted this section and which was approved Dec. 29, 1981.

AMENDMENTS

1982—Pub. L. 97-248 struck out “Establishment of” before “Black Lung” in section catchline.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Sept. 1, 1982, see section 281(d) of Pub. L. 97-248, set out as an Effective Date; Savings Provisions note under section 9502 of this title.

EFFECTIVE DATE

Pub. L. 97-119, title I, §103(d)(1), Dec. 29, 1981, 95 Stat. 1639, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section and sections 9500, 9601, and 9602 of this title, amending section 501 of this title, and repealing section 934a of Title 30, Mineral Lands and Mining] shall take effect on January 1, 1982. Section 9501(c)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) shall only apply to advances made after December 31, 1981.”

SAVINGS PROVISION

Pub. L. 97-119, title I, §103(d)(2), Dec. 29, 1981, 95 Stat. 1639, provided that: “The Black Lung Disability Trust Fund established by the amendments made by this section [enacting this section and sections 9500, 9601, 9602 of this title, amending section 501 of this title, and repealing section 934a of Title 30, Mineral Lands and Mining] shall be treated for all purposes of law as the continuation of the Black Lung Disability Trust Fund established by section 3 of the Black Lung Benefits Revenue Act of 1977 [former section 934a of Title 30]. Any reference in any law to the Black Lung Disability Trust Fund established by such section 3 shall be deemed to include a reference to the Black Lung Disability Trust Fund established by the amendments made by this section.”

¹ See References in Text note below.

RESTRUCTURING OF TRUST FUND DEBT

Pub. L. 110-343, div. B, title I, §113(b), Oct. 3, 2008, 122 Stat. 3825, as amended by Pub. L. 113-295, div. A, title II, §210(b), Dec. 19, 2014, 128 Stat. 4031, provided that:

“(1) DEFINITIONS.—For purposes of this subsection—

“(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term ‘market value of the outstanding repayable advances, plus accrued interest’ means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

“(B) REFINANCING DATE.—The term ‘refinancing date’ means the date occurring 2 days after the enactment of this Act [Oct. 3, 2008].

“(C) REPAYABLE ADVANCE.—The term ‘repayable advance’ means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

“(D) TREASURY RATE.—The term ‘Treasury rate’ means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

“(E) TREASURY 1-YEAR RATE.—The term ‘Treasury 1-year rate’ means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

“(F) TRUST FUND.—The term ‘Trust Fund’ means the Black Lung Disability Trust Fund established under section 9501 of the Internal Revenue Code of 1986.

“(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

“(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

“(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and conditions, including maturity, as the Secretary of the Treasury shall prescribe.

“(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

“(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and de-

nominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

“(C) **AUTHORITY TO ISSUE OBLIGATIONS.**—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

“(3) **ONE-TIME APPROPRIATION.**—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

“(A) the market value of the outstanding repayable advances, plus accrued interest; and

“(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

“(4) **PREPAYMENT OF TRUST FUND OBLIGATIONS.**—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.”

FUNDS TO REMAIN AVAILABLE

Pub. L. 111–8, div. F, title I, Mar. 11, 2009, 123 Stat. 757, provided in part that: “In fiscal year 2009 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund (‘Fund’), to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954 [now 1986]; and interest on advances, as authorized by section 9501(c)(2) of that Act.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 115–31, div. H, title I, May 5, 2017, 131 Stat. 510.

Pub. L. 114–113, div. H, title I, Dec. 18, 2015, 129 Stat. 2591.

Pub. L. 113–235, div. G, title I, Dec. 16, 2014, 128 Stat. 2458.

Pub. L. 113–76, div. H, title I, Jan. 17, 2014, 128 Stat. 355.

Pub. L. 112–74, div. F, title I, Dec. 23, 2011, 125 Stat. 1058.

Pub. L. 111–117, div. D, title I, Dec. 16, 2009, 123 Stat. 3233.

Pub. L. 110–161, div. G, title I, Dec. 26, 2007, 121 Stat. 2162.

Pub. L. 109–149, title I, Dec. 30, 2005, 119 Stat. 2839.

Pub. L. 108–447, div. F, title I, Dec. 8, 2004, 118 Stat. 3118.

Pub. L. 108–199, div. E, title I, Jan. 23, 2004, 118 Stat. 231.

Pub. L. 108–7, div. G, title I, Feb. 20, 2003, 117 Stat. 303.

MORATORIUM ON INTEREST ACCRUALS ON INDEBTEDNESS OF BLACK LUNG DISABILITY TRUST FUND

Pub. L. 99–272, title XIII, § 13203(b), Apr. 7, 1986, 100 Stat. 312, provided that: “No interest shall accrue for the period beginning on October 1, 1985, and ending on

September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund.”

PROVISIONS RELATING TO PAYMENT OF BENEFITS TO MINERS AND ELIGIBLE SURVIVORS OF MINERS TO TAKE EFFECT AS RULES AND REGULATIONS OF SECRETARY OF LABOR

Pub. L. 95–239, § 20(b), Mar. 1, 1978, 92 Stat. 106, provided that: “In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits Revenue Act of 1977 [former section 934a(a) of Title 30, Mineral Lands and Mining], the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act [Mar. 1, 1978], shall take effect, as rules and regulations of the Secretary of Labor until such provisions are revoked, amended, or revised by law. The Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.”

§ 9502. Airport and Airway Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Airport and Airway Trust Fund”, consisting of such amounts as may be appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(5), or section 9602(b).

(b) Transfers to Airport and Airway Trust Fund

There are hereby appropriated to the Airport and Airway Trust Fund amounts equivalent to—

(1) the taxes received in the Treasury under—

(A) section 4041(c) (relating to aviation fuels),

(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),

(C) sections 4261 and 4271 (relating to transportation by air), and

(D) section 4081 with respect to aviation gasoline and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C), and

(2) the amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(m) of title 49, United States Code.

There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).

(c) Appropriation of additional sums

There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

(d) Expenditures from Airport and Airway Trust Fund

(1) Airport and airway program

Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before

April 1, 2018, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 or the Airport and Airway Safety and Capacity Expansion Act of 1987 or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Airport Improvement Program Temporary Extension Act of 1994 or the Federal Aviation Administration Authorization Act of 1994 or the Federal Aviation Reauthorization Act of 1996 or the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 providing for payments from the Airport and Airway Trust Fund or the Interim Federal Aviation Administration Authorization Act or section 6002 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-59, or the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century or the Aviation and Transportation Security Act or the Vision 100—Century of Aviation Reauthorization Act or any joint resolution making continuing appropriations for the fiscal year 2008 or the Department of Transportation Appropriations Act, 2008 or the Airport and Airway Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2008 or the Federal Aviation Administration Extension Act of 2009 or any joint resolution making continuing appropriations for the fiscal year 2010 or the Fiscal Year 2010 Federal Aviation Administration Extension Act or the Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II or the Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part II or the Airline Safety and Federal Aviation Administration Extension Act of 2010 or the Airport and Airway Extension Act of 2010, Part III or the Airport and Airway Extension Act of 2010, Part IV or the Airport and Airway Extension Act of 2011 or the Airport and Airway Extension Act of 2011, Part II or the Airport and Airway Extension Act of 2011, Part III or the Airport and Airway Extension Act of 2011, Part IV or the Airport and Airway Extension Act of 2011, Part V or the Airport and Airway Extension Act of 2012 or the FAA Modernization and Reform Act of 2012 or the Airport and Airway Extension Act of 2015 or the Airport and Airway Extension Act of 2016 or the FAA Extension, Safety, and Security Act of 2016 or the Disaster Tax Relief and Airport and Airway Extension Act of 2017;

(B) heretofore or hereafter incurred under part A of subtitle VII of title 49, United States Code, which are attributable to planning, research and development, construction, or operation and maintenance of—

- (i) air traffic control,
- (ii) air navigation,
- (iii) communications, or
- (iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

Any reference in subparagraph (A) to an Act shall be treated as a reference to such Act and the corresponding provisions (if any) of title 49, United States Code, as such Act and provisions were in effect on the date of the enactment of the last Act referred to in subparagraph (A).

(2) Transfers from Airport and Airway Trust Fund on account of certain refunds

The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms,¹ 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes) (other than subsection (l)(4) thereof).

(3) Transfers from the Airport and Airway Trust Fund on account of certain section 34 credits

The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 34 (other than payments made by reason of paragraph (4) of section 6427(l)) with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

(4) Transfers for refunds and credits not to exceed Trust Fund revenues attributable to fuel used

The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used.

(5) Transfers from Airport and Airway Trust Fund on account of refunds of taxes on transportation by air

The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the

¹ So in original. A closing parenthesis probably should precede the comma.

Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.

(6) Transfers from the Airport and Airway Trust Fund on account of certain airports

The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(m) of title 49, United States Code.

(e) Limitation on transfers to Trust Fund

(1) In general

Except as provided in paragraph (2), no amount may be appropriated or credited to the Airport and Airway Trust Fund on and after the date of any expenditure from the Airport and Airway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act; and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) Exception for prior obligations

Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before April 1, 2018, in accordance with the provisions of this section.

(Added Pub. L. 97-248, title II, §281(a), Sept. 3, 1982, 96 Stat. 565; amended Pub. L. 97-424, title IV, §426(e), Jan. 6, 1983, 96 Stat. 2168; Pub. L. 98-369, div. A, title IV, §474(r)(42), title VII, §735(c)(15), July 18, 1984, 98 Stat. 847, 984; Pub. L. 99-499, title V, §521(b)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100-203, title X, §10502(d)(12), (g), Dec. 22, 1987, 101 Stat. 1330-444, 1330-446; Pub. L. 100-223, title IV, §§402(a)(3), 403, Dec. 30, 1987, 101 Stat. 1532; Pub. L. 101-239, title VII, §7822(b)(5), Dec. 19, 1989, 103 Stat. 2425; Pub. L. 101-508, title XI, §§11211(b)(6)(G), 11213(c), (d)(3), (4), Nov. 5, 1990, 104 Stat. 1388-426, 1388-435, 1388-436; Pub. L. 102-581, title V, §§501, 502(a), Oct. 31, 1992, 106 Stat. 4898; Pub. L. 103-66, title XIII, §13242(d)(32), (33), Aug. 10, 1993, 107 Stat. 526, 527; Pub. L. 103-260, title I, §108, May 26, 1994, 108 Stat. 700; Pub. L. 103-272, §5(g)(3), July 5, 1994, 108 Stat. 1375; Pub. L. 103-305, title IV, §401, Aug. 23, 1994, 108 Stat. 1594; Pub. L. 104-188, title I, §§1609(c), (g)(4)(C), (D), 1703(n)(10), Aug. 20, 1996, 110 Stat. 1841, 1843, 1877; Pub. L. 104-264, title VIII, §806, title X, §1001, Oct. 9, 1996, 110 Stat. 3274, 3278; Pub. L. 105-2, §2(c), Feb. 28, 1997, 111 Stat. 5; Pub. L. 105-34, title X, §1031(d), title XVI, §1604(g)(5), Aug. 5, 1997, 111 Stat. 932, 1099; Pub. L. 105-206, title VI, §§6010(g)(2), 6023(31), July 22, 1998, 112 Stat. 814, 826; Pub. L. 106-181, title X, §1001, Apr.

5, 2000, 114 Stat. 196; Pub. L. 107-71, title I, §123(b), Nov. 19, 2001, 115 Stat. 631; Pub. L. 108-176, title IX, §901, Dec. 12, 2003, 117 Stat. 2597; Pub. L. 108-357, title VIII, §853(d)(2)(N), (O), Oct. 22, 2004, 118 Stat. 1613, 1614; Pub. L. 109-59, title XI, §11161(c)(2)(A), (B), (d), Aug. 10, 2005, 119 Stat. 1972; Pub. L. 109-432, div. A, title IV, §420(b)(5), Dec. 20, 2006, 120 Stat. 2969; Pub. L. 110-92, §149(b), Sept. 29, 2007, 121 Stat. 996; Pub. L. 110-161, div. K, title I, §116(c), Dec. 26, 2007, 121 Stat. 2382; Pub. L. 110-172, §11(f)(1), Dec. 29, 2007, 121 Stat. 2489; Pub. L. 110-190, §3(a), (b), Feb. 28, 2008, 122 Stat. 643; Pub. L. 110-253, §3(a), (b), June 30, 2008, 122 Stat. 2417; Pub. L. 110-330, §3(a), (b), Sept. 30, 2008, 122 Stat. 3717; Pub. L. 111-12, §3(a), (b), Mar. 30, 2009, 123 Stat. 1457; Pub. L. 111-68, div. B, §156(c), Oct. 1, 2009, 123 Stat. 2050; Pub. L. 111-69, §3(a), (b), Oct. 1, 2009, 123 Stat. 2054; Pub. L. 111-116, §3(a), (b), Dec. 16, 2009, 123 Stat. 3031; Pub. L. 111-147, title IV, §444(b)(1), Mar. 18, 2010, 124 Stat. 94; Pub. L. 111-153, §3(a), (b), Mar. 31, 2010, 124 Stat. 1084; Pub. L. 111-161, §3(a), (b), Apr. 30, 2010, 124 Stat. 1126; Pub. L. 111-197, §3(a), (b), July 2, 2010, 124 Stat. 1353; Pub. L. 111-216, title I, §102(a), (b), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111-249, §3(a), (b), Sept. 30, 2010, 124 Stat. 2627; Pub. L. 111-329, §3(a), (b), Dec. 22, 2010, 124 Stat. 3566; Pub. L. 112-7, §3(a), (b), Mar. 31, 2011, 125 Stat. 31; Pub. L. 112-16, §3(a), (b), May 31, 2011, 125 Stat. 218; Pub. L. 112-21, §3(a), (b), June 29, 2011, 125 Stat. 233; Pub. L. 112-27, §3(a), (b), Aug. 5, 2011, 125 Stat. 270; Pub. L. 112-30, title II, §203(a), (b), Sept. 16, 2011, 125 Stat. 357; Pub. L. 112-91, §3(a), (b), Jan. 31, 2012, 126 Stat. 3; Pub. L. 112-95, title XI, §§1102(a), (b), 1103(a)(3), Feb. 14, 2012, 126 Stat. 148-150; Pub. L. 113-188, title XV, §1501(b)(2)(D), Nov. 26, 2014, 128 Stat. 2024; Pub. L. 114-55, title II, §201, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114-141, title II, §201, Mar. 30, 2016, 130 Stat. 324; Pub. L. 114-190, title I, §1201, July 15, 2016, 130 Stat. 618; Pub. L. 115-63, title II, §201, Sept. 29, 2017, 131 Stat. 1171.)

REFERENCES IN TEXT

Title I of the Airport and Airway Development Act of 1970, referred to in subsec. (d)(1)(A), is title I of Pub. L. 91-258, May 21, 1970, 84 Stat. 219, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91-258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97-248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91-258 were repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Airport and Airway Development Act Amendments of 1976, referred to in subsec. (d)(1)(A), is Pub. L. 94-353, July 12, 1976, 90 Stat. 871, which was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Aviation Safety and Noise Abatement Act of 1979, referred to in subsec. (d)(1)(A), is Pub. L. 96-193, Feb. 18, 1980, 94 Stat. 50, which was classified principally to chapter 30 (§2101 et seq.) of former Title 49, and was substantially repealed by Pub. L. 103-272, §7(b),

July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as subchapter I (§47501 et seq.) of chapter 475 of Title 49.

The Fiscal Year 1981 Airport Development Authorization Act, referred to in subsec. (d)(1)(A), is part I (§§1101–1103) of subtitle A of title XI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 622, which amended sections 1714, 1715, 1717, and 1742 of former Title 49 and enacted provisions set out as notes under sections 1714 and 1716 of former Title 49, and was repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Airport and Airway Improvement Act of 1982, referred to in subsec. (d)(1)(A), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as subchapter I (§47101 et seq.) of chapter 471 of Title 49.

The Airport and Airway Safety and Capacity Expansion Act of 1987, referred to in subsec. (d)(1)(A), is Pub. L. 100–223, Dec. 30, 1987, 101 Stat. 1486. Sections 101, 102(a)–(c), 103 to 105(g), 106 to 116, 201 to 207, 301 to 306, 308 to 311, and 315 of Pub. L. 100–223 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990, referred to in subsec. (d)(1)(A), is subtitle C (§§9201–9209) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–372, which enacted section 2226d of former Title 49, amended sections 1353 and 2205 of former Title 49, and enacted provisions set out as a note under section 2201 of former Title 49. Sections 9202 to 9205 and 9207 to 9209 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Aviation Safety and Capacity Expansion Act of 1990, referred to in subsec. (d)(1)(A), is subtitle B (§§9101–9131) of title IX of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–353. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 “Sec. 613(c)”, 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101–508 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, referred to in subsec. (d)(1)(A), is Pub. L. 102–581, Oct. 31, 1992, 106 Stat. 4872. Sections 101 to 103(d), 105 to 107(c), 108 to 112(b), 113 to 120, 124, 125, 136, 201 to 203(a), 205, 208, 302, 401, and 402 of Pub. L. 102–581 were repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Airport Improvement Program Temporary Extension Act of 1994, referred to in subsec. (d)(1)(A), is Pub. L. 103–260, May 26, 1994, 108 Stat. 698. Sections 102 to 107 and 109 of Pub. L. 103–260 were repealed by Pub. L. 103–429, §11(b), Oct. 31, 1994, 108 Stat. 4391, an act to codify without substantive change recent laws related to transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

The Federal Aviation Administration Authorization Act of 1994, referred to in subsec. (d)(1)(A), is Pub. L.

103–305, Aug. 23, 1994, 108 Stat. 1569. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 40101 of Title 49 and Tables.

The Federal Aviation Reauthorization Act of 1996, referred to in subsec. (d)(1)(A), is Pub. L. 104–264, Oct. 9, 1996, 110 Stat. 3213. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, referred to in subsec. (d)(1)(A), is Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681. For complete classification of this Act to the Code, see Tables.

The Interim Federal Aviation Administration Authorization Act, referred to in subsec. (d)(1)(A), is Pub. L. 106–6, Mar. 31, 1999, 113 Stat. 10. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

Section 6002 of the 1999 Emergency Supplemental Appropriations Act, referred to in subsec. (d)(1)(A), is section 6002 of Pub. L. 106–31, May 21, 1999, 113 Stat. 113, which amended sections 44310, 47104, 47117, and 48103 of Title 49, Transportation.

Public Law 106–59, referred to in subsec. (d)(1)(A), is Pub. L. 106–59, Sept. 29, 1999, 113 Stat. 482, which amended sections 47104 and 48103 of Title 49, Transportation.

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (d)(1)(A), is Pub. L. 106–181, Apr. 5, 2000, 114 Stat. 61. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

The Aviation and Transportation Security Act, referred to in subsec. (d)(1)(A), is Pub. L. 107–71, Nov. 19, 2001, 115 Stat. 597. For complete classification of this Act to the Code, see Tables.

The Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (d)(1)(A), is Pub. L. 108–176, Dec. 12, 2003, 117 Stat. 2490. For complete classification of this Act to the Code, see Short Title of 2003 Amendments note set out under section 40101 of Title 49, Transportation, and Tables.

The Department of Transportation Appropriations Act, 2008, referred to in subsec. (d)(1)(A), is title I of div. K of Pub. L. 110–161, Dec. 26, 2007, 121 Stat. 2375. For complete classification of this Act to the Code, see Tables.

The Airport and Airway Extension Act of 2008, referred to in subsec. (d)(1)(A), is Pub. L. 110–190, Feb. 28, 2008, 122 Stat. 643. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1 of this title and Tables.

The Federal Aviation Administration Extension Act of 2008, referred to in subsec. (d)(1)(A), is Pub. L. 110–253, June 30, 2008, 122 Stat. 2417. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1 of this title and Tables.

The Federal Aviation Administration Extension Act of 2008, Part II, referred to in subsec. (d)(1)(A), is Pub. L. 110–330, Sept. 30, 2008, 122 Stat. 3717. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1 of this title and Tables.

The Federal Aviation Administration Extension Act of 2009, referred to in subsec. (d)(1)(A), is Pub. L. 111–12, Mar. 30, 2009, 123 Stat. 1457. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of this title and Tables.

The Fiscal Year 2010 Federal Aviation Administration Extension Act, referred to in subsec. (d)(1)(A), is Pub. L. 111–69, Oct. 1, 2009, 123 Stat. 2054. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of this title and Tables.

The Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II, referred to in subsec.

(d)(1)(A), is Pub. L. 111–116, Dec. 16, 2009, 123 Stat. 3031. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of this title and Tables.

The Federal Aviation Administration Extension Act of 2010, referred to in subsec. (d)(1)(A), is Pub. L. 111–153, Mar. 31, 2010, 124 Stat. 1084. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2010, referred to in subsec. (d)(1)(A), is Pub. L. 111–161, Apr. 30, 2010, 124 Stat. 1126. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2010, Part II, referred to in subsec. (d)(1)(A), is Pub. L. 111–197, July 2, 2010, 124 Stat. 1353. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1 of this title and Tables.

The Airline Safety and Federal Aviation Administration Extension Act of 2010, referred to in subsec. (d)(1)(A), is Pub. L. 111–216, Aug. 1, 2010, 124 Stat. 2348. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

The Airport and Airway Extension Act of 2010, Part III, referred to in subsec. (d)(1)(A), is Pub. L. 111–249, Sept. 30, 2010, 124 Stat. 2627. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2010, Part IV, referred to in subsec. (d)(1)(A), is Pub. L. 111–329, Dec. 22, 2010, 124 Stat. 3566. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2011, referred to in subsec. (d)(1)(A), is Pub. L. 112–7, Mar. 31, 2011, 125 Stat. 31. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2011, Part II, referred to in subsec. (d)(1)(A), is Pub. L. 112–16, May 31, 2011, 125 Stat. 218. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2011, Part III, referred to in subsec. (d)(1)(A), is Pub. L. 112–21, June 29, 2011, 125 Stat. 233. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2011, Part IV, referred to in subsec. (d)(1)(A), is Pub. L. 112–27, Aug. 5, 2011, 125 Stat. 270. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2011, Part V, referred to in subsec. (d)(1)(A), is title II of Pub. L. 112–30, Sept. 16, 2011, 125 Stat. 357. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2012, referred to in subsec. (d)(1)(A), is Pub. L. 112–91, Jan. 31, 2012, 126 Stat. 3. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 1 of this title and Tables.

The FAA Modernization and Reform Act of 2012, referred to in subsec. (d)(1)(A), is Pub. L. 112–95, Feb. 14, 2012, 126 Stat. 11. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

The Airport and Airway Extension Act of 2015, referred to in subsec. (d)(1)(A), is Pub. L. 114–55, Sept. 30,

2015, 129 Stat. 524. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 1 of this title and Tables.

The Airport and Airway Extension Act of 2016, referred to in subsec. (d)(1)(A), is Pub. L. 114–141, Mar. 30, 2016, 130 Stat. 322. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 1 of this title and Tables.

The FAA Extension, Safety, and Security Act of 2016, referred to in subsec. (d)(1)(A), is Pub. L. 114–190, July 15, 2016, 130 Stat. 615. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 40101 of Title 49, Transportation, and Tables.

The Disaster Tax Relief and Airport and Airway Extension Act of 2017, referred to in subsec. (d)(1)(A), is Pub. L. 115–63, Sept. 29, 2017, 131 Stat. 1168. For complete classification of this Act to the Code, see Short Title of 2017 Amendment note set out under section 1 of this title and Tables.

The date of the enactment of the last Act referred to in subparagraph (A), referred to in subsec. (d)(1), is the date of the enactment of the Disaster Tax Relief and Airport and Airway Extension Act of 2017, Pub. L. 115–63, which was approved Sept. 29, 2017.

AMENDMENTS

2017—Subsec. (d)(1). Pub. L. 115–63, §201(a)(1), substituted “April 1, 2018” for “October 1, 2017” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 115–63, §201(a)(2), inserted “or the Disaster Tax Relief and Airport and Airway Extension Act of 2017” before semicolon at end.

Subsec. (e)(2). Pub. L. 115–63, §201(b), substituted “April 1, 2018” for “October 1, 2017”.

2016—Subsec. (d)(1). Pub. L. 114–190, §1201(a)(1), substituted “October 1, 2017” for “July 16, 2016” in introductory provisions.

Pub. L. 114–141, §201(a)(1), substituted “July 16, 2016” for “April 1, 2016” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 114–190, §1201(a)(2), inserted “or the FAA Extension, Safety, and Security Act of 2016” before semicolon at end.

Pub. L. 114–141, §201(a)(2), inserted “or the Airport and Airway Extension Act of 2016” before semicolon at end.

Subsec. (e)(2). Pub. L. 114–190, §1201(b), substituted “October 1, 2017” for “July 16, 2016”.

Pub. L. 114–141, §201(b), substituted “July 16, 2016” for “April 1, 2016”.

2015—Subsec. (d)(1). Pub. L. 114–55, §201(a)(1), substituted “April 1, 2016” for “October 1, 2015” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 114–55, §201(a)(2), inserted “or the Airport and Airway Extension Act of 2015” before semicolon at end.

Subsec. (e)(2). Pub. L. 114–55, §201(b), substituted “April 1, 2016” for “October 1, 2015”.

2014—Subsecs. (b)(2), (d)(6). Pub. L. 113–188 substituted “section 47107(m)” for “section 47107(n)”.

2012—Subsec. (b)(1)(B) to (D). Pub. L. 112–95, §1103(a)(3), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (d)(1). Pub. L. 112–95, §1102(a)(1), substituted “October 1, 2015” for “February 18, 2012” in introductory provisions.

Pub. L. 112–91, §3(a)(1), substituted “February 18, 2012” for “February 1, 2012” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 112–95, §1102(a)(2), inserted “or the FAA Modernization and Reform Act of 2012” before semicolon at end.

Pub. L. 112–91, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2012” before semicolon at end.

Subsec. (e)(2). Pub. L. 112–95, §1102(b), substituted “October 1, 2015” for “February 18, 2012”.

Pub. L. 112–91, §3(b), substituted “February 18, 2012” for “February 1, 2012”.

2011—Subsec. (d)(1). Pub. L. 112–30, §203(a)(1), substituted “February 1, 2012” for “September 17, 2011” in introductory provisions.

Pub. L. 112-27, §3(a)(1), substituted “September 17, 2011” for “July 23, 2011” in introductory provisions.

Pub. L. 112-21, §3(a)(1), substituted “July 23, 2011” for “July 1, 2011” in introductory provisions.

Pub. L. 112-16, §3(a)(1), substituted “July 1, 2011” for “June 1, 2011” in introductory provisions.

Pub. L. 112-7, §3(a)(1), substituted “June 1, 2011” for “April 1, 2011” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 112-30, §203(a)(2), inserted “or the Airport and Airway Extension Act of 2011, Part V” before semicolon at end.

Pub. L. 112-27, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2011, Part IV” before semicolon at end.

Pub. L. 112-21, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2011, Part III” before semicolon at end.

Pub. L. 112-16, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2011, Part II” before semicolon at end.

Pub. L. 112-7, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2011” before semicolon at end.

Subsec. (e)(2). Pub. L. 112-30, §203(b), substituted “February 1, 2012” for “September 17, 2011”.

Pub. L. 112-27, §3(b), substituted “September 17, 2011” for “July 23, 2011”.

Pub. L. 112-21, §3(b), substituted “July 23, 2011” for “July 1, 2011”.

Pub. L. 112-16, §3(b), substituted “July 1, 2011” for “June 1, 2011”.

Pub. L. 112-7, §3(b), substituted “June 1, 2011” for “April 1, 2011”.

2010—Subsec. (a). Pub. L. 111-147 substituted “section 9503(c)(5)” for “section 9503(c)(7)”.

Subsec. (d)(1). Pub. L. 111-329, §3(a)(1), substituted “April 1, 2011” for “January 1, 2011” in introductory provisions.

Pub. L. 111-249, §3(a)(1), substituted “January 1, 2011” for “October 1, 2010” in introductory provisions.

Pub. L. 111-216, §102(a)(1), substituted “October 1, 2010” for “August 2, 2010” in introductory provisions.

Pub. L. 111-197, §3(a)(1), substituted “August 2, 2010” for “July 4, 2010” in introductory provisions.

Pub. L. 111-161, §3(a)(1), substituted “July 4, 2010” for “May 1, 2010” in introductory provisions.

Pub. L. 111-153, §3(a)(1), substituted “May 1, 2010” for “April 1, 2010” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 111-329, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2010, Part IV” before semicolon at end.

Pub. L. 111-249, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2010, Part III” before semicolon at end.

Pub. L. 111-216, §102(a)(2), inserted “or the Airline Safety and Federal Aviation Administration Extension Act of 2010” before semicolon at end.

Pub. L. 111-197, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2010, Part II” before semicolon at end.

Pub. L. 111-161, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2010” before semicolon at end.

Pub. L. 111-153, §3(a)(2), inserted “or the Federal Aviation Administration Extension Act of 2010” before semicolon at end.

Subsec. (e)(2). Pub. L. 111-329, §3(b), substituted “April 1, 2011” for “January 1, 2011”.

Pub. L. 111-249, §3(b), substituted “January 1, 2011” for “October 1, 2010”.

Pub. L. 111-216, §102(b), substituted “October 1, 2010” for “August 2, 2010”.

Pub. L. 111-197, §3(b), substituted “August 2, 2010” for “July 4, 2010”.

Pub. L. 111-161, §3(b), substituted “July 4, 2010” for “May 1, 2010”.

Pub. L. 111-153, §3(b), substituted “May 1, 2010” for “April 1, 2010”.

2009—Subsec. (d)(1). Pub. L. 111-116, §3(a)(1), substituted “April 1, 2010” for “January 1, 2010” in introductory provisions.

Pub. L. 111-69, §3(a)(1), substituted “January 1, 2010” for “October 1, 2009” in introductory provisions.

Pub. L. 111-12, §3(a)(1), substituted “October 1, 2009” for “April 1, 2009” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 111-116, §3(a)(2), inserted “or the Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II” before semicolon at end.

Pub. L. 111-69, §3(a)(2), inserted “or the Fiscal Year 2010 Federal Aviation Administration Extension Act” before semicolon at end.

Pub. L. 111-68 inserted “or any joint resolution making continuing appropriations for the fiscal year 2010” before semicolon at end.

Pub. L. 111-12, §3(a)(2), inserted “or the Federal Aviation Administration Extension Act of 2009” before semicolon at end.

Subsec. (e)(2). Pub. L. 111-116, §3(b), substituted “April 1, 2010” for “January 1, 2010”.

Pub. L. 111-69, §3(b), substituted “January 1, 2010” for “October 1, 2009”.

Pub. L. 111-12, §3(b), substituted “October 1, 2009” for “April 1, 2009”.

2008—Subsec. (d)(1). Pub. L. 110-330, §3(a)(1), substituted “April 1, 2009” for “October 1, 2008” in introductory provisions.

Pub. L. 110-253, §3(a)(1), substituted “October 1, 2008” for “July 1, 2008” in introductory provisions.

Pub. L. 110-190, §3(a)(1), substituted “July 1, 2008” for “March 1, 2008” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 110-330, §3(a)(2), inserted “or the Federal Aviation Administration Extension Act of 2008, Part II” before semicolon at end.

Pub. L. 110-253, §3(a)(2), inserted “or the Federal Aviation Administration Extension Act of 2008” before semicolon at end.

Pub. L. 110-190, §3(a)(2), inserted “or the Airport and Airway Extension Act of 2008” before semicolon at end.

Subsec. (e)(2). Pub. L. 110-330, §3(b), substituted “April 1, 2009” for “October 1, 2008”.

Pub. L. 110-253, §3(b), substituted “October 1, 2008” for “July 1, 2008”.

Pub. L. 110-190, §3(b), which directed substitution of “July 1, 2008” for “March 1, 2008” in subsec. (f)(2), was executed to subsec. (e)(2) as redesignated by Pub. L. 110-172, to reflect the probable intent of Congress. See 2007 Amendment notes below.

2007—Subsec. (d)(1). Pub. L. 110-161, §116(c)(1)(A), substituted “March 1, 2008” for “October 1, 2007” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 110-161, §116(c)(1)(B), inserted “or the Department of Transportation Appropriations Act, 2008” before semicolon at end.

Pub. L. 110-92 inserted “or any joint resolution making continuing appropriations for the fiscal year 2008” before semicolon at end.

Subsec. (e). Pub. L. 110-172 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: “For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

“(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol; and

“(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).”

Subsec. (f). Pub. L. 110-172 redesignated subsec. (f) as (e).

Subsec. (f)(2). Pub. L. 110-161, §116(c)(2), substituted “March 1, 2008” for “October 1, 2007”.

2006—Subsec. (d)(2). Pub. L. 109-432, §420(b)(5)(A), struck out “and (l)(5)” after “subsection (l)(4)”.

Subsec. (d)(3). Pub. L. 109-432, §420(b)(5)(B), struck out “or (5)” after “paragraph (4)”.

2005—Subsec. (a). Pub. L. 109-59, §1116(c)(2)(A), substituted “appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)” for “appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)”.

Subsec. (b)(1)(A). Pub. L. 109-59, §1116(c)(2)(B)(i), substituted “section 4041(c)” for “subsections (c) and (e) of section 4041”.

Subsec. (b)(1)(C). Pub. L. 109-59, §11161(c)(2)(B)(ii), substituted “and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)” for “and aviation-grade kerosene”.

Subsec. (d)(2). Pub. L. 109-59, §11161(d)(1), inserted “(other than subsection (l)(4) and (l)(5) thereof)” after “or 6427 (relating to fuels not used for taxable purposes)”.

Subsec. (d)(3). Pub. L. 109-59, §11161(d)(2), inserted “(other than payments made by reason of paragraph (4) or (5) of section 6427(l))” after “section 34”.

2004—Subsec. (b). Pub. L. 108-357, §853(d)(2)(O), amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “There shall not be taken into account under paragraph (1) so much of the taxes imposed by sections 4081 and 4091 as are determined at the rates specified in section 4081(a)(2)(B) or 4091(b)(2).”

Subsec. (b)(1)(B) to (D). Pub. L. 108-357, §853(d)(2)(N), inserted “and” at end of subpar. (B), added subpar. (C), and struck out former subpars. (C) and (D) which read as follows:

“(C) section 4081 (relating to gasoline) with respect to aviation gasoline, and

“(D) section 4091 (relating to aviation fuel), and”.

2003—Subsec. (d)(1). Pub. L. 108-176, §901(a)(1), substituted “October 1, 2007” for “October 1, 2003” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 108-176, §901(a)(2), inserted “or the Vision 100—Century of Aviation Reauthorization Act” before semicolon at end.

Subsec. (f)(2). Pub. L. 108-176, §901(b), substituted “October 1, 2007” for “October 1, 2003”.

2001—Subsec. (d)(1)(A). Pub. L. 107-71 inserted “or the Aviation and Transportation Security Act” before semicolon at end.

2000—Subsec. (d)(1). Pub. L. 106-181, §1001(a)(1), substituted “October 1, 2003” for “October 1, 1998” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 106-181, §1001(a)(2), inserted before the semicolon at end “or the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 providing for payments from the Airport and Airway Trust Fund or the Interim Federal Aviation Administration Authorization Act or section 6002 of the 1999 Emergency Supplemental Appropriations Act, Public Law 106-59, or the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century”.

Subsec. (f). Pub. L. 106-181, §1001(b), added subsec. (f). 1998—Subsec. (b). Pub. L. 105-206, §6010(g)(2), moved concluding provisions from end of par. (1) to end of subsec. (b).

Subsec. (e). Pub. L. 105-206, §6023(31), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990.

“(2) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this paragraph) be required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be reduced by—

“(A) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

“(B) 0.67 cent per gallon in the case of fuel used in producing a mixture described in subparagraph (A).” 1997—Subsec. (b)(1). Pub. L. 105-34, §1031(d)(1)(C), inserted concluding provisions.

Pub. L. 105-2, §2(c)(1), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “There is hereby appropriated to the Airport and Airway Trust Fund—

“(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1997, under subsections (c) and (e) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

“(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before and before January 1, 1997, under section 4081 (to the extent of 15 cents per gallon), with respect to gasoline used in aircraft;

“(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1997, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate);

“(4) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1997, under section 4071, with respect to tires of the types used on aircraft, and

“(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code.”

Subsec. (b)(1)(C). Pub. L. 105-34, §1031(d)(1)(A), struck out “(to the extent that the rate of the tax on such gasoline exceeds 4.3 cents per gallon)” after “aviation gasoline”.

Subsec. (b)(1)(D). Pub. L. 105-34, §1031(d)(1)(B), struck out “to the extent attributable to the Airport and Airway Trust Fund financing rate” after “aviation fuel”.

Subsec. (d)(5), (6). Pub. L. 105-34, §1604(g)(5), redesignated par. (5), relating to transfers on account of certain airports, as (6).

Subsec. (f). Pub. L. 105-34, §1031(d)(2), struck out heading and text of subsec. (f). Text read as follows: “For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the Airport and Airway Trust Fund financing rate is—

“(A) in the case of fuel used in an aircraft in noncommercial aviation (as defined in section 4041(c)(2)), 17.5 cents per gallon, and

“(B) in the case of fuel used in an aircraft other than in noncommercial aviation (as so defined), zero.

“(2) ALCOHOL FUELS.—If the rate of tax on any fuel is determined under section 4091(c), the Airport and Airway Trust Fund financing rate is the excess (if any) of the rate of tax determined under section 4091(c) over 4.4 cents per gallon (1% of 4.4 cents per gallon in the case of a rate of tax determined under section 4091(c)(2)).

“(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to taxes imposed during any period that the rate of the tax imposed by section 4091(b)(1) is 4.3 cents per gallon.”

Subsec. (f)(3). Pub. L. 105-2, §2(c)(2), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

“(A) taxes imposed after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

“(B) taxes imposed after December 31, 1996.”

1996—Subsec. (b)(1). Pub. L. 104-188, §1609(c)(1), substituted “January 1, 1997” for “January 1, 1996”.

Subsec. (b)(2). Pub. L. 104-188, §1703(n)(10), inserted “and before” after “1982.”.

Pub. L. 104-188, §1609(c)(1), (g)(4)(D), substituted “January 1, 1997” for “January 1, 1996” and “15 cents” for “14 cents”.

Subsec. (b)(3), (4). Pub. L. 104-188, §1609(c)(1), substituted “January 1, 1997” for “January 1, 1996”.

Subsec. (b)(5). Pub. L. 104-264, §806(1)-(3), added par. (5).

Subsec. (d)(1). Pub. L. 104-264, §1001(a), substituted “October 1, 1998” for “October 1, 1996” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 104-264, §1001(b), inserted before semicolon at end “or the Federal Aviation Reauthorization Act of 1996”.

Subsec. (d)(5). Pub. L. 104-264, §806(4), added par. (5) relating to transfers on account of certain airports.

Pub. L. 104-188, §1609(c)(3), added par. (5) relating to transfers on account of refunds of taxes on transportation by air.

Subsec. (f)(1)(A). Pub. L. 104-188, §1609(g)(4)(C), substituted “section 4041(c)(2)” for “section 4041(c)(4)”.

Subsec. (f)(3). Pub. L. 104-188, §1609(c)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate is zero with respect to tax received after December 31, 1995.”

1994—Subsec. (d)(1). Pub. L. 103-305, §401(1), (4), in introductory provisions substituted “October 1, 1996” for “October 1, 1995” and inserted last sentence which read: “Any reference in subparagraph (A) to an Act shall be treated as a reference to such Act and the corresponding provisions (if any) of title 49, United States Code, as such Act and provisions were in effect on the date of the enactment of the last Act referred to in subparagraph (A).”

Subsec. (d)(1)(A). Pub. L. 103-305, §401(2), (3), inserted “or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992” after “Capacity Expansion Act of 1990” and substituted “or the Federal Aviation Administration Authorization Act of 1994” for “(as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)”.

Pub. L. 103-260 substituted “or the Airport Improvement Program Temporary Extension Act of 1994 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)”.

Subsec. (d)(1)(B). Pub. L. 103-272 substituted “part A of subtitle VII of title 49, United States Code,” for “the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.).”

1993—Subsec. (b)(2). Pub. L. 103-66, §13242(d)(33), substituted “(to the extent of 14 cents per gallon)” for “(to the extent attributable to the Highway Trust Fund financing rate and the deficit reduction rate)”.

Subsec. (f). Pub. L. 103-66, §13242(d)(32), added subsec. (f).

1992—Subsec. (d)(1). Pub. L. 102-581, §501(1), substituted “October 1, 1995” for “October 1, 1992”.

Subsec. (d)(1)(A). Pub. L. 102-581, §501(2), substituted “(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)” for “(as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)”.

Subsec. (e)(1). Pub. L. 102-581, §502(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In the case of taxes imposed before January 1, 1993, the amounts which would (but for this paragraph) be required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be 3 cents per gallon less (3.5 cents per gallon less in the case of taxes imposed by section 4041(c)(1) and 4091) than the amounts which would (but for this sentence) be appropriated under such paragraphs.”

1990—Subsec. (b). Pub. L. 101-508, §11213(c)(2), (d)(3), inserted “and the deficit reduction rate” after “financing rate” in par. (2) and substituted “January 1, 1996” for “January 1, 1991” in pars. (1) to (4).

Subsec. (d)(1)(A). Pub. L. 101-508, §11213(d)(4), substituted “or the Federal Aviation Administration Re-

search, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 (as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)” for “(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)”.

Subsec. (d)(4). Pub. L. 101-508, §11211(b)(6)(G), added par. (4).

Subsec. (e). Pub. L. 101-508, §11213(c)(1), added subsec. (e).

1989—Subsec. (b)(3). Pub. L. 101-239 substituted “; and” for “, and” at end.

1987—Subsec. (b). Pub. L. 100-223, §402(a)(3), substituted “January 1, 1991” for “January 1, 1988”, wherever appearing.

Subsec. (b)(3). Pub. L. 100-203, §10502(g), substituted “January 1, 1991” for “January 1, 1988” in the par. (3) added by Pub. L. 100-203, §10502(d)(12).

Pub. L. 100-203, §10502(d)(12), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 100-203, §10502(d)(12), redesignated former par. (3) as (4).

Subsec. (d)(1). Pub. L. 100-223, §403, in introductory provisions substituted “October 1, 1992” for “October 1, 1987”, and in subpar. (A), substituted “or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)” for “(as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982)”.

1986—Subsec. (b)(1). Pub. L. 99-499, §521(b)(2)(A), substituted “subsections (c) and (e) of section 4041” for “subsections (c) and (d) of section 4041”.

Subsec. (b)(2). Pub. L. 99-499, §521(b)(2)(B), inserted “(to the extent attributable to the Highway Trust Fund financing rate)” after “section 4081”.

1984—Subsec. (b)(3). Pub. L. 98-369, §735(c)(15), substituted “under section 4071 with respect to tires of the types used on aircraft” for “under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of types used on aircraft”.

Subsec. (d)(3). Pub. L. 98-369, §474(r)(42), substituted references to section 34 for references to section 39 in heading and text.

1983—Subsec. (d)(1)(A). Pub. L. 97-424 substituted “the Surface Transportation Assistance Act of 1982” for “the Airport and Airway Improvement Act of 1982”.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title XI, §1102(c), Feb. 14, 2012, 126 Stat. 149, provided that: “The amendments made by this section [amending this section] shall take effect on February 18, 2012.”

Amendment by section 1103(a)(3) of Pub. L. 112-95 applicable to fuel used after Mar. 31, 2012, see section 1103(d)(1) of Pub. L. 112-95, set out as an Effective Date note under section 4043 of this title.

Pub. L. 112-91, §3(c), Jan. 31, 2012, 126 Stat. 3, provided that: “The amendments made by this section [amending this section] shall take effect on February 1, 2012.”

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-30, title II, §203(c), Sept. 16, 2011, 125 Stat. 357, provided that: “The amendments made by this section [amending this section] shall take effect on September 17, 2011.”

Pub. L. 112-27, §3(c), Aug. 5, 2011, 125 Stat. 270, provided that: “The amendments made by this section [amending this section] shall take effect on July 23, 2011.”

Pub. L. 112-21, §3(c), June 29, 2011, 125 Stat. 233, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 2011.”

Pub. L. 112-16, §3(c), May 31, 2011, 125 Stat. 218, provided that: “The amendments made by this section [amending this section] shall take effect on June 1, 2011.”

Pub. L. 112-7, §3(c), Mar. 31, 2011, 125 Stat. 31, provided that: “The amendments made by this section [amending this section] shall take effect on April 1, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-329, §3(c), Dec. 22, 2010, 124 Stat. 3566, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2011.”

Pub. L. 111-249, §3(c), Sept. 30, 2010, 124 Stat. 2627, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2010.”

Pub. L. 111-216, title I, §102(c), Aug. 1, 2010, 124 Stat. 2349, provided that: “The amendments made by this section [amending this section] shall take effect on August 2, 2010.”

Pub. L. 111-197, §3(c), July 2, 2010, 124 Stat. 1353, provided that: “The amendments made by this section [amending this section] shall take effect on July 4, 2010.”

Pub. L. 111-161, §3(c), Apr. 30, 2010, 124 Stat. 1126, provided that: “The amendments made by this section [amending this section] shall take effect on May 1, 2010.”

Pub. L. 111-153, §3(c), Mar. 31, 2010, 124 Stat. 1084, provided that: “The amendments made by this section [amending this section] shall take effect on April 1, 2010.”

Pub. L. 111-147, title IV, §444(c), Mar. 18, 2010, 124 Stat. 94, provided that: “The amendment made by this section [amending this section and sections 9503 and 9504 of this title] shall apply to transfers relating to amounts paid and credits allowed after the date of the enactment of this Act [Mar. 18, 2010].”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-116, §3(c), Dec. 16, 2009, 123 Stat. 3031, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2010.”

Pub. L. 111-69, §3(c), Oct. 1, 2009, 123 Stat. 2054, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2009.”

Pub. L. 111-12, §3(c), Mar. 30, 2009, 123 Stat. 1457, provided that: “The amendments made by this section [amending this section] shall take effect on April 1, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-330, §3(c), Sept. 30, 2008, 122 Stat. 3717, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2008.”

Pub. L. 110-253, §3(d), June 30, 2008, 122 Stat. 2418, provided that: “The amendments made by this section [amending this section and sections 40117, 44302, 44303, 47115 and 47141 of Title 49, Transportation, and amending provisions set out as a note under section 47109 of Title 49] shall take effect on July 1, 2008.”

Pub. L. 110-190, §3(c), Feb. 28, 2008, 122 Stat. 643, provided that: “The amendments made by this section [amending this section] shall take effect on March 1, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 11(f)(4) of Pub. L. 110-172, set out as a note under section 904 of this title.

Amendment by Pub. L. 110-161 effective Oct. 1, 2007, see section 116(d) of div. K of Pub. L. 110-161, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to kerosene sold after Sept. 30, 2005, with special rule for pending

claims, see section 420(c) of Pub. L. 109-432, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of Title 49, Transportation.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of Title 49, Transportation.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 6023(31) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(2) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1031(e)(3), Aug. 5, 1997, 111 Stat. 933, provided that: “The amendments made by subsection (d) [amending this section] shall apply with respect to taxes received in the Treasury on and after October 1, 1997.”

EFFECTIVE DATE OF 1996 AMENDMENTS

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of Title 49, Transportation.

Amendment by section 1609(c), (g)(4)(C), (D) of Pub. L. 104-188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104-188, set out as a note under section 4041 of this title.

Amendment by section 1703(n)(10) of Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-581, title V, §502(b), Oct. 31, 1992, 106 Stat. 4898, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in section 11213 of the Revenue Reconciliation Act of 1990 [Pub. L. 101-508, title XI] on the date of the enactment of such Act [Nov. 5, 1990].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(b)(6)(G) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of

Pub. L. 101-508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10502(d)(12) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

Pub. L. 100-203, title X, § 10502(g), Dec. 22, 1987, 101 Stat. 1330-446, provided that: “If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted [enacted as Pub. L. 100-223], effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code [this title] (as added by this section) are each amended by striking out ‘January 1, 1988’ and inserting in lieu thereof ‘January 1, 1991.’”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(42) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 735(c)(15) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE; SAVINGS PROVISION

Pub. L. 97-248, title II, § 281(d), Sept. 3, 1982, 96 Stat. 566, provided that:

“(1) **IN GENERAL.**—The amendments made by this section [enacting this section, amending section 9501 of this title, and repealing section 1742 of former Title 49, Transportation, and provisions which had amended a note set out under section 120 of Title 23, Highways] shall take effect on September 1, 1982.

“(2) **SAVINGS PROVISIONS.**—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970 [section 208 of Pub. L. 91-258, May 21, 1970, 84 Stat. 250, enacted section 1742 of former Title 49 and amended provisions set out as a note under section 120 of Title 23]. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund established by the amendments made by this section.”

§ 9503. Highway Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Highway Trust Fund”, consisting of such amounts as may be appropriated or credited to the Highway Trust Fund as provided in this section or section 9602(b).

(b) Transfer to Highway Trust Fund of amounts equivalent to certain taxes and penalties

(1) Certain taxes

There are hereby appropriated to the Highway Trust Fund amounts equivalent to the

taxes received in the Treasury before October 1, 2022, under the following provisions—

- (A) section 4041 (relating to taxes on diesel fuels and special motor fuels),
- (B) section 4051 (relating to retail tax on heavy trucks and trailers),
- (C) section 4071 (relating to tax on tires),
- (D) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene), and
- (E) section 4481 (relating to tax on use of certain vehicles).

For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426 and taxes received under section 4081 shall be determined without regard to tax receipts attributable to the rate specified in section 4081(a)(2)(C).

(2) Liabilities incurred before October 1, 2022

There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, 2022, and before July 1, 2023, and which are attributable to liability for tax incurred before October 1, 2022, under the provisions described in paragraph (1).

[(3) Repealed. Pub. L. 109-59, title XI, § 11161(c)(2)(C), Aug. 10, 2005, 119 Stat. 1972]

(4) Certain taxes not transferred to Highway Trust Fund

For purposes of paragraphs (1) and (2), there shall not be taken into account the taxes imposed by—

- (A) section 4041(d),
- (B) section 4081 to the extent attributable to the rate specified in section 4081(a)(2)(B),
- (C) section 4041 or 4081 to the extent attributable to fuel used in a train, or
- (D) in the case of gasoline and special motor fuels used as described in paragraph (3)(D) or (4)(B) of subsection (c), section 4041 or 4081 with respect to so much of the rate of tax as exceeds—
 - (i) 11.5 cents per gallon with respect to taxes imposed before October 1, 2001,
 - (ii) 13 cents per gallon with respect to taxes imposed after September 30, 2001, and before October 1, 2003, and
 - (iii) 13.5 cents per gallon with respect to taxes imposed after September 30, 2003, and before October 1, 2005.

(5) Certain penalties

(A) In general

There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties paid under sections 6715, 6715A, 6717, 6718, 6719, 6720A, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).

(B) Penalties related to motor vehicle safety

(i) In general

There are hereby appropriated to the Highway Trust Fund amounts equivalent to covered motor vehicle safety penalty collections.

(ii) Covered motor vehicle safety penalty collections

For purposes of this subparagraph, the term “covered motor vehicle safety penalty collections” means any amount collected in connection with a civil penalty under section 30165 of title 49, United States Code, reduced by any award authorized by the Secretary of Transportation to be paid to any person in connection with information provided by such person related to a violation of chapter 301 of such title which is a predicate to such civil penalty.

(6) Limitation on transfers to Highway Trust Fund

(A) In general

Except as provided in subparagraph (B), no amount may be appropriated to the Highway Trust Fund on and after the date of any expenditure from the Highway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

- (i) any provision of law which is not contained or referenced in this title or in a revenue Act, and
- (ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(B) Exception for prior obligations

Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2020, in accordance with the provisions of this section.

(c) Expenditures from Highway Trust Fund

(1) Federal-aid highway program

Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2020, to meet those obligations of the United States heretofore or hereafter incurred which are authorized to be paid out of the Highway Trust Fund under the FAST Act or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).

(2) Floor stocks refunds

The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 2023, under section 6412(a). The amounts payable from the Highway Trust Fund under the preceding sentence shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.

(3) Transfers from the Trust Fund for motorboat fuel taxes

(A) Transfer to Land and Water Conservation Fund

(i) In general

The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in chapter 2003 of title 54 amounts (as determined by the Secretary) equivalent to the motorboat fuel taxes received on or after October 1, 2005, and before October 1, 2022.

(ii) Limitation

The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$1,000,000.

(B) Excess funds transferred to Sport Fish Restoration and Boating Trust Fund

Any amounts in the Highway Trust Fund—

- (i) which are attributable to motorboat fuel taxes, and
- (ii) which are not transferred from the Highway Trust Fund under subparagraph (A),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund.

(C) Motorboat fuel taxes

For purposes of this paragraph, the term “motorboat fuel taxes” means the taxes under section 4041(a)(2) with respect to special motor fuels used as fuel in motorboats and under section 4081 with respect to gasoline used as fuel in motorboats, but only to the extent such taxes are deposited into the Highway Trust Fund.

(D) Determination

The amount of payments made under this paragraph after October 1, 1986 shall be determined by the Secretary in accordance with the methodology described in the Treasury Department's Report to Congress of June 1986 entitled “Gasoline Excise Tax Revenues Attributable to Fuel Used in Recreational Motorboats.”

(4) Transfers from the Trust Fund for small-engine fuel taxes

(A) In general

The Secretary shall pay from time to time from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund amounts (as determined by him) equivalent to the small-engine fuel taxes received on or after December 1, 1990, and before October 1, 2022.

(B) Small-engine fuel taxes

For purposes of this paragraph, the term “small-engine fuel taxes” means the taxes under section 4081 with respect to gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment, but only to the extent such taxes are deposited into the Highway Trust Fund.

(5) Transfers from the Trust Fund for certain aviation fuel taxes

The Secretary shall pay at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under section 4081 with respect to so much of the rate of tax as does not exceed—

(A) 4.3 cents per gallon of kerosene subject to section 6427(l)(4)(A) with respect to which a payment has been made by the Secretary under section 6427(l), and

(B) 21.8 cents per gallon of kerosene subject to section 6427(l)(4)(B) with respect to which a payment has been made by the Secretary under section 6427(l).

Transfers under the preceding sentence shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. Any amount allowed as a credit under section 34 by reason of paragraph (4) of section 6427(l) shall be treated for purposes of subparagraphs (A) and (B) as a payment made by the Secretary under such paragraph.

(d) Adjustments of apportionments

(1) Estimates of unfunded highway authorizations and net highway receipts

The Secretary of the Treasury, not less frequently than once in each calendar quarter, after consultation with the Secretary of Transportation, shall estimate—

(A) the amount which would (but for this subsection) be the unfunded highway authorizations at the close of the next fiscal year, and

(B) the net highway receipts for the 48-month period beginning at the close of such fiscal year.

(2) Procedure where there is excess unfunded highway authorizations

If the Secretary of the Treasury determines for any fiscal year that the amount described in paragraph (1)(A) exceeds the amount described in paragraph (1)(B)—

(A) he shall so advise the Secretary of Transportation, and

(B) he shall further advise the Secretary of Transportation as to the amount of such excess.

(3) Adjustment of apportionments where unfunded authorizations exceed 4 years' receipts

(A) Determination of percentage

If, before any apportionment to the States is made, in the most recent estimate made by the Secretary of the Treasury there is an excess referred to in paragraph (2)(B), the Secretary of Transportation shall determine the percentage which—

(i) the excess referred to in paragraph (2)(B), is of

(ii) the amount authorized to be appropriated from the Trust Fund for the fiscal year for apportionment to the States.

If, but for this sentence, the most recent estimate would be one which was made on a date which will be more than 3 months before the date of the apportionment, the Secretary of the Treasury shall make a new estimate under paragraph (1) for the appropriate fiscal year.

(B) Adjustment of apportionments

If the Secretary of Transportation determines a percentage under subparagraph (A) for purposes of any apportionment, notwithstanding any other provision of law, the Secretary of Transportation shall apportion to the States (in lieu of the amount which, but for the provisions of this subsection, would be so apportioned) the amount obtained by reducing the amount authorized to be so apportioned by such percentage.

(4) Apportionment of amounts previously withheld from apportionment

If, after funds have been withheld from apportionment under paragraph (3)(B), the Secretary of the Treasury determines that the amount described in paragraph (1)(A) does not exceed the amount described in paragraph (1)(B) or that the excess described in paragraph (1)(B) is less than the amount previously determined, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing the amount described in paragraph (1)(A) to exceed the amount described in paragraph (1)(B). Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

(5) Definitions

For purposes of this subsection—

(A) Unfunded highway authorizations

The term “unfunded highway authorizations” means, at any time, the excess (if any) of—

(i) the total potential unpaid commitments at such time as a result of the apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund, over

(ii) the amount available in the Highway Trust Fund at such time to defray such commitments (after all other unpaid commitments at such time which are payable from the Highway Trust Fund have been defrayed).

(B) Net highway receipts

The term “net highway receipts” means, with respect to any period, the excess of—

(i) the receipts (including interest) of the Highway Trust Fund during such period, over

(ii) the amounts to be transferred during such period from such Fund under subsection (c) (other than paragraph (1) thereof).

(6) Measurement of net highway receipts

For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.

(7) Reports

Any estimate under paragraph (1) and any determination under paragraph (2) shall be reported by the Secretary of the Treasury to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committees on the Budget of both Houses, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(e) Establishment of Mass Transit Account**(1) Creation of account**

There is established in the Highway Trust Fund a separate account to be known as the “Mass Transit Account” consisting of such amounts as may be transferred or credited to the Mass Transit Account as provided in this section or section 9602(b).

(2) Transfers to Mass Transit Account

The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term “mass transit portion” means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

(C) 1.86 cents per gallon in the case of liquefied natural gas,

(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.

(3) Expenditures from Account

Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital related expenditures (including capital expenditures for new projects) before October 1, 2020, in accord-

ance with the FAST Act or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).

(4) Limitation

Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.

(5) Portion of certain transfers to be made from account**(A) In general**

Transfers under paragraphs (2) and (3) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred under this section to the Highway Account (after the application of paragraph (2)) and the Mass Transit Account.

(B) Highway Account

For purposes of subparagraph (A), the term “Highway Account” means the portion of the Highway Trust Fund which is not the Mass Transit Account.

(f) Determination of Trust Fund balances after September 30, 1998**(1) In general**

For purposes of determining the balances of the Highway Trust Fund and the Mass Transit Account after September 30, 1998, the opening balance of the Highway Trust Fund (other than the Mass Transit Account) on October 1, 1998, shall be \$8,000,000,000. The Secretary shall cancel obligations held by the Highway Trust Fund to reflect the reduction in the balance under this paragraph.

(2) Restoration of foregone interest

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(A) \$14,700,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

(B) \$4,800,000,000 to the Mass Transit Account in the Highway Trust Fund.

(3) Increase in fund balance

There is hereby transferred to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).

(4) Additional appropriations to Trust Fund

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated to—

(A) the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund—

(i) for fiscal year 2013, \$6,200,000,000, and

(ii) for fiscal year 2014, \$10,400,000,000, and

(B) the Mass Transit Account in the Highway Trust Fund, for fiscal year 2014, \$2,200,000,000.

(5) Additional sums

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(A) \$7,765,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

(B) \$2,000,000,000 to the Mass Transit Account in the Highway Trust Fund.

(6) Additional increase in fund balance

There is hereby transferred to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(3).

(7) Additional sums

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(A) \$6,068,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

(B) \$2,000,000,000 to the Mass Transit Account in the Highway Trust Fund.

(8) Further transfers to Trust Fund

Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

(A) \$51,900,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

(B) \$18,100,000,000 to the Mass Transit Account in the Highway Trust Fund.

(9) Additional increase in fund balance

There is hereby transferred to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(4).

(10) Treatment of amounts

Any amount appropriated or transferred under this subsection to the Highway Trust Fund shall remain available without fiscal year limitation.

(Added Pub. L. 97-424, title V, §531(a), Jan. 6, 1983, 96 Stat. 2187; amended Pub. L. 98-369, div. A, title IV, §474(r)(43), title IX, §911(d)(1), title X, §1016(b), July 18, 1984, 98 Stat. 847, 1006, 1020; Pub. L. 99-499, title V, §521(b)(1), Oct. 17, 1986, 100 Stat. 1777; Pub. L. 99-640, §7(a), Nov. 10, 1986, 100 Stat. 3547; Pub. L. 100-17, title V, §§503(a), (b), 504, Apr. 2, 1987, 101 Stat. 257, 258; Pub. L. 100-203, title X, §10502(d)(13)–(15), Dec. 22, 1987, 101 Stat. 1330–444, 1330–445; Pub. L. 100-448, §6(a)(1), (3), Sept. 28, 1988, 102 Stat. 1839; Pub. L. 101-239, title VII, §7822(b)(6), Dec. 19, 1989, 103 Stat. 2425; Pub. L. 101-508, title XI, §11211(a)(5)(D)–(F), (b)(6)(H), (g)(1), (h)(1), (i)(1), Nov. 5, 1990, 104 Stat. 1388–424, 1388–426, 1388–427; Pub. L. 102-240, title VIII, §§8002(d)(1), (2)(A), (e), (f), 8003(b), Dec. 18, 1991, 105 Stat. 2204, 2205; Pub. L. 103-66, title XIII, §§13242(d)(34)–(41), 13244(a), Aug. 10, 1993, 107 Stat. 527, 529; Pub. L. 103-429, §4, Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105-34, title IX, §901(a)–(d), title X, §1032(e)(13), (14), title XVI, §1601(f)(2), Aug. 5, 1997, 111 Stat. 871, 872, 935, 1090; Pub. L. 105-102, §1, Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105-130, §9(a), Dec. 1, 1997, 111 Stat. 2560; Pub. L. 105-178, title IX, §§9002(c)(1), (2)(A), (3)–(e)(1), (f), 9004(a)(1), (b)(1), (c), (d), 9005(a), 9011(b)(1), (2), June 9, 1998, 112 Stat. 500, 501, 503, 504, 508; Pub. L. 105-206, title IX, §9015(a), July 22, 1998, 112 Stat. 867; Pub. L. 105-225, §7(a), Aug. 12, 1998, 112

Stat. 1511; Pub. L. 105-277, div. A, title IV, §4006(b)(1), Oct. 21, 1998, 112 Stat. 2681–912; Pub. L. 105-354, §2(c)(2), Nov. 3, 1998, 112 Stat. 3244; Pub. L. 106-554, §1(a)(7) [title III, §318(e)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645; Pub. L. 108-88, §12(a), Sept. 30, 2003, 117 Stat. 1128; Pub. L. 108-202, §12(a), Feb. 29, 2004, 118 Stat. 491; Pub. L. 108-224, §10(a), Apr. 30, 2004, 118 Stat. 638; Pub. L. 108-263, §10(a), June 30, 2004, 118 Stat. 710; Pub. L. 108-280, §10(a)(1)–(3), July 30, 2004, 118 Stat. 887; Pub. L. 108-310, §13(a)(1)–(3), (c), Sept. 30, 2004, 118 Stat. 1163, 1164; Pub. L. 108-357, title III, §301(c)(11)–(13), title VIII, §868(a), (b), Oct. 22, 2004, 118 Stat. 1462, 1463, 1622; Pub. L. 109-14, §9(a), May 31, 2005, 119 Stat. 335; Pub. L. 109-20, §9(a), July 1, 2005, 119 Stat. 357; Pub. L. 109-35, §9(a), July 20, 2005, 119 Stat. 390; Pub. L. 109-37, §9(a), July 22, 2005, 119 Stat. 405; Pub. L. 109-40, §9(a), July 28, 2005, 119 Stat. 421; Pub. L. 109-42, §7(a), (d)(1), July 30, 2005, 119 Stat. 436, 438; Pub. L. 109-59, title XI, §§11101(c)(1), (2)(A), (d)(1), 11102(a), (b), 11115(a), 11161(c)(1), (2)(C), 11167(b), Aug. 10, 2005, 119 Stat. 1944, 1945, 1949, 1972, 1977; Pub. L. 109-432, div. A, title IV, §420(b)(6), Dec. 20, 2006, 120 Stat. 2969; Pub. L. 110-172, §11(a)(44), Dec. 29, 2007, 121 Stat. 2488; Pub. L. 110-244, title I, §121(c), June 6, 2008, 122 Stat. 1608; Pub. L. 110-318, §1(a), (b), Sept. 15, 2008, 122 Stat. 3532; Pub. L. 111-46, §1, Aug. 7, 2009, 123 Stat. 1970; Pub. L. 111-68, div. B, §159(a)(2), (b)(2), Oct. 1, 2009, 123 Stat. 2052; Pub. L. 111-88, div. B, §103, Oct. 30, 2009, 123 Stat. 2972; Pub. L. 111-147, title IV, §§441(a), (b), 442(a), (b), 443(a), 444(a), (b)(2)–(4), 445(a), Mar. 18, 2010, 124 Stat. 93, 94; Pub. L. 111-322, title II, §2401(a), Dec. 22, 2010, 124 Stat. 3531; Pub. L. 112-5, title IV, §401(a), Mar. 4, 2011, 125 Stat. 22; Pub. L. 112-30, title I, §§141(a), 142(e)(1), (2)(A), Sept. 16, 2011, 125 Stat. 355, 356; Pub. L. 112-102, title IV, §§401(a), 402(e)(1), (2)(A), Mar. 30, 2012, 126 Stat. 281, 282; Pub. L. 112-140, title IV, §§401(a), 402(d)(1), (2)(A), June 29, 2012, 126 Stat. 402, 403; Pub. L. 112-141, div. D, title I, §§40101(a), 40102(e)(1), (2)(A), title II, §§40201(b), 40251, July 6, 2012, 126 Stat. 844–846, 864; Pub. L. 113-159, title II, §§2001(a), 2002(a), Aug. 8, 2014, 128 Stat. 1848; Pub. L. 113-287, §5(h), Dec. 19, 2014, 128 Stat. 3269; Pub. L. 113-295, div. A, title II, §217(a), Dec. 19, 2014, 128 Stat. 4035; Pub. L. 114-21, title II, §2001(a), May 29, 2015, 129 Stat. 226; Pub. L. 114-41, title II, §§2001(a), 2002, July 31, 2015, 129 Stat. 453, 454; Pub. L. 114-73, title II, §2001(a), Oct. 29, 2015, 129 Stat. 582; Pub. L. 114-87, title II, §2001(a), Nov. 20, 2015, 129 Stat. 685; Pub. L. 114-94, div. C, title XXXI, §§31101(a), 31102(e)(1), (2)(A), 31201, 31202(a), Dec. 4, 2015, 129 Stat. 1726–1728.)

REFERENCES IN TEXT

The FAST Act, referred to in subsecs. (c)(1) and (e)(3), is Pub. L. 114-94, Dec. 4, 2015, 129 Stat. 1312, also known as the Fixing America's Surface Transportation Act. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The provisions of law referred to in this paragraph before the date of the enactment of such Act, referred to in subsec. (c)(1), means the provisions of law referred to in subsec. (c)(1) before the date of enactment of the FAST Act (Pub. L. 114-94), which was approved Dec. 4, 2015. Those provisions are section 209 of the Highway Revenue Act of 1956, titles I and II of the Surface Transportation Assistance Act of 1982, the Surface Transportation and Uniform Relocation Assistance Act

of 1987, the Intermodal Surface Transportation Efficiency Act of 1991, the Transportation Equity Act for the 21st Century, the Surface Transportation Extension Act of 2003, the Surface Transportation Extension Act of 2004, the Surface Transportation Extension Act of 2004, Part II, the Surface Transportation Extension Act of 2004, Part III, the Surface Transportation Extension Act of 2004, Part IV, the Surface Transportation Extension Act of 2004, Part V, the Surface Transportation Extension Act of 2005, the Surface Transportation Extension Act of 2005, Part II, the Surface Transportation Extension Act of 2005, Part III, the Surface Transportation Extension Act of 2005, Part IV, the Surface Transportation Extension Act of 2005, Part V, the Surface Transportation Extension Act of 2005, Part VI, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the SAFETEA-LU Technical Corrections Act of 2008, the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law, the Surface Transportation Extension Act of 2010, the Surface Transportation Extension Act of 2010, Part II, the Surface Transportation Extension Act of 2011, the Surface Transportation Extension Act of 2011, Part II, the Surface Transportation Extension Act of 2012, the Temporary Surface Transportation Extension Act of 2012, the MAP-21, the Highway and Transportation Funding Act of 2014, the Highway and Transportation Funding Act of 2015, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the Surface Transportation Extension Act of 2015, and the Surface Transportation Extension Act of 2015, Part II. See notes below.

The provisions of law referred to in this paragraph before the date of the enactment of such Act, referred to in subsec. (e)(3), means the provisions of law referred to in subsec. (e)(3) before the date of enactment of the FAST Act (Pub. L. 114-94), which was approved Dec. 4, 2015. Those provisions are section 5338(a)(1) and (b)(1) of title 49, the Intermodal Surface Transportation Efficiency Act of 1991, the Transportation Equity Act for the 21st Century, the Surface Transportation Extension Act of 2003, the Surface Transportation Extension Act of 2004, the Surface Transportation Extension Act of 2004, Part II, the Surface Transportation Extension Act of 2004, Part III, the Surface Transportation Extension Act of 2004, Part IV, the Surface Transportation Extension Act of 2004, Part V, the Surface Transportation Extension Act of 2005, the Surface Transportation Extension Act of 2005, Part II, the Surface Transportation Extension Act of 2005, Part III, the Surface Transportation Extension Act of 2005, Part IV, the Surface Transportation Extension Act of 2005, Part V, the Surface Transportation Extension Act of 2005, Part VI, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the SAFETEA-LU Technical Corrections Act of 2008, the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law, the Surface Transportation Extension Act of 2010, the Surface Transportation Extension Act of 2010, Part II, the Surface Transportation Extension Act of 2011, the Surface Transportation Extension Act of 2011, Part II, the Surface Transportation Extension Act of 2012, the Temporary Surface Transportation Extension Act of 2012, the MAP-21, the Highway and Transportation Funding Act of 2014, the Highway and Transportation Funding Act of 2015, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the Surface Transportation Extension Act of 2015, and the Surface Transportation Extension Act of 2015, Part II. See notes below.

Section 209 of the Highway Revenue Act of 1956, referred to in former subsec. (c)(1), is section 209 of act June 29, 1956, ch. 462, title II, 70 Stat. 397, which was set out as a note under section 120 of Title 23, Highways. Section 209 was repealed, except for subsection (b) thereof, by Pub. L. 97-424, title V, § 531(b), Jan. 6, 1983, 96 Stat. 2191.

The Surface Transportation Assistance Act of 1982, referred to in former subsec. (c)(1), is Pub. L. 97-424, Jan. 6, 1983, 96 Stat. 2097. Titles I and II of that Act are

known as the Highway Improvement Act of 1982 and the Highway Safety Act of 1982, respectively. For complete classification of these Acts to the Code, see Short Title of 1983 Amendment notes set out under sections 101 and 401, respectively, of Title 23, Highways, and Tables.

The Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in former subsec. (c)(1), is Pub. L. 100-17, Apr. 2, 1987, 101 Stat. 132. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 101 of Title 23 and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

The Transportation Equity Act for the 21st Century, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 105-178, June 9, 1998, 112 Stat. 107. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105-178, set out as a Short Title of 1998 Amendment note under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2003, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-88, Sept. 30, 2003, 117 Stat. 1110. For complete classification of this Act to the Code, see Short Title of 2003 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2004, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-202, Feb. 29, 2004, 118 Stat. 478. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2004, Part II, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-224, Apr. 30, 2004, 118 Stat. 627. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2004, Part III, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-263, June 30, 2004, 118 Stat. 698. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2004, Part IV, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-280, July 30, 2004, 118 Stat. 876. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2004, Part V, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 108-310, Sept. 30, 2004, 118 Stat. 1144. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-14, May 31, 2005, 119 Stat. 324. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, Part II, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-20, July 1, 2005, 119 Stat. 346. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, Part III, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-35, July 20, 2005, 119 Stat. 379. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, Part IV, referred to in former subsecs. (c)(1) and (e)(3),

is Pub. L. 109-37, July 22, 2005, 119 Stat. 394. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, Part V, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-40, July 28, 2005, 119 Stat. 410. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2005, Part VI, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-42, July 30, 2005, 119 Stat. 435. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 109-59, Aug. 10, 2005, 119 Stat. 1144, also known as the SAFETEA-LU. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The SAFETEA-LU Technical Corrections Act of 2008, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 110-244, June 6, 2008, 122 Stat. 1572. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law and such Resolution, referred to in former subsecs. (c)(1) and (e)(3), is div. B of Pub. L. 111-68, Oct. 1, 2009, 123 Stat. 2043. For complete classification of this Act to the Code, see Tables.

The Surface Transportation Extension Act of 2010, referred to in former subsecs. (c)(1) and (e)(3), is title IV of Pub. L. 111-147, Mar. 18, 2010, 124 Stat. 78. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2010, Part II, referred to in former subsecs. (c)(1) and (e)(3), is title II of Pub. L. 111-322, Dec. 22, 2010, 124 Stat. 3522. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2011, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 112-5, Mar. 4, 2011, 125 Stat. 2214. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2011, Part II, referred to in former subsecs. (c)(1) and (e)(3), is title I of Pub. L. 112-30, Sept. 16, 2011, 125 Stat. 343. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2012, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 112-102, Mar. 30, 2012, 126 Stat. 271. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Temporary Surface Transportation Extension Act of 2012, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 112-140, June 29, 2012, 126 Stat. 391. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The MAP-21, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 112-141, July 6, 2012, 126 Stat. 405, also known as the Moving Ahead for Progress in the 21st Century Act. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Highway and Transportation Funding Act of 2014, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 113-159, Aug. 8, 2014, 128 Stat. 1839. For complete classification of this Act to the Code, see Short Title of 2014

Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Highway and Transportation Funding Act of 2015, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 114-21, May 29, 2015, 129 Stat. 218. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 114-41, July 31, 2015, 129 Stat. 443. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2015, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 114-73, Oct. 29, 2015, 129 Stat. 568. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 101 of Title 23, Highways, and Tables.

The Surface Transportation Extension Act of 2015, Part II, referred to in former subsecs. (c)(1) and (e)(3), is Pub. L. 114-87, Nov. 20, 2015, 129 Stat. 677. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 101 of Title 23, Highways, and Tables.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114-94, §31102(e)(1)(A)(i), substituted “October 1, 2022” for “October 1, 2016” in introductory provisions.

Subsec. (b)(2). Pub. L. 114-94, §31102(e)(1)(A), substituted “October 1, 2022” for “October 1, 2016” in heading and “September 30, 2022” for “September 30, 2016”, “July 1, 2023” for “July 1, 2017”, and “October 1, 2022” for “October 1, 2016” in text.

Subsec. (b)(5). Pub. L. 114-94, §31202(a), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(6)(B). Pub. L. 114-94, §31101(a)(1), substituted “October 1, 2020” for “December 5, 2015”.

Pub. L. 114-87, §2001(a)(1), substituted “December 5, 2015” for “November 21, 2015”.

Pub. L. 114-73, §2001(a)(1), substituted “November 21, 2015” for “October 30, 2015”.

Pub. L. 114-41, §2001(a)(1), substituted “October 30, 2015” for “August 1, 2015”.

Pub. L. 114-21, §2001(a)(1), substituted “August 1, 2015” for “June 1, 2015”.

Subsec. (c)(1). Pub. L. 114-94, §31101(a), substituted “October 1, 2020” for “December 5, 2015” and “FAST Act” for “Surface Transportation Extension Act of 2015, Part II”.

Pub. L. 114-87 substituted “December 5, 2015” for “November 21, 2015” and “Surface Transportation Extension Act of 2015, Part II” for “Surface Transportation Extension Act of 2015”.

Pub. L. 114-73 substituted “November 21, 2015” for “October 30, 2015” and “Surface Transportation Extension Act of 2015” for “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015”.

Pub. L. 114-41, §2001(a), substituted “October 30, 2015” for “August 1, 2015” and “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015” for “Highway and Transportation Funding Act of 2015”.

Pub. L. 114-21 substituted “August 1, 2015” for “June 1, 2015” and “Highway and Transportation Funding Act of 2015” for “Highway and Transportation Funding Act of 2014”.

Subsec. (c)(2). Pub. L. 114-94, §31102(e)(1)(B), substituted “July 1, 2023” for “July 1, 2017”.

Subsec. (c)(3)(A)(i), (4)(A). Pub. L. 114-94, §31102(e)(2)(A), substituted “October 1, 2022” for “October 1, 2016”.

Subsec. (e)(3). Pub. L. 114-94, §31101(a), substituted “October 1, 2020” for “December 5, 2015” and “FAST Act” for “Surface Transportation Extension Act of 2015, Part II”.

Pub. L. 114-87 substituted “December 5, 2015” for “November 21, 2015” and “Surface Transportation Extension

sion Act of 2015, Part II” for “Surface Transportation Extension Act of 2015”.

Pub. L. 114-73 substituted “November 21, 2015” for “October 30, 2015” and “Surface Transportation Extension Act of 2015” for “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015”.

Pub. L. 114-41, § 2001(a), substituted “October 30, 2015” for “August 1, 2015” and “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015” for “Highway and Transportation Funding Act of 2015”.

Pub. L. 114-21 substituted “August 1, 2015” for “June 1, 2015” and “Highway and Transportation Funding Act of 2015” for “Highway and Transportation Funding Act of 2014”.

Subsec. (f)(7). Pub. L. 114-41, § 2002, added par. (7). Former par. (7) redesignated (8).

Subsec. (f)(8). Pub. L. 114-94, § 31201, added par. (8). Former par. (8) redesignated (10).

Pub. L. 114-41, § 2002, redesignated par. (7) as (8).

Subsec. (f)(9). Pub. L. 114-94, § 31201, added par. (9).

Subsec. (f)(10). Pub. L. 114-94, § 31201, redesignated par. (8) as (10).

2014—Subsec. (b)(1). Pub. L. 113-295 inserted “and taxes received under section 4081 shall be determined without regard to tax receipts attributable to the rate specified in section 4081(a)(2)(C)” before period at end of concluding provisions.

Subsec. (b)(6)(B). Pub. L. 113-159, § 2001(a)(1), substituted “June 1, 2015” for “October 1, 2014”.

Subsec. (c)(1). Pub. L. 113-159, § 2001(a), substituted “June 1, 2015” for “October 1, 2014” and “Highway and Transportation Funding Act of 2014” for “MAP-21”.

Subsec. (c)(3)(A)(i). Pub. L. 113-287 substituted “chapter 2003 of title 54” for “title I of the Land and Water Conservation Fund Act of 1965”.

Subsec. (e)(3). Pub. L. 113-159, § 2001(a), substituted “June 1, 2015” for “October 1, 2014” and “Highway and Transportation Funding Act of 2014” for “MAP-21”.

Subsec. (f)(5) to (7). Pub. L. 113-159, § 2002(a), added pars. (5) and (6) and redesignated former par. (5) as (7).

2012—Subsec. (b)(1). Pub. L. 112-141, § 40102(e)(1)(A)(i), substituted “October 1, 2016” for “July 1, 2012” in introductory provisions.

Pub. L. 112-140, §§ 1(c), 402(d)(1)(A)(i), temporarily substituted “July 7, 2012” for “July 1, 2012” in introductory provisions. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 402(e)(1)(A)(i), substituted “July 1, 2012” for “April 1, 2012” in introductory provisions.

Subsec. (b)(2). Pub. L. 112-141, § 40102(e)(1)(A), in heading, substituted “October 1, 2016” for “July 1, 2012” and, in text, substituted “September 30, 2016” for “June 30, 2012”, “July 1, 2017” for “April 1, 2013”, and “October 1, 2016” for “July 1, 2012”.

Pub. L. 112-140, §§ 1(c), 402(d)(1)(A), in heading, temporarily substituted “July 7, 2012” for “July 1, 2012” and, in text, temporarily substituted “July 6, 2012” for “June 30, 2012”, “April 7, 2013” for “April 1, 2013”, and “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 402(e)(1)(A), in heading, substituted “July 1, 2012” for “April 1, 2012” and, in text, substituted “June 30, 2012” for “March 31, 2012”, “April 1, 2013” for “January 1, 2013”, and “July 1, 2012” for “April 1, 2012”.

Subsec. (b)(6)(B). Pub. L. 112-141, § 40101(a)(1), substituted “October 1, 2014” for “July 1, 2012”.

Pub. L. 112-140, §§ 1(c), 401(a)(1), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 401(a)(1), substituted “July 1, 2012” for “April 1, 2012”.

Subsec. (c)(1). Pub. L. 112-141, § 40101(a), substituted “October 1, 2014” for “July 1, 2012” and “MAP-21” for “Surface Transportation Extension Act of 2012”.

Pub. L. 112-140, §§ 1(c), 401(a), temporarily substituted “July 7, 2012” for “July 1, 2012” and “Temporary Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 401(a), substituted “July 1, 2012” for “April 1, 2012” and “Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2011, Part II”.

Subsec. (c)(2). Pub. L. 112-141, § 40102(e)(1)(B), substituted “July 1, 2017” for “April 1, 2013”.

Pub. L. 112-140, §§ 1(c), 402(d)(1)(B), temporarily substituted “April 7, 2013” for “April 1, 2013”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 402(e)(1)(B), substituted “April 1, 2013” for “January 1, 2013”.

Subsec. (c)(3)(A)(i), (4)(A). Pub. L. 112-141, § 40102(e)(2)(A), substituted “October 1, 2016” for “July 1, 2012”.

Pub. L. 112-140, §§ 1(c), 402(d)(2)(A), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 402(e)(2)(A), substituted “July 1, 2012” for “April 1, 2012”.

Subsec. (e)(3). Pub. L. 112-141, § 40101(a), substituted “October 1, 2014” for “July 1, 2012” and “MAP-21” for “Surface Transportation Extension Act of 2012”.

Pub. L. 112-140, §§ 1(c), 401(a), temporarily substituted “July 7, 2012” for “July 1, 2012” and “Temporary Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, § 401(a), substituted “July 1, 2012” for “April 1, 2012” and “Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2011, Part II”.

Subsec. (f)(3). Pub. L. 112-141, § 40201(b)(1), added par. (3).

Subsec. (f)(4). Pub. L. 112-141, § 40251, added par. (4). Former par. (4) redesignated (5).

Pub. L. 112-141, § 40201(b)(2), struck out “appropriated” before “amounts” in heading and inserted “or transferred” after “appropriated” in text.

Subsec. (f)(5). Pub. L. 112-141, § 40251, redesignated par. (4) as (5).

2011—Subsec. (b)(1). Pub. L. 112-30, § 142(e)(1)(A)(i), substituted “April 1, 2012” for “October 1, 2011” in introductory provisions.

Subsec. (b)(2). Pub. L. 112-30, § 142(e)(1)(A), in heading, substituted “April 1, 2012” for “October 1, 2011” and, in text, substituted “March 31, 2012” for “September 30, 2011”, “January 1, 2013” for “July 1, 2012”, and “April 1, 2012” for “October 1, 2011”.

Subsec. (b)(6)(B). Pub. L. 112-30, § 141(a)(1), substituted “April 1, 2012” for “October 1, 2011”.

Pub. L. 112-5, § 401(a)(1), substituted “October 1, 2011” for “March 5, 2011”.

Subsec. (c)(1). Pub. L. 112-30, § 141(a), substituted “April 1, 2012” for “October 1, 2011” and “Surface Transportation Extension Act of 2011, Part II” for “Surface Transportation Extension Act of 2011”.

Pub. L. 112-5, § 401(a)(1), (2), substituted “October 1, 2011” for “March 5, 2011” and “the Surface Transportation Extension Act of 2011” for “the Surface Transportation Extension Act of 2010, Part II”.

Subsec. (c)(2). Pub. L. 112-30, § 142(e)(1)(B), substituted “January 1, 2013” for “July 1, 2012”.

Subsec. (c)(3)(A)(i), (4)(A). Pub. L. 112-30, § 142(e)(2)(A), substituted “April 1, 2012” for “October 1, 2011”.

Subsec. (e)(3). Pub. L. 112-30, § 141(a), substituted “April 1, 2012” for “October 1, 2011” and “Surface Transportation Extension Act of 2011, Part II” for “Surface Transportation Extension Act of 2011”.

Pub. L. 112-5, § 401(a)(2), (3), substituted “October 1, 2011” for “March 5, 2011” and “the Surface Transportation Extension Act of 2011” for “the Surface Transportation Extension Act of 2010, Part II”.

2010—Subsec. (b)(4)(D). Pub. L. 111-147, § 444(b)(2), substituted “paragraph (3)(D) or (4)(B)” for “paragraph (4)(D) or (5)(B)” in introductory provisions.

Subsec. (b)(6)(B). Pub. L. 111-322, § 2401(a)(1), substituted “March 5, 2011” for “December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)”.

Pub. L. 111-147, §445(a)(3), substituted “December 31, 2010 (January 1, 2011” for “September 30, 2009 (October 1, 2009”.

Subsec. (c)(1). Pub. L. 111-322, §2401(a)(2), substituted “the Surface Transportation Extension Act of 2010, Part II” for “the Surface Transportation Extension Act of 2010”.

Pub. L. 111-322, §2401(a)(1), substituted “March 5, 2011” for “December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)”.

Pub. L. 111-147, §445(a)(1), substituted “December 31, 2010 (January 1, 2011” for “September 30, 2009 (October 1, 2009” and “under the Surface Transportation Extension Act of 2010 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act)” for “under the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law or any other provision of law which was referred to in this paragraph before the date of the enactment of such Continuing Appropriations Resolution (as such Resolution and provisions of law are in effect on the date of the enactment of the last amendment to such Resolution)”.

Subsec. (c)(2). Pub. L. 111-147, §444(b)(3), inserted at end “The amounts payable from the Highway Trust Fund under the preceding sentence shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.”

Pub. L. 111-147, §444(a), redesignated par. (3) as (2) and struck out former par. (2) which related to transfers from the Highway Trust Fund for certain repayments and credits.

Subsec. (c)(3) to (6). Pub. L. 111-147, §444(a), redesignated pars. (4) to (6) as (3) to (5), respectively. Former par. (3) redesignated (2).

Subsec. (e)(1). Pub. L. 111-147, §442(b), substituted “this section” for “this subsection”.

Subsec. (e)(3). Pub. L. 111-322, §2401(a)(3), substituted “March 5, 2011” for “January 1, 2011”.

Pub. L. 111-322, §2401(a)(2), substituted “the Surface Transportation Extension Act of 2010, Part II” for “the Surface Transportation Extension Act of 2010”.

Pub. L. 111-147, §445(a)(2), substituted “January 1, 2011” for “October 1, 2009” and “in accordance with the Surface Transportation Extension Act of 2010 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act)” for “in accordance with the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law or any other provision of law which was referred to in this paragraph before the date of the enactment of such Continuing Appropriations Resolution (as such Resolution and provisions of law are in effect on the date of the enactment of the last amendment to such Resolution)”.

Subsec. (e)(5)(A). Pub. L. 111-147, §444(b)(4), substituted “(2) and (3)” for “(2), (3), and (4)”.

Subsec. (f)(1). Pub. L. 111-147, §441(b), struck out subpar. (A) designation before “the opening balance” and substituted “September 30, 1998,” for “September 30, 1998—” and “\$8,000,000,000.” for “\$8,000,000,000, and”.

Subsec. (f)(1)(B). Pub. L. 111-147, §441(a), struck out subpar. (B) which read as follows: “notwithstanding section 9602(b), obligations held by such Fund after September 30, 1998, shall be obligations of the United States which are not interest-bearing.”

Subsec. (f)(2). Pub. L. 111-147, §442(a), amended par. (2) generally. Prior to amendment, text read as follows: “Out of money in the Treasury not otherwise appropriated, there is hereby appropriated (without fiscal year limitation) to the Highway Trust Fund \$7,000,000,000.”

Subsec. (f)(4). Pub. L. 111-147, §443(a), added par. (4). 2009—Subsec. (c)(1). Pub. L. 111-88 inserted “the last amendment to” after “on the date of the enactment of”.

Pub. L. 111-68, §159(a)(2), substituted “under the first Continuing Appropriations Resolution for Fiscal Year

2010 enacted into law or any other provision of law which was referred to in this paragraph before the date of the enactment of such Continuing Appropriations Resolution (as such Resolution and provisions of law are in effect on the date of the enactment of such Resolution)” for “under the SAFETEA-LU Technical Corrections Act of 2008 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).”

Subsec. (e)(3). Pub. L. 111-88 inserted “the last amendment to” after “on the date of the enactment of”.

Pub. L. 111-68, §159(b)(2), substituted “in accordance with the first Continuing Appropriations Resolution for Fiscal Year 2010 enacted into law or any other provision of law which was referred to in this paragraph before the date of the enactment of such Continuing Appropriations Resolution (as such Resolution and provisions of law are in effect on the date of the enactment of such Resolution)” for “in accordance with the SAFETEA-LU Technical Corrections Act of 2008 or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).”

Subsec. (f)(2). Pub. L. 111-46 added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “Out of money in the Treasury not otherwise appropriated, there is hereby appropriated to the Highway Trust Fund \$8,017,000,000.”

2008—Subsecs. (c)(1), (e)(3). Pub. L. 110-244 substituted “SAFETEA-LU Technical Corrections Act of 2008” for “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users”.

Subsec. (f). Pub. L. 110-318 designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, substituted “paragraph” for “subsection” in concluding provisions of par. (1), and added par. (2).

2007—Subsec. (c)(6), (7). Pub. L. 110-172 redesignated par. (7) as (6).

2006—Subsec. (c)(7). Pub. L. 109-432, §420(b)(6)(B), struck out “or (5)” after “paragraph (4)” in concluding provisions.

Subsec. (c)(7)(A), (B). Pub. L. 109-432, §420(b)(6)(A), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

“(A) 4.3 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(4), and

“(B) 21.8 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(5).”

2005—Subsec. (b)(1). Pub. L. 109-59, §11101(c)(1)(A), substituted “2011” for “2005” in introductory provisions.

Subsec. (b)(2). Pub. L. 109-59, §11101(c)(1), substituted “2012” for “2006” and “2011” for “2005” wherever appearing.

Subsec. (b)(3). Pub. L. 109-59, §11161(c)(2)(C), struck out heading and text of par. (3). Text read as follows: “The amounts described in paragraphs (1) and (2) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 9502(b) with respect to such period.”

Subsec. (b)(5). Pub. L. 109-59, §11167(b), inserted “6720A,” after “6719.”

Subsec. (b)(6)(B). Pub. L. 109-59, §11101(d)(1)(C), substituted “September 30, 2009 (October 1, 2009, in the case of expenditures for administrative expenses)” for “July 31, 2005”.

Pub. L. 109-42, §7(a)(3), (d)(1), (e), temporarily inserted at end “The preceding sentence shall be applied by substituting ‘August 15, 2005’ for the date therein.” See Effective Date of 2005 Amendments note below.

Pub. L. 109-40, §9(a)(3), substituted “July 31, 2005” for “July 28, 2005”.

Pub. L. 109-37, §9(a)(3), substituted “July 28, 2005” for “July 22, 2005”.

Pub. L. 109-35, §9(a)(3), substituted “July 22, 2005” for “July 20, 2005”.

Pub. L. 109-20, §9(a)(3), substituted “July 20, 2005” for “July 1, 2005”.

Pub. L. 109-14, §9(a)(3), substituted “July 1, 2005” for “June 1, 2005”.

Subsec. (c)(1). Pub. L. 109-59, §11101(d)(1)(A), reenacted heading without change and amended text generally, substituting provisions relating to availability of amounts in the Highway Trust Fund for making expenditures before Sept. 30, 2009, for provisions relating to availability of amounts in the Highway Trust Fund for making expenditures before Aug. 15, 2005.

Pub. L. 109-42, §7(a)(1)(A), (E), substituted “August 15, 2005” for “July 31, 2005” in introductory provisions and “Part VI” for “Part V” in concluding provisions.

Pub. L. 109-40, §9(a)(1)(A), (E), substituted “July 31, 2005” for “July 28, 2005” in introductory provisions and “Part V” for “Part IV” in concluding provisions.

Pub. L. 109-37, §9(a)(1)(A), (E), substituted “July 28, 2005” for “July 22, 2005” in introductory provisions and “Part IV” for “Part III” in concluding provisions.

Pub. L. 109-35, §9(a)(1)(A), (E), substituted “July 22, 2005” for “July 20, 2005” in introductory provisions and “Part III” for “Part II” in concluding provisions.

Pub. L. 109-20, §9(a)(1)(A), (E), substituted “July 20, 2005” for “July 1, 2005” in introductory provisions and inserted “, Part II” after “Surface Transportation Extension Act of 2005” in concluding provisions.

Pub. L. 109-14, §9(a)(1)(A), (E), substituted “July 1, 2005” for “June 1, 2005” in introductory provisions and “Surface Transportation Extension Act of 2005” for “Surface Transportation Extension Act of 2004, Part V” in concluding provisions.

Subsec. (c)(1)(L). Pub. L. 109-14, §9(a)(1)(B)–(D), added subpar. (L), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005.

Subsec. (c)(1)(M). Pub. L. 109-20, §9(a)(1)(B)–(D), added subpar. (M), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005, Part II.

Subsec. (c)(1)(N). Pub. L. 109-35, §9(a)(1)(B)–(D), added subpar. (N), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005, Part III.

Subsec. (c)(1)(O). Pub. L. 109-37, §9(a)(1)(B)–(D), added subpar. (O), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005, Part IV.

Subsec. (c)(1)(P). Pub. L. 109-40, §9(a)(1)(B)–(D), added subpar. (P), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005, Part V.

Subsec. (c)(1)(Q). Pub. L. 109-42, §7(a)(1)(B)–(D), added subpar. (Q), relating to obligations authorized to be paid under the Surface Transportation Extension Act of 2005, Part VI.

Subsec. (c)(2)(A). Pub. L. 109-59, §11101(c)(1)(A), substituted “2011” for “2005” in two places.

Subsec. (c)(2)(A)(i). Pub. L. 109-59, §11101(c)(1)(B), substituted “2012” for “2006” in introductory provisions.

Subsec. (c)(3). Pub. L. 109-59, §11101(c)(1)(B), substituted “2012” for “2006”.

Subsec. (c)(4). Pub. L. 109-59, §11115(a)(1), reenacted heading without change, added subpars. (A) and (B), redesignated former subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpars. (A) to (C), which related to transfers to the Boat Safety Account in the Aquatic Resources Trust Fund, transfer of \$1,000,000 per year of excess to the land and water conservation fund, and transfer of excess funds to the Sport Fish Restoration Account.

Subsec. (c)(5)(A). Pub. L. 109-59, §11115(a)(2), substituted “and Boating Trust Fund” for “Account in the Aquatic Resources Trust Fund”.

Pub. L. 109-59, §11101(c)(2)(A), substituted “2011” for “2005”.

Subsec. (c)(7). Pub. L. 109-59, §11161(c)(1), added par. (7).

Subsec. (d)(1)(B). Pub. L. 109-59, §11102(a)(1), substituted “48-month” for “24-month”.

Subsec. (d)(3). Pub. L. 109-59, §11102(a)(2), substituted “4 years’ receipts” for “2 years’ receipts” in heading.

Subsec. (d)(6), (7). Pub. L. 109-59, §11102(b), added par. (6) and redesignated former par. (6) as (7).

Subsec. (e)(3). Pub. L. 109-59, §11101(d)(1)(B), reenacted heading without change and amended text of par. (3) generally, substituting provisions relating to availability of amounts for making capital or capital related expenditures before Oct. 1, 2009, for provisions relating to availability of amounts for making capital or capital-related expenditures before Aug. 15, 2005.

Pub. L. 109-42, §7(a)(2)(A), (E), substituted “August 15, 2005” for “July 31, 2005” in introductory provisions and “Part VI” for “Part V” in concluding provisions.

Pub. L. 109-40, §9(a)(2)(A), (E), substituted “July 31, 2005” for “July 28, 2005” in introductory provisions and “Part V” for “Part IV” in concluding provisions.

Pub. L. 109-37, §9(a)(2)(A), (E), substituted “July 28, 2005” for “July 22, 2005” in introductory provisions and “Part IV” for “Part III” in concluding provisions.

Pub. L. 109-35, §9(a)(2)(A), (E), substituted “July 22, 2005” for “July 20, 2005” in introductory provisions and “Part III” for “Part II” in concluding provisions.

Pub. L. 109-20, §9(a)(2)(A), (E), substituted “July 20, 2005” for “July 1, 2005” in introductory provisions and inserted “, Part II” after “Surface Transportation Extension Act of 2005” in concluding provisions.

Pub. L. 109-14, §9(a)(2)(A), substituted “July 1, 2005” for “June 1, 2005” in introductory provisions and “Surface Transportation Extension Act of 2005” for “Surface Transportation Extension Act of 2004, Part V” in concluding provisions.

Subsec. (e)(3)(J). Pub. L. 109-14, §9(a)(2)(B)–(D), added subpar. (J), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005.

Subsec. (e)(3)(K). Pub. L. 109-20, §9(a)(2)(B)–(D), added subpar. (K), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005, Part II.

Subsec. (e)(3)(L). Pub. L. 109-35, §9(a)(2)(B)–(D), added subpar. (L), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005, Part III.

Subsec. (e)(3)(M). Pub. L. 109-37, §9(a)(2)(B)–(D), added subpar. (M), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005, Part IV.

Subsec. (e)(3)(N). Pub. L. 109-40, §9(a)(2)(B)–(D), added subpar. (N), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005, Part V.

Subsec. (e)(3)(O). Pub. L. 109-42, §7(a)(2)(B)–(D), added subpar. (O), relating to expenditures in accordance with the Surface Transportation Extension Act of 2005, Part VI.

2004—Subsec. (b). Pub. L. 108-357, §868(b)(1), inserted “and penalties” after “taxes” in heading.

Subsec. (b)(1). Pub. L. 108-357, §868(b)(2), substituted “Certain taxes” for “In general” in heading.

Pub. L. 108-357, §301(c)(11), inserted concluding provisions.

Subsec. (b)(4)(C). Pub. L. 108-357, §301(c)(12)(A), inserted “or” at end.

Subsec. (b)(4)(D)(iii). Pub. L. 108-357, §301(c)(12)(B), substituted a period for comma at end.

Subsec. (b)(4)(E), (F). Pub. L. 108-357, §301(c)(12)(C), struck out subpars. (E) and (F) which read as follows: “(E) in the case of fuels described in section 4041(b)(2)(A), 4041(k), or 4081(c), section 4041 or 4081 before October 1, 2003, and for the period beginning after September 30, 2004, and before October 1, 2005, with respect to a rate equal to 2.5 cents per gallon, or

“(F) in the case of fuels described in section 4081(c)(2), such section before October 1, 2003, and for the period

beginning after September 30, 2004, and before October 1, 2005, with respect to a rate equal to 2.8 cents per gallon.”

Pub. L. 108-310, §13(c), which directed the amendment of section 9503(b)(4) by inserting “before October 1, 2003, and for the period beginning after September 30, 2004, and” before “before October 1, 2005” in subpars. (E) and (F), was executed to this section, which is section 9503(b)(4) of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

Subsec. (b)(5). Pub. L. 108-357, §868(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (b)(5)(B). Pub. L. 108-310, §13(a)(3), substituted “June 1, 2005” for “October 1, 2004”.

Pub. L. 108-280, §10(a)(3), substituted “October 1, 2004” for “August 1, 2004”.

Pub. L. 108-263, §10(a)(3), substituted “August 1, 2004” for “July 1, 2004”.

Pub. L. 108-224, §10(a)(3), substituted “July 1, 2004” for “May 1, 2004”.

Pub. L. 108-202, §12(a)(3), substituted “May 1, 2004” for “March 1, 2004”.

Subsec. (b)(6). Pub. L. 108-357, §868(a), redesignated par. (5) as (6).

Subsec. (c)(1). Pub. L. 108-310, §13(a)(1)(A), (E), substituted “June 1, 2005” for “October 1, 2004” in introductory provisions and “Part V” for “Part IV” in concluding provisions.

Pub. L. 108-280, §10(a)(1)(A), (E), substituted “October 1, 2004” for “August 1, 2004” in introductory provisions and “Part IV” for “Part III” in concluding provisions.

Pub. L. 108-263, §10(a)(1)(A), (E), substituted “August 1, 2004” for “July 1, 2004” in introductory provisions and “Part III” for “Part II” in concluding provisions.

Pub. L. 108-224, §10(a)(1)(A), (E), substituted “July 1, 2004” for “May 1, 2004” in introductory provisions and inserted “, Part II” after “Surface Transportation Extension Act of 2004” in concluding provisions.

Pub. L. 108-202, §12(a)(1)(A), (E), substituted “May 1, 2004” for “March 1, 2004” in introductory provisions and “Surface Transportation Extension Act of 2004” for “Surface Transportation Extension Act of 2003” in concluding provisions.

Subsec. (c)(1)(G). Pub. L. 108-202, §12(a)(1)(B)–(D), added subpar. (G).

Subsec. (c)(1)(H). Pub. L. 108-224, §10(a)(1)(B)–(D), added subpar. (H).

Subsec. (c)(1)(I). Pub. L. 108-263, §10(a)(1)(B)–(D), added subpar. (I).

Subsec. (c)(1)(J). Pub. L. 108-280, §10(a)(1)(B)–(D), added subpar. (J).

Subsec. (c)(1)(K). Pub. L. 108-310, §13(a)(1)(B)–(D), added subpar. (K).

Subsec. (c)(2)(A). Pub. L. 108-357, §301(c)(13), inserted at end of concluding provisions “Clauses (i)(III) and (ii) shall not apply to claims under section 6427(e).”

Subsec. (e)(3). Pub. L. 108-310, §13(a)(2)(A), (E), substituted “June 1, 2005” for “October 1, 2004” in introductory provisions and “Part V” for “Part IV” in concluding provisions.

Pub. L. 108-280, §10(a)(2)(A), (E), substituted “October 1, 2004” for “August 1, 2004” in introductory provisions and “Part IV” for “Part III” in concluding provisions.

Pub. L. 108-263, §10(a)(2)(A), (E), substituted “August 1, 2004” for “July 1, 2004” in introductory provisions and “Part III” for “Part II” in concluding provisions.

Pub. L. 108-224, §10(a)(2)(A), (E), substituted “July 1, 2004” for “May 1, 2004” in introductory provisions and inserted “, Part II” after “Surface Transportation Extension Act of 2004” in concluding provisions.

Pub. L. 108-202, §12(a)(2)(A), (E), substituted “May 1, 2004” for “March 1, 2004” in introductory provisions and “Surface Transportation Extension Act of 2004” for “Surface Transportation Extension Act of 2003” in concluding provisions.

Subsec. (e)(3)(E). Pub. L. 108-202, §12(a)(2)(B)–(D), added subpar. (E).

Subsec. (e)(3)(F). Pub. L. 108-224, §10(a)(2)(B)–(D), added subpar. (F).

Subsec. (e)(3)(G). Pub. L. 108-263, §10(a)(2)(B)–(D), added subpar. (G).

Subsec. (e)(3)(H). Pub. L. 108-280, §10(a)(2)(B)–(D), added par. (H).

Subsec. (e)(3)(I). Pub. L. 108-310, §13(a)(2)(B)–(D), added subpar. (I).

2003—Subsec. (b)(5)(B). Pub. L. 108-88, §12(a)(3), substituted “March 1, 2004” for “October 1, 2003”.

Subsec. (c)(1). Pub. L. 108-88, §12(a)(1), substituted “March 1, 2004” for “October 1, 2003” in introductory provisions, added subpar. (F), and substituted “Surface Transportation Extension Act of 2003” for “TEA 21 Restoration Act” in concluding provisions.

Subsec. (e)(3). Pub. L. 108-88, §12(a)(2), substituted “March 1, 2004” for “October 1, 2003” in introductory provisions, added subpar. (D), and substituted “Surface Transportation Extension Act of 2003” for “TEA 21 Restoration Act” in concluding provisions.

2000—Subsec. (b)(5), (6). Pub. L. 106-554 redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: “For purposes of this section, the amounts which would (but for this paragraph) be required to be appropriated under subparagraphs (A) and (E) of paragraph (1) shall be reduced by—

“(A) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

“(B) 0.67 cent per gallon in the case of gasoline, diesel fuel, or kerosene used in producing a mixture described in subparagraph (A).”

1998—Subsec. (b)(1). Pub. L. 105-178, §9002(c)(1)(A), substituted “2005” for “1999” in introductory provisions.

Subsec. (b)(1)(C) to (F). Pub. L. 105-178, §9002(f)(1), struck out “and tread rubber” after “tires” in subpar. (D), redesignated subpars. (D) to (F) as (C) to (E), respectively, and struck out former subpar. (C) which read as follows: “section 4061 (relating to tax on trucks and truck parts).”

Subsec. (b)(2). Pub. L. 105-178, §9002(c)(1), substituted “2005” for “1999” wherever appearing in heading and text and substituted “2006” for “2000” in text.

Subsec. (b)(4)(D). Pub. L. 105-178, §9005(a)(1), substituted “exceeds—

“(i) 11.5 cents per gallon with respect to taxes imposed before October 1, 2001,

“(ii) 13 cents per gallon with respect to taxes imposed after September 30, 2001, and before October 1, 2003, and

“(iii) 13.5 cents per gallon with respect to taxes imposed after September 30, 2003, and before October 1, 2005,” for “exceeds 11.5 cents per gallon.”

Pub. L. 105-178, §9011(b)(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “in the case of fuels used as described in paragraph (4)(D), (5)(B), or (6)(D) of subsection (c), section 4041 or 4081—

“(i) with respect to so much of the rate of tax on gasoline or special motor fuels as exceeds 11.5 cents per gallon, and

“(ii) with respect to so much of the rate of tax on diesel fuel or kerosene as exceeds 17.5 cents per gallon.”

Subsec. (b)(4)(E), (F). Pub. L. 105-178, §9002(c)(1)(A), substituted “2005” for “1999”.

Subsec. (b)(6). Pub. L. 105-178, §9004(c), added par. (6).

Subsec. (c)(1). Pub. L. 105-178, §9002(f)(4), as added by Pub. L. 105-206, §9015(a), substituted “the date of the enactment of the TEA 21 Restoration Act” for “the date of enactment of the Transportation Equity Act for the 21st Century” in concluding provisions.

Pub. L. 105-178, §9002(d)(1), substituted “2003” for “1998” in introductory provisions, added subpar. (E), and substituted in concluding provisions “In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of enactment of the Transportation Equity Act for the 21st Century.” for “In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.”

Subsec. (c)(2)(A)(i). Pub. L. 105-178, §9002(c)(1), substituted “2006” for “2000” in introductory provisions and “2005” for “1999” in concluding provisions.

Subsec. (c)(2)(A)(i)(II) to (IV). Pub. L. 105-178, §9002(f)(2), inserted “and” at end of subcl. (II), redesignated subcl. (IV) as (III), and struck out former subcl. (III) which read as follows: “section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes), and”.

Subsec. (c)(2)(A)(ii). Pub. L. 105-178, §9002(c)(1)(A), (f)(3), substituted “fuel” for “gasoline, special fuels, and lubricating oil” in two places and “2005” for “1999”.

Subsec. (c)(3). Pub. L. 105-178, §9002(c)(3), substituted “Floor stocks refunds” for “2005 floor stocks refunds” in heading.

Pub. L. 105-178, §9002(c)(1), substituted “2005” for “1999” in heading and “2006” for “2000” in text.

Subsec. (c)(4)(A)(i). Pub. L. 105-178, §9002(c)(2)(A), substituted “2005” for “1998”.

Subsec. (c)(4)(A)(ii). Pub. L. 105-178, §9005(a)(2), inserted concluding provisions.

Subsec. (c)(5)(A). Pub. L. 105-178, §9002(c)(2)(A), substituted “2005” for “1998”.

Subsec. (c)(6). Pub. L. 105-178, §9011(b)(1), struck out heading and text of par. (6) which related to transfers from Highway Trust Fund to National Recreational Trails Trust Fund of revenues received from non-highway recreational fuel taxes.

Subsec. (c)(7). Pub. L. 105-178, §9004(b)(1), struck out heading and text of par. (7). Prior to amendment, text read as follows: “Notwithstanding any other provision of law, in calculating amounts under section 157(a) of title 23, United States Code, and sections 1013(c), 1015(a), and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1914), deposits in the Highway Trust Fund resulting from the amendments made by the Taxpayer Relief Act of 1997 shall not be taken into account.”

Subsec. (e)(2). Pub. L. 105-178, §9002(e)(1), substituted “For purposes of the preceding sentence, the term ‘mass transit portion’ means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

“(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

“(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

“(C) 1.86 cents per gallon in the case of liquefied natural gas,

“(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

“(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.” for “For purposes of the preceding sentence, the term ‘mass transit portion’ means an amount determined at the rate of 2.85 cents for each gallon with respect to which tax was imposed under section 4041 or 4081.”

Subsec. (e)(3). Pub. L. 105-225, §7(a), which added second period at the end of par. (3), was repealed by Pub. L. 105-354.

Pub. L. 105-178, §9002(f)(5), as added by Pub. L. 105-206, §9015(a), substituted “the date of the enactment of the TEA 21 Restoration Act” for “the date of enactment of the Transportation Equity Act for the 21st Century” in concluding provisions.

Pub. L. 105-178, §9002(d)(2), substituted “2003” for “1998” in introductory provisions, added subpar. (C), and substituted “as such section and Acts are in effect on the date of enactment of the Transportation Equity Act for the 21st Century.” for “as section 5338(a)(1) or (b)(1) and the Intermodal Surface Transportation Efficiency Act of 1991 were in effect on December 18, 1991” in concluding provisions.

Subsec. (e)(4). Pub. L. 105-178, §9004(d), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows:

“Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting ‘12-month’ for ‘24-month’.”

Subsec. (f). Pub. L. 105-178, §9004(a)(1), added subsec. (f).

Subsec. (f)(2). Pub. L. 105-277 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “no interest accruing after September 30, 1998, on any obligation held by such Fund shall be credited to such Fund.”

1997—Subsec. (b)(1)(E). Pub. L. 105-34, §1032(e)(13), substituted “, diesel fuel, and kerosene” for “and diesel fuel”.

Subsec. (b)(4). Pub. L. 105-34, §901(a), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “For purposes of paragraphs (1) and (2)—

“(A) there shall not be taken into account the taxes imposed by section 4041(d), and

“(B) there shall be taken into account the taxes imposed by sections 4041 and 4081 only to the extent attributable to the Highway Trust Fund financing rate.”

Subsec. (b)(5)(B). Pub. L. 105-34, §1032(e)(14), substituted “, diesel fuel, or kerosene” for “or diesel fuel”.

Subsec. (c)(1). Pub. L. 105-130, §9(a)(1)(A), substituted “1998” for “1997” in introductory provisions and, in concluding provisions, substituted “In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.” for “In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.”

Subsec. (c)(2)(A). Pub. L. 105-34, §901(d)(2), in concluding provisions, substituted “by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund” for “by taking into account only the Highway Trust Fund financing rate applicable to any fuel”.

Subsec. (c)(2)(A)(ii). Pub. L. 105-34, §1601(f)(2), struck out “(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1999)” after “October 1, 1999”.

Subsec. (c)(4)(A)(i). Pub. L. 105-130, §9(a)(1)(B), substituted “1998” for “1997”.

Subsec. (c)(4)(D). Pub. L. 105-34, §901(d)(3), substituted “deposited into the Highway Trust Fund” for “attributable to the Highway Trust Fund financing rate”.

Subsec. (c)(5)(A). Pub. L. 105-130, §9(a)(1)(C), substituted “1998” for “1997”.

Subsec. (c)(5)(B), (6)(D). Pub. L. 105-34, §901(d)(3), substituted “deposited into the Highway Trust Fund” for “attributable to the Highway Trust Fund financing rate”.

Subsec. (c)(6)(E). Pub. L. 105-130, §9(a)(1)(D), substituted “1998” for “1997”.

Subsec. (c)(7). Pub. L. 105-34, §901(c), added par. (7).

Subsec. (e)(2). Pub. L. 105-34, §901(b), substituted “2.85 cents” for “2 cents”.

Subsec. (e)(3). Pub. L. 105-130, §9(a)(2)(A), substituted “1998” for “1997” in introductory provisions.

Pub. L. 105-130, §9(a)(2)(B), which directed substitution of “the enactment of the last sentence of subsection (c)(1)” for “the enactment of the Intermodal Surface Transportation Efficiency Act of 1991”, could not be executed because the words “the enactment of the Intermodal Surface Transportation Efficiency Act of 1991” did not appear subsequent to the amendment by Pub. L. 105-102. See below.

Pub. L. 105-102, in concluding provisions, substituted “section 5338(a)(1) or (b)(1) and the Intermodal Surface Transportation Efficiency Act of 1991 were in effect on December 18, 1991” for “such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.”

Subsec. (e)(5)(A). Pub. L. 105-34, § 1601(f)(2)(B), struck out “; except that any such transfers to the extent attributable to section 6427(g) shall be borne only by the Highway Account” before period at end.

Subsec. (f). Pub. L. 105-34, § 901(d)(1), struck out heading and text of subsec. (f) which consisted of pars. (1) to (4) relating to definition of Highway Trust Fund financing rate.

1994—Subsec. (e)(3)(A). Pub. L. 103-429 substituted “section 5338(a)(1) or (b)(1) of title 49” for “paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act”.

1993—Subsec. (b)(1)(E). Pub. L. 103-66, § 13242(d)(34)(A), substituted “gasoline and diesel fuel,” and “” for “gasoline,”.

Subsec. (b)(1)(F), (G). Pub. L. 103-66, § 13242(d)(34)(B), (C), redesignated subpar. (G) as (F) and struck out former subpar. (F) which read as follows: “section 4091 (relating to tax on diesel fuel), and”.

Subsec. (b)(4). Pub. L. 103-66, § 13242(d)(35)(B), which directed amendment of subsec. (b)(4)(C) by substituting “4081” for “4091”, could not be executed because subsec. (b)(4) does not contain a subpar. (C).

Subsec. (b)(4)(B). Pub. L. 103-66, § 13242(b)(35)(A), substituted “and 4081” for “, 4081, and 4091” and “rate” for “rates under such sections”.

Subsec. (b)(5). Pub. L. 103-66, § 13242(d)(36), substituted “and (E)” for “, (E), and (F)” in introductory provisions.

Subsec. (c)(4)(D). Pub. L. 103-66, § 13242(d)(38), substituted “rate” for “rates under such sections”.

Subsec. (c)(5)(B). Pub. L. 103-66, § 13242(d)(39), substituted “rate” for “rate under such section”.

Subsec. (c)(6)(D). Pub. L. 103-66, § 13242(d)(37), substituted “and 4081” for “, 4081, and 4091” in introductory provisions.

Subsec. (e)(2). Pub. L. 103-66, § 13244(a), substituted “2 cents” for “1.5 cents”.

Pub. L. 103-66, § 13242(d)(40), substituted “and 4081” for “, 4081, and 4091” and “or 4081” for “, 4081, or 4091”.

Subsec. (f). Pub. L. 103-66, § 13242(d)(41), added subsec. (f).

1991—Subsec. (b)(1), (2). Pub. L. 102-240, § 8002(d)(1), substituted “1999” for “1995” and “2000” for “1996” wherever appearing.

Subsec. (c)(1). Pub. L. 102-240, § 8002(e), substituted “1997” for “1993” in introductory provisions, added subpar. (D) and concluding provisions, and struck out former subpar. (D) which read as follows: “hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on the date of the enactment of the Surface Transportation and Uniform Relocation Assistance Act of 1987.”

Subsec. (c)(2)(A), (3). Pub. L. 102-240, § 8002(d)(1), substituted “1999” for “1995” and “2000” for “1996” wherever appearing.

Subsec. (c)(4)(A)(i), (5)(A). Pub. L. 102-240, § 8002(d)(2)(A), substituted “1997” for “1995”.

Subsec. (c)(6). Pub. L. 102-240, § 8003(b), added par. (6).

Subsec. (e)(3). Pub. L. 102-240, § 8002(e)(1), (f), inserted “or capital-related” after “capital” the first time appearing and substituted “1997” for “1993” and “in accordance with—” and subpars. (A) and (B) and concluding provisions for “in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964.”

1990—Subsec. (b)(1), (2). Pub. L. 101-508, § 11211(g)(1), substituted “1995” for “1993” and “1996” for “1994” wherever appearing.

Subsec. (b)(4)(B). Pub. L. 101-508, § 11211(a)(5)(D), inserted reference to section 4041.

Subsec. (b)(5). Pub. L. 101-508, § 11211(a)(5)(F), added par. (5).

Subsec. (c)(2)(A). Pub. L. 101-508, § 11211(g)(1), substituted “1995” for “1993” and “1996” for “1994” wherever appearing.

Pub. L. 101-508, § 11211(a)(5)(E), inserted at end “The amounts payable from the Highway Trust Fund under this subparagraph or paragraph (3) shall be determined

by taking into account only the Highway Trust Fund financing rate applicable to any fuel.”

Subsec. (c)(3), (4)(A)(i). Pub. L. 101-508, § 11211(g)(1), substituted “1995” for “1993” and “1996” for “1994” wherever appearing.

Subsec. (c)(4)(D). Pub. L. 101-508, § 11211(b)(6)(H), struck out “(to the extent attributable to the Highway Trust Fund financing rate)” after “section 4081” and inserted before period at end “, but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections”.

Subsec. (c)(5). Pub. L. 101-508, § 11211(i)(1), added par. (5).

Subsec. (e)(2). Pub. L. 101-508, § 11211(h)(1), substituted “1.5 cents” for “1 cent”.

1989—Subsec. (b)(4)(A). Pub. L. 101-239 substituted “by section 4041(d)” for “by sections 4041(d)”.

1988—Subsec. (c)(4)(A)(ii)(I), (II). Pub. L. 100-448, § 6(a)(1)(A), (3), substituted “\$60,000,000 for each of fiscal years 1989 and 1990 and \$70,000,000 for each fiscal year thereafter.” for “\$60,000,000” for Fiscal Year 1987 only and “\$45,000,000 for each Fiscal Year thereafter.”

Subsec. (c)(4)(E). Pub. L. 100-448, § 6(a)(1)(B), struck out “Further, a portion of the payments made by the Secretary from Fiscal Year 1987 motorfuel excise tax receipts shall be used to increase the funding for boating safety programs during Fiscal Year 1987 only.”

1987—Subsec. (b). Pub. L. 100-17, § 503(a), substituted “1993” for “1988” wherever appearing, and substituted “1994” for “1989” in par. (2).

Subsec. (b)(1)(F). Pub. L. 100-203, § 10502(d)(13), added subpar. (F) and struck out former subpar. (F) which read as follows: “section 4091 (relating to tax on lubricating oil), and”.

Subsec. (b)(4). Pub. L. 100-203, § 10502(d)(14), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “For purposes of paragraphs (1) and (2), there shall not be taken into account the taxes imposed by section 4041(d) and so much of the taxes imposed by section 4081 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate.”

Subsec. (c). Pub. L. 100-17, § 503(a), substituted “1993” for “1988” wherever appearing and “1994” for “1989” wherever appearing.

Subsec. (c)(1)(C), (D). Pub. L. 100-17, § 503(b), added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: “hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.”

Subsec. (e)(2). Pub. L. 100-203, § 10502(d)(15), substituted “sections 4041, 4081, and 4091” for “sections 4041 and 4081” and “section 4041, 4081, or 4091” for “section 4041 or 4081”.

Subsec. (e)(3). Pub. L. 100-17, § 503(a)(1), substituted “1993” for “1988”.

Subsec. (e)(5). Pub. L. 100-17, § 504, added par. (5).

1986—Subsec. (b)(4). Pub. L. 99-499, § 521(b)(1)(A), added par. (4).

Subsec. (c)(4)(A)(ii). Pub. L. 99-640, § 7(a)(1), substituted “\$60,000,000” for Fiscal Year 1987 only and “\$45,000,000 for each Fiscal Year thereafter,” for “\$45,000,000” in two places.

Subsec. (c)(4)(D). Pub. L. 99-499, § 521(b)(1)(B), inserted “(to the extent attributable to the Highway Trust Fund financing rate)” after “section 4081”.

Subsec. (c)(4)(E). Pub. L. 99-640, § 7(a)(2), added subpar. (E).

1984—Subsec. (c)(2)(A)(ii). Pub. L. 98-369, § 474(r)(43), substituted “section 34” for “section 39”.

Pub. L. 98-369, § 911(d)(1)(B), inserted “(or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1988)”.

Subsec. (c)(4)(A). Pub. L. 98-369, § 1016(b)(1)(C), substituted “Boat Safety Account” for “National Recreational Boating Safety and Facilities Improvement Fund” in heading.

Subsec. (c)(4)(A)(i). Pub. L. 98-369, § 1016(b)(1)(A), substituted “the Boat Safety Account in the Aquatic Re-

sources Trust Fund” for “the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act”.

Subsec. (c)(4)(A)(ii)(II). Pub. L. 98-369, §1016(b)(1)(B), substituted “the amount in the Boat Safety Account” for “the amount in the National Recreational Boating and Facilities Improvement Fund”.

Subsec. (c)(4)(B) to (D). Pub. L. 98-369, §1016(b)(2), added subpars. (B) and (C), redesignated former subpar. (C) as (D), and struck out former subpar. (B) which provided for the transfer of excess funds to the Land and Water Conservation Fund.

Subsec. (e)(2). Pub. L. 98-369, §911(d)(1)(A), amended par. (2) generally, substituting “the mass transit portion” for “one-ninth”, and inserting provision defining mass transit portion as an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 31102(e)(1), (2)(A) of Pub. L. 114-94 effective Oct. 1, 2016, see section 31102(f) of Pub. L. 114-94, set out as a note under section 4041 of this title.

Pub. L. 114-94, div. C, title XXXI, §31202(b), Dec. 4, 2015, 129 Stat. 1729, provided that: “The amendments made by this section [amending this section] shall apply to amounts collected after the date of the enactment of this Act [Dec. 4, 2015].”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title II, §217(b), Dec. 19, 2014, 128 Stat. 4035, provided that: “The amendment made by this section [amending this section] shall take effect as if included in the provision of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 [sic]: A Legacy for Users [Pub. L. 109-59] to which it relates.”

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Pub. L. 112-141, div. D, title I, §40101(d), July 6, 2012, 126 Stat. 844, provided that: “The amendments made by this section [amending this section and sections 9504 and 9508 of this title] shall take effect on July 1, 2012.”

Amendment by section 40102(e)(1), (2)(A) of Pub. L. 112-141 effective July 1, 2012, see section 40102(f) of Pub. L. 112-141, set out as a note under section 4041 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Pub. L. 112-140, title IV, §401(d), June 29, 2012, 126 Stat. 402, provided that: “The amendments made by this section [amending this section and sections 9504 and 9508 of this title] shall take effect on July 1, 2012.”

Amendment by section 402(d)(1), (2)(A) of Pub. L. 112-140 effective July 1, 2012, see section 402(f)(1) of Pub. L. 112-140, set out as a note under section 4041 of this title.

Pub. L. 112-102, title IV, §401(d), Mar. 30, 2012, 126 Stat. 281, provided that: “The amendments made by this section [amending this section and sections 9504 and 9508 of this title] shall take effect on April 1, 2012.”

Amendment by section 402(e)(1), (2)(A) of Pub. L. 112-102 effective Apr. 1, 2012, see section 402(f) of Pub. L. 112-102, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-30, title I, §141(d), Sept. 16, 2011, 125 Stat. 355, provided that: “The amendments made by this section [amending this section and sections 9504 and 9508 of this title] shall take effect on October 1, 2011.”

Amendment by section 142(e)(1), (2)(A) of Pub. L. 112-30 effective Oct. 1, 2011, see section 142(f) of Pub. L. 112-30, set out as a note under section 4041 of this title.

Pub. L. 112-5, §401(c), Mar. 4, 2011, 125 Stat. 22, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on March 4, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-322, title II, §2401(c), Dec. 22, 2010, 124 Stat. 3531, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on December 31, 2010.”

Pub. L. 111-147, title IV, §441(c), Mar. 18, 2010, 124 Stat. 93, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this title [Mar. 18, 2010].”

Pub. L. 111-147, title IV, §442(c), Mar. 18, 2010, 124 Stat. 94, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Mar. 18, 2010].”

Pub. L. 111-147, title IV, §443(b), Mar. 18, 2010, 124 Stat. 94, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Mar. 18, 2010].”

Amendment by section 444(a), (b)(2)-(4) of Pub. L. 111-147 applicable to transfers relating to amounts paid and credits allowed after Mar. 18, 2010, see section 444(c) of Pub. L. 111-147, set out as a note under section 9502 of this title.

Pub. L. 111-147, title IV, §445(c), Mar. 18, 2010, 124 Stat. 95, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on September 30, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-318, §1(c), Sept. 15, 2008, 122 Stat. 3532, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Sept. 15, 2008].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to kerosene sold after Sept. 30, 2005, with special rule for pending claims, see section 420(c) of Pub. L. 109-432, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109-59, title XI, §11102(c), Aug. 10, 2005, 119 Stat. 1945, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

Amendment by section 11115(a) of Pub. L. 109-59 effective Oct. 1, 2005, see section 11115(d) of Pub. L. 109-59, set out as a note under section 551 of Title 6, Domestic Security.

Amendment by section 11161(c)(1), (2)(C) of Pub. L. 109-59 applicable to fuels or liquids removed, entered, or sold after Sept. 30, 2005, see section 11161(e) of Pub. L. 109-59, set out as a note under section 4041 of this title.

Amendment by section 11167(b) of Pub. L. 109-59 applicable to any transfer, sale, or holding out for sale or resale occurring after Aug. 10, 2005, see section 11167(d) of Pub. L. 109-59, set out as an Effective Date note under section 6720A of this title.

Pub. L. 109-42, §7(e), July 30, 2005, 119 Stat. 438, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 30, 2005].”

“(2) SUBSEQUENT REPEAL.—The amendments made by subsection (d) [amending this section and section 9504

of this title] shall take effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Aug. 10, 2005] and shall be executed immediately before the amendments made by such Act.”

Pub. L. 109-40, §9(c), July 28, 2005, 119 Stat. 422, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 28, 2005].”

Pub. L. 109-37, §9(c), July 22, 2005, 119 Stat. 406, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 22, 2005].”

Pub. L. 109-35, §9(c), July 20, 2005, 119 Stat. 391, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 20, 2005].”

Pub. L. 109-20, §9(c), July 1, 2005, 119 Stat. 358, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 1, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by section 301(c)(11)–(13) of Pub. L. 108-357 applicable to fuel sold or used after Dec. 31, 2004, except as otherwise provided, see section 301(d)(1) of Pub. L. 108-357, set out as a note under section 40 of this title.

Amendment by section 301(c)(12) of Pub. L. 108-357 applicable to fuel sold or used after Sept. 30, 2004, see section 301(d)(4) of Pub. L. 108-357, set out as a note under section 40 of this title.

Pub. L. 108-357, title VIII, §868(c), Oct. 22, 2004, 118 Stat. 1622, provided that: “The amendments made by this section [amending this section] shall apply to penalties assessed on or after the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-310, §13(d), Sept. 30, 2004, 118 Stat. 1164, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 9504 of this title and repealing provisions set out as a note under this section] shall take effect on the date of the enactment of this Act [Sept. 30, 2004].

“(2) TRANSFERS TO HIGHWAY TRUST FUND.—The amendments made by subsection (c) [amending this section] shall apply to taxes imposed after September 30, 2003.”

Pub. L. 108-280, §10(c), July 30, 2004, 118 Stat. 888, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [July 30, 2004].”

Pub. L. 108-263, §10(c), June 30, 2004, 118 Stat. 710, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [June 30, 2004].”

Pub. L. 108-224, §10(c), Apr. 30, 2004, 118 Stat. 639, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [Apr. 30, 2004].”

Pub. L. 108-202, §12(c), Feb. 29, 2004, 118 Stat. 492, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [Feb. 29, 2004].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-88, §12(c), Sept. 30, 2003, 117 Stat. 1129, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of the enactment of this Act [Sept. 30, 2003].”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §318(e)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to taxes received in the Treasury after the date of the enactment of this Act [Dec. 21, 2000].”

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-354, §2(c), Nov. 3, 1998, 112 Stat. 3244, provided that the amendment made by section 2(c)(2) is effective Aug. 12, 1998.

Pub. L. 105-277, div. J, title IV, §4006(b)(2), Oct. 21, 1998, 112 Stat. 2681-912, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1998.”

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

Pub. L. 105-178, title IX, §9002(e)(2), June 9, 1998, 112 Stat. 501, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997 [Pub. L. 105-34].”

Pub. L. 105-178, title IX, §9004(a)(2), June 9, 1998, 112 Stat. 504, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1998.”

Pub. L. 105-178, title IX, §9004(b)(2), June 9, 1998, 112 Stat. 504, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 901 of the Taxpayer Relief Act of 1997 [Pub. L. 105-34].”

Pub. L. 105-178, title IX, §9005(e), June 9, 1998, 112 Stat. 506, provided that: “The amendments made by this section [amending this section and section 9504 of this title] shall take effect on the date of enactment of this Act [June 9, 1998].”

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105-130, §9(d), Dec. 1, 1997, 111 Stat. 2561, provided that: “The amendments made by this section [amending this section and sections 9504 and 9511 of this title] shall take effect on October 1, 1997.”

Pub. L. 105-34, title IX, §901(f), Aug. 5, 1997, 111 Stat. 872, provided that: “The amendments made by this section [amending this section] shall apply to taxes received in the Treasury after September 30, 1997.”

Amendment by section 1032(e)(13), (14) of Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, set out as a note under section 4041 of this title.

Amendment by section 1601(f)(2) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13242(d)(34) to (41) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Pub. L. 103-66, title XIII, §13244(b), Aug. 10, 1993, 107 Stat. 529, provided that: “The amendment made by this section [amending this section] shall apply to amounts attributable to taxes imposed on or after October 1, 1995.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(a)(5)(D)–(F) of Pub. L. 101-508 applicable to gasoline removed (as defined in former section 4082 of this title) after Nov. 30, 1990, see

section 11211(a)(6) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Amendment by section 11211(b)(6)(H) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101-508, set out as a note under section 4041 of this title.

Pub. L. 101-508, title XI, §11211(h)(2), Nov. 5, 1990, 104 Stat. 1388-427, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to amounts attributable to taxes imposed on or after December 1, 1990.”

Pub. L. 101-508, title XI, §11211(i)(4), Nov. 5, 1990, 104 Stat. 1388-428, provided that: “The amendments made by this subsection [amending this section and section 9504 of this title] shall take effect on December 1, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-448 effective Oct. 1, 1988, see section 6(e) of Pub. L. 100-448, set out as a note under section 777 of Title 16, Conservation.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(43) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 911(d)(1) of Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

Amendment by section 1016(b) of Pub. L. 98-369 effective Oct. 1, 1984, see section 1016(e) of Pub. L. 98-369, set out as an Effective Date note under section 9504 of this title.

EFFECTIVE DATE; SAVINGS PROVISION

Pub. L. 97-424, title V, §531(e), Jan. 6, 1983, 96 Stat. 2192, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section, amending section 4601-11 of Title 16, Conservation, and amending provisions set out as a note under section 120 of Title 23, Highways] shall take effect on January 1, 1983.

“(2) NEW HIGHWAY TRUST FUND TREATED AS CONTINUATION OF OLD.—The Highway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956 [section 209 of act June 29, 1956, ch. 462, title II, 70 Stat. 397, set out as a note under section 120 of Title 23, Highways]. Any reference in any law to the Highway Trust Fund established by such section 209 shall be deemed to include (wherever appropriate) a reference to the Highway Trust Fund established by the amendments made by this section.”

CALCULATION OF ESTIMATED TRUST FUND CONTRIBUTIONS

Pub. L. 108-310, §12(g), Sept. 30, 2004, 118 Stat. 1163, provided that: “The amendment made by section 13(c) of this Act [amending this section] shall have no effect

on the estimates of tax payments attributable to highway users in each State paid into the Highway Trust Fund for purposes of apportioning funds to States in fiscal year 2004 until enactment of a multiyear law reauthorizing surface transportation programs.”

SPECIAL RULE FOR CORE HIGHWAY PROGRAMS

Pub. L. 108-280, §10(a)(4), July 30, 2004, 118 Stat. 887, which provided for the temporary application of subsecs. (b)(5) and (c)(1) of this section relating to core highway programs, was repealed by Pub. L. 108-310, §13(a)(4), Sept. 30, 2004, 118 Stat. 1163.

REPORT ON NONHIGHWAY RECREATIONAL FUEL TAXES

Pub. L. 102-240, title VIII, §8003(d), Dec. 18, 1991, 105 Stat. 2206, provided that: “The Secretary of the Treasury shall, within a reasonable period after the close of each of fiscal years 1992 through 1996, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate specifying his estimate of the amount of non-highway recreational fuel taxes (as defined in [former] section 9503(c)(6) of the Internal Revenue Code of 1986, as added by this Act) received in the Treasury during such fiscal year.”

§9504. Sport Fish Restoration and Boating Trust Fund

(a) Creation of Trust Fund

There is hereby established in the Treasury of the United States a trust fund to be known as the “Sport Fish Restoration and Boating Trust Fund”. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).

(b) Sport Fish Restoration and Boating Trust Fund

(1) Transfer of certain taxes to Trust Fund

There is hereby appropriated to the Sport Fish Restoration and Boating Trust Fund amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

(A) the taxes imposed by section 4161(a) (relating to sport fishing equipment), and

(B) the import duties imposed on fishing tackle under heading 9507 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under chapter 89 of the Harmonized Tariff Schedule of the United States.

(2) Expenditures from Trust Fund

Amounts in the Sport Fish Restoration and Boating Trust Fund shall be available, as provided by appropriation Acts, for making expenditures—

(A) to carry out the purposes of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the FAST Act),

(B) to carry out the purposes of section 7404(d) of the Transportation Equity Act for the 21st Century (as in effect on the date of the enactment of the FAST Act), and

(C) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act (as in effect on the date of the enactment of the FAST Act).

Amounts transferred to such account under section 9503(c)(4) may be used only for making

expenditures described in subparagraph (C) of this paragraph.

(c) Expenditures from Boat Safety Account

Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15¹ of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users). For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter.

(d) Limitation on transfers to Trust Fund

(1) In general

Except as provided in paragraph (2), no amount may be appropriated or paid to the Sport Fish Restoration and Boating Trust Fund on and after the date of any expenditure from such Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) Exception for prior obligations

Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2020, in accordance with the provisions of this section.

(e) Cross reference

For provision transferring motorboat fuels taxes to Sport Fish Restoration and Boating Trust Fund, see section 9503(c)(3).

(Added Pub. L. 98-369, div. A, title X, §1016(a), July 18, 1984, 98 Stat. 1019; amended Pub. L. 100-418, title I, §1214(p)(2), Aug. 23, 1988, 102 Stat. 1159; Pub. L. 100-448, §6(a)(2), (c)(3), Sept. 28, 1988, 102 Stat. 1839, 1841; Pub. L. 101-508, title XI, §1121(i)(2), (3), Nov. 5, 1990, 104 Stat. 1388-428; Pub. L. 102-240, title VIII, §8002(d)(2)(C), (i), Dec. 18, 1991, 105 Stat. 2204, 2205; Pub. L. 105-130, §9(b), Dec. 1, 1997, 111 Stat. 2561; Pub. L. 105-178, title IX, §9005(b)-(d), (f), June 9, 1998, 112 Stat. 505; Pub. L. 105-206, title IX, §9015(b), July 22, 1998, 112 Stat. 867; Pub. L. 106-408, title I, §126, Nov. 1, 2000, 114 Stat. 1775; Pub. L. 108-88, §12(b), Sept. 30, 2003, 117 Stat. 1129; Pub. L. 108-202, §12(b), Feb. 29, 2004, 118 Stat. 491; Pub. L. 108-224, §10(b), Apr. 30, 2004, 118 Stat. 639; Pub. L. 108-263, §10(b), June 30, 2004, 118 Stat. 710; Pub. L. 108-280, §10(b), July 30, 2004, 118 Stat. 888; Pub. L. 108-310, §13(b), Sept. 30, 2004, 118 Stat. 1163; Pub. L. 109-14, §9(b), May 31, 2005, 119 Stat. 335; Pub. L. 109-20, §9(b), July 1, 2005, 119 Stat. 357; Pub. L. 109-35, §9(b), July 20, 2005, 119 Stat. 391; Pub. L. 109-37, §9(b), July 22, 2005, 119 Stat. 406; Pub. L.

109-40, §9(b), July 28, 2005, 119 Stat. 422; Pub. L. 109-42, §7(b), (d)(2), (3), July 30, 2005, 119 Stat. 437, 438; Pub. L. 109-59, title XI, §§11101(d)(2), 11115(b)(1)-(2)(D), (c), 11151(c), (e)(1), Aug. 10, 2005, 119 Stat. 1945, 1949, 1950, 1968, 1969; Pub. L. 109-74, title III, §301(a), Sept. 29, 2005, 119 Stat. 2032; Pub. L. 109-304, §16(c)(2), Oct. 6, 2006, 120 Stat. 1706; Pub. L. 110-181, div. C, title XXXV, §3529(c)(1), Jan. 28, 2008, 122 Stat. 603; Pub. L. 111-68, div. B, §161(a), Oct. 1, 2009, 123 Stat. 2052; Pub. L. 111-88, div. B, §103, Oct. 30, 2009, 123 Stat. 2972; Pub. L. 111-147, title IV, §§444(b)(5)-(7), 445(b), Mar. 18, 2010, 124 Stat. 94, 95; Pub. L. 111-322, title II, §2401(b), Dec. 22, 2010, 124 Stat. 3531; Pub. L. 112-5, title IV, §401(b), Mar. 4, 2011, 125 Stat. 22; Pub. L. 112-30, title I, §141(b), Sept. 16, 2011, 125 Stat. 355; Pub. L. 112-102, title IV, §401(b), Mar. 30, 2012, 126 Stat. 281; Pub. L. 112-140, title IV, §401(b), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40101(b), July 6, 2012, 126 Stat. 844; Pub. L. 113-159, title II, §2001(b), Aug. 8, 2014, 128 Stat. 1848; Pub. L. 114-21, title II, §2001(b), May 29, 2015, 129 Stat. 226; Pub. L. 114-41, title II, §2001(b), July 31, 2015, 129 Stat. 454; Pub. L. 114-73, title II, §2001(b), Oct. 29, 2015, 129 Stat. 582; Pub. L. 114-87, title II, §2001(b), Nov. 20, 2015, 129 Stat. 685; Pub. L. 114-94, div. C, title XXXI, §31101(b), Dec. 4, 2015, 129 Stat. 1727.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(1)(B), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsec. (b)(2)(A), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§777 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 777 of Title 16 and Tables.

The date of the enactment of the FAST Act, referred to in subsec. (b)(2)(A) to (C), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

Section 7404(d) of the Transportation Equity Act for the 21st Century, referred to in subsec. (b)(2)(B), is classified to section 777g-1(d) of Title 16, Conservation.

The Coastal Wetlands Planning, Protection and Restoration Act, referred to in subsec. (b)(2)(C), is title III of Pub. L. 101-646, Nov. 29, 1990, 104 Stat. 4778, which is classified principally to chapter 59A (§3951 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 3951 of Title 16 and Tables.

Section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), referred to in subsec. (c), means section 15 of act Aug. 9, 1950, as in effect on the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005. Section 15 of act Aug. 9, 1950, was classified to section 777n of Title 16, Conservation, prior to repeal by Pub. L. 114-94, div. A, title X, §10001(g)(1), Dec. 4, 2015, 129 Stat. 1621.

AMENDMENTS

2015—Subsec. (b)(2)(A) to (C). Pub. L. 114-94, §31101(b)(1), substituted “FAST Act” for “Surface Transportation Extension Act of 2015, Part II”.

Pub. L. 114-87, §2001(b)(1), substituted “Surface Transportation Extension Act of 2015, Part II” for “Surface Transportation Extension Act of 2015”.

¹ See References in Text note below.

Pub. L. 114-73, §2001(b)(1), substituted “Surface Transportation Extension Act of 2015” for “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015”.

Pub. L. 114-41, §2001(b)(1), substituted “Surface Transportation and Veterans Health Care Choice Improvement Act of 2015” for “Highway and Transportation Funding Act of 2015”.

Pub. L. 114-21, §2001(b)(1), substituted “Highway and Transportation Funding Act of 2015” for “Highway and Transportation Funding Act of 2014”.

Subsec. (d)(2). Pub. L. 114-94, §31101(b)(2), substituted “October 1, 2020” for “December 5, 2015”.

Pub. L. 114-87, §2001(b)(2), substituted “December 5, 2015” for “November 21, 2015”.

Pub. L. 114-73, §2001(b)(2), substituted “November 21, 2015” for “October 30, 2015”.

Pub. L. 114-41, §2001(b)(2), substituted “October 30, 2015” for “August 1, 2015”.

Pub. L. 114-21, §2001(b)(2), substituted “August 1, 2015” for “June 1, 2015”.

2014—Subsec. (b)(2)(A) to (C). Pub. L. 113-159, §2001(b)(1), substituted “Highway and Transportation Funding Act of 2014” for “MAP-21”.

Subsec. (d)(2). Pub. L. 113-159, §2001(b)(2), substituted “June 1, 2015” for “October 1, 2014”.

2012—Subsec. (b)(2)(A) to (C). Pub. L. 112-141, §40101(b)(1), substituted “MAP-21” for “Surface Transportation Extension Act of 2012”.

Pub. L. 112-140, §§1(c), 401(b)(1), temporarily substituted “Temporary Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, §401(b)(1), substituted “Surface Transportation Extension Act of 2012” for “Surface Transportation Extension Act of 2011, Part II”.

Subsec. (d)(2). Pub. L. 112-141, §40101(b)(2), substituted “October 1, 2014” for “July 1, 2012”.

Pub. L. 112-140, §§1(c), 401(b)(2), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102, §401(b)(2), substituted “July 1, 2012” for “April 1, 2012”.

2011—Subsec. (b)(2)(A) to (C). Pub. L. 112-30, §141(b)(1), substituted “Surface Transportation Extension Act of 2011, Part II” for “Surface Transportation Extension Act of 2011”.

Pub. L. 112-5, §401(b)(1), substituted “Surface Transportation Extension Act of 2011” for “Surface Transportation Extension Act of 2010, Part II”.

Subsec. (d)(2). Pub. L. 112-30, §141(b)(2), substituted “April 1, 2012” for “October 1, 2011”.

Pub. L. 112-5, §401(b)(1), substituted “October 1, 2011” for “March 5, 2011”.

2010—Subsec. (a). Pub. L. 111-147, §444(b)(5), substituted “section 9503(c)(3), section 9503(c)(4)” for “section 9503(c)(4), section 9503(c)(5)”.

Subsec. (b)(2). Pub. L. 111-147, §444(b)(6), substituted “section 9503(c)(4)” for “section 9503(c)(5)” in concluding provisions.

Subsec. (b)(2)(A) to (C). Pub. L. 111-322, §2401(b)(1), substituted “Surface Transportation Extension Act of 2010, Part II” for “Surface Transportation Extension Act of 2010”.

Pub. L. 111-147, §445(b)(1), substituted “(as in effect on the date of the enactment of the Surface Transportation Extension Act of 2010)” for “(as in effect on the date of the enactment of the last amendment to the first Continuing Appropriations Resolution for Fiscal Year 2010)”.

Subsec. (d)(2). Pub. L. 111-322, §2401(b)(2), substituted “March 5, 2011” for “January 1, 2011”.

Pub. L. 111-147, §445(b)(2), substituted “January 1, 2011” for “October 1, 2009”.

Subsec. (e). Pub. L. 111-147, §444(b)(7), which directed amendment of subsec. (e) “by striking ‘section 9503(c)(4)’ and inserting section ‘9503(c)(3)’”, was executed by striking “section 9503(c)(4)” and inserting “section 9503(c)(3)” to reflect the probable intent of Congress.

2009—Subsec. (b)(2)(A) to (C). Pub. L. 111-88 inserted “the last amendment to” after “on the date of the enactment of”.

Pub. L. 111-68 substituted “(as in effect on the date of the enactment of the first Continuing Appropriations Resolution for Fiscal Year 2010)” for “(as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users)”.

2008—Subsec. (c). Pub. L. 110-181 repealed Pub. L. 109-304, §16(c)(2). See 2006 Amendment note below.

2006—Subsec. (c). Pub. L. 109-304, §16(c)(2), which directed substitution of “section 13107” for “section 13106” and could not be executed, was repealed by Pub. L. 110-181. See Construction of 2006 Amendment note below.

2005—Pub. L. 109-59, §11115(b)(2)(D), substituted “Sport Fish Restoration and Boating” for “Aquatic Resources” in section catchline.

Subsec. (a). Pub. L. 109-59, §11115(b)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, subsec. (a) established in the Treasury of the United States the Aquatic Resources Trust Fund consisting of the Sport Fish Restoration and Boat Safety accounts.

Subsec. (b). Pub. L. 109-59, §11115(b)(2)(A)(i), substituted “and Boating Trust Fund” for “Account” in heading.

Subsec. (b)(1). Pub. L. 109-59, §11115(b)(2)(A)(ii), (iii), substituted “Trust Fund” for “Account” in heading and “and Boating Trust Fund” for “Account” in introductory provisions.

Subsec. (b)(2). Pub. L. 109-59, §11151(c), substituted “subparagraph (C)” for “subparagraph (B)” in concluding provisions.

Pub. L. 109-59, §11115(b)(2)(A)(iii), substituted “Trust Fund” for “Account” in heading.

Pub. L. 109-59, §11115(b)(2)(A)(ii), substituted “and Boating Trust Fund” for “Account” in introductory provisions.

Pub. L. 109-42, §7(b)(1), (d)(2), (e), temporarily inserted at end “Subparagraphs (A), (B), and (C) shall each be applied by substituting ‘Surface Transportation Extension Act of 2005, Part VI’ for ‘Surface Transportation Extension Act of 2005, Part V’.” See Effective Date of 2005 Amendments note below.

Subsec. (b)(2)(A). Pub. L. 109-59, §11151(e)(1), substituted “the Dingell-Johnson Sport Fish Restoration Act” for “the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes’, approved August 9, 1950”.

Pub. L. 109-59, §11101(d)(2)(A), substituted “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” for “Surface Transportation Extension Act of 2005, Part V”.

Pub. L. 109-40, §9(b)(1), substituted “Part V” for “Part IV”.

Pub. L. 109-37, §9(b)(1), substituted “Part IV” for “Part III”.

Pub. L. 109-35, §9(b)(1), substituted “Part III” for “Part II”.

Pub. L. 109-20, §9(b)(1), inserted “, Part II” after “Surface Transportation Extension Act of 2005”.

Pub. L. 109-14, §9(b)(1), substituted “Surface Transportation Extension Act of 2005” for “Surface Transportation Extension Act of 2004, Part V”.

Subsec. (b)(2)(B), (C). Pub. L. 109-59, §11101(d)(2)(A), substituted “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” for “Surface Transportation Extension Act of 2005, Part V”.

Pub. L. 109-40, §9(b)(1), substituted “Part V” for “Part IV”.

Pub. L. 109-37, §9(b)(1), substituted “Part IV” for “Part III”.

Pub. L. 109-35, §9(b)(1), substituted “Part III” for “Part II”.

Pub. L. 109-20, §9(b)(1), inserted “, Part II” after “Surface Transportation Extension Act of 2005”.

Pub. L. 109-14, §9(b)(1), substituted “Surface Transportation Extension Act of 2005” for “Surface Transportation Extension Act of 2004, Part V”.

Subsec. (c). Pub. L. 109-74 substituted “October 1, 2005” for “August 15, 2005” and “Sportfishing and Recreational Boating Safety Amendments Act of 2005” for “Surface Transportation Extension Act of 2005, Part VI”. See Effective Date of 2005 Amendments note below.

Pub. L. 109-59, §1115(c), reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, text read as follows: “Amounts in the Boat Safety Account shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2005, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Sportfishing and Recreational Boating Safety Amendments Act of 2005).” See above and Effective Date of 2005 Amendments note below.

Pub. L. 109-42, §7(b)(2), substituted “August 15, 2005” for “July 31, 2005” and “Part VI” for “Part V”.

Pub. L. 109-40, §9(b)(2), substituted “July 31, 2005” for “July 28, 2005” and “Part V” for “Part IV”.

Pub. L. 109-37, §9(b)(2), substituted “July 28, 2005” for “July 22, 2005” and “Part IV” for “Part III”.

Pub. L. 109-35, §9(b)(2), substituted “July 22, 2005” for “July 20, 2005” and “Part III” for “Part II”.

Pub. L. 109-20, §9(b)(2), substituted “July 20, 2005” for “July 1, 2005” and inserted “, Part II” after “Surface Transportation Extension Act of 2005”.

Pub. L. 109-14, §9(b)(2), substituted “July 1, 2005” for “June 1, 2005” and “Surface Transportation Extension Act of 2005” for “Surface Transportation Extension Act of 2004, Part V”.

Subsec. (d). Pub. L. 109-59, §1115(b)(2)(B)(i), struck out “Aquatic Resources” before “Trust Fund” in heading.

Subsec. (d)(1). Pub. L. 109-59, §1115(b)(2)(B)(ii), (iii), substituted “the Sport Fish Restoration and Boating Trust Fund” for “any Account in the Aquatic Resources Trust Fund” and “such Trust Fund” for “any such Account” in introductory provisions.

Subsec. (d)(2). Pub. L. 109-59, §1115(d)(2)(B), substituted “October 1, 2009” for “July 31, 2005”.

Pub. L. 109-42, §7(b)(3), (d)(3), (e), temporarily inserted at end “The preceding sentence shall be applied by substituting ‘August 15, 2005’ for the date therein.” See Effective Date of 2005 Amendments note below.

Pub. L. 109-40, §9(b)(3), substituted “July 31, 2005” for “July 28, 2005”.

Pub. L. 109-37, §9(b)(3), substituted “July 28, 2005” for “July 22, 2005”.

Pub. L. 109-35, §9(b)(3), substituted “July 22, 2005” for “July 20, 2005”.

Pub. L. 109-20, §9(b)(3), substituted “July 20, 2005” for “July 1, 2005”.

Pub. L. 109-14, §9(b)(3), substituted “July 1, 2005” for “June 1, 2005”.

Subsec. (e). Pub. L. 109-59, §1115(b)(2)(C), substituted “Sport Fish Restoration and Boating Trust Fund” for “Boat Safety Account and Sport Fish Restoration Account”.

2004—Subsec. (b)(2)(A) to (C). Pub. L. 108-310, §13(b)(1), substituted “Part V” for “Part IV”.

Pub. L. 108-280, §10(b)(1), substituted “Part IV” for “Part III”.

Pub. L. 108-263, §10(b)(1), substituted “Part III” for “Part II”.

Pub. L. 108-224, §10(b)(1), inserted “, Part II” after “Surface Transportation Extension Act of 2004”.

Pub. L. 108-202, §12(b)(1), substituted “Surface Transportation Extension Act of 2004” for “Surface Transportation Extension Act of 2003”.

Subsec. (c). Pub. L. 108-310, §13(b)(2), substituted “June 1, 2005” for “October 1, 2004” and “Part V” for “Part IV”.

Pub. L. 108-280, §10(b)(2), substituted “October 1, 2004” for “August 1, 2004” and “Part IV” for “Part III”.

Pub. L. 108-263, §10(b)(2), substituted “August 1, 2004” for “July 1, 2004” and “Part III” for “Part II”.

Pub. L. 108-224, §10(b)(2), substituted “July 1, 2004” for “May 1, 2004” and inserted “, Part II” after “Surface Transportation Extension Act of 2004”.

Pub. L. 108-202, §12(b)(2), substituted “May 1, 2004” for “March 1, 2004” and “Surface Transportation Extension Act of 2004” for “Surface Transportation Extension Act of 2003”.

Subsec. (d)(2). Pub. L. 108-310, §13(b)(3), substituted “June 1, 2005” for “October 1, 2004”.

Pub. L. 108-280, §10(b)(3), substituted “October 1, 2004” for “August 1, 2004”.

Pub. L. 108-263, §10(b)(3), substituted “August 1, 2004” for “July 1, 2004”.

Pub. L. 108-224, §10(b)(3), substituted “July 1, 2004” for “May 1, 2004”.

Pub. L. 108-202, §12(b)(3), substituted “May 1, 2004” for “March 1, 2004”.

2003—Subsec. (b)(2)(A). Pub. L. 108-88, §12(b)(1)(A), substituted “Surface Transportation Extension Act of 2003” for “Wildlife and Sport Fish Restoration Programs Improvement Act of 2000”.

Subsec. (b)(2)(B), (C). Pub. L. 108-88, §12(b)(1)(B), substituted “Surface Transportation Extension Act of 2003” for “TEA 21 Restoration Act”.

Subsec. (c). Pub. L. 108-88, §12(b)(2), substituted “March 1, 2004” for “October 1, 2003” and “Surface Transportation Extension Act of 2003” for “TEA 21 Restoration Act”.

Subsec. (d)(2). Pub. L. 108-88, §12(b)(3), substituted “March 1, 2004” for “October 1, 2003”.

2000—Subsec. (b)(2)(A). Pub. L. 106-408 substituted “(as in effect on the date of the enactment of the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000)” for “(as in effect on the date of the enactment of the TEA 21 Restoration Act)”.

1998—Subsec. (b)(2)(A). Pub. L. 105-178, §9005(f)(1), as added by Pub. L. 105-206, §9015(b), substituted “the date of the enactment of the TEA 21 Restoration Act” for “the date of the enactment of the Transportation Equity Act for the 21st Century”.

Pub. L. 105-178, §9005(b)(1), substituted “the date of the enactment of the Transportation Equity Act for the 21st Century,” for “October 1, 1988,” and “.”

Subsec. (b)(2)(B). Pub. L. 105-178, §9005(f)(2), as added by Pub. L. 105-206, §9015(b), substituted “the TEA 21 Restoration Act” for “such Act”.

Pub. L. 105-178, §9005(b)(3), added subpar. (B). Former subpar. (B) redesignated (C).

Pub. L. 105-178, §9005(b)(2), substituted “the date of the enactment of the Transportation Equity Act for the 21st Century” for “November 29, 1990”.

Subsec. (b)(2)(C). Pub. L. 105-178, §9005(f)(3), as added by Pub. L. 105-206, §9015(b), substituted “the date of the enactment of the TEA 21 Restoration Act” for “the date of the enactment of the Transportation Equity Act for the 21st Century”.

Pub. L. 105-178, §9005(b)(3), redesignated subpar. (B) as (C).

Subsec. (c). Pub. L. 105-178, §9005(f)(4), as added by Pub. L. 105-206, §9015(b), substituted “the date of the enactment of the TEA 21 Restoration Act” for “the date of enactment of the Transportation Equity Act for the 21st Century”.

Pub. L. 105-178, §9005(c), substituted “2003” for “1998” and “the date of enactment of the Transportation Equity Act for the 21st Century” for “October 1, 1988”.

Subsecs. (d), (e). Pub. L. 105-178, §9005(d), added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (c). Pub. L. 105-130 substituted “October 1, 1998” for “April 1, 1998”.

1991—Subsec. (b)(2)(B). Pub. L. 102-240, §8002(i), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “to carry out the purposes of any law which is substantially identical to S. 3252 of the 101st Congress, as introduced.”

Subsec. (c). Pub. L. 102-240, §8002(d)(2)(C), substituted “1998” for “1994”.

1990—Subsec. (a)(2). Pub. L. 101-508, §1121(i)(2), inserted reference to section 9503(c)(5) in last sentence.

Subsec. (b)(2). Pub. L. 101-508, §1121(i)(3), amended par. (2) generally. Prior to amendment, par. (2) read as

follows: “Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, to carry out the purposes of the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes’, approved August 9, 1950 (as in effect on October 1, 1988).”

1988—Subsec. (b)(1)(B). Pub. L. 100-418 substituted “heading 9507 of the Harmonized Tariff Schedule of the United States” for “subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States” and “chapter 89 of the Harmonized Tariff Schedule of the United States” for “subpart D of part 6 of schedule 6 of such Schedules”.

Subsec. (b)(2). Pub. L. 100-448, §6(c)(3), substituted “(as in effect on October 1, 1988)” for “(as in effect on June 1, 1984)”.

Subsec. (c). Pub. L. 100-448, §6(a)(2), substituted provisions authorizing expenditures before Apr. 1, 1994, to carry out the purposes of section 13106 of title 46 as in effect on Oct. 1, 1988, for provisions which had authorized expenditures before Apr. 1, 1989, to carry out the purposes of that section as in effect on June 1, 1984.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective July 1, 2012, see section 40101(d) of Pub. L. 112-141, set out as a note under section 9503 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 112-140 effective July 1, 2012, see section 401(d) of Pub. L. 112-140, set out as a note under section 9503 of this title.

Amendment by Pub. L. 112-102 effective Apr. 1, 2012, see section 401(d) of Pub. L. 112-102, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-30 effective Oct. 1, 2011, see section 141(d) of Pub. L. 112-30, set out as a note under section 9503 of this title.

Amendment by Pub. L. 112-5 effective Mar. 4, 2011, see section 401(c) of Pub. L. 112-5, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-322 effective Dec. 31, 2010, see section 2401(c) of Pub. L. 111-322, set out as a note under section 9503 of this title.

Amendment by section 444(b)(5)–(7) of Pub. L. 111-147 applicable to transfers relating to amounts paid and credits allowed after Mar. 18, 2010, see section 444(c) of Pub. L. 111-147, set out as a note under section 9502 of this title.

Amendment by section 445(b) of Pub. L. 111-147 effective Sept. 30, 2009, see section 445(c) of Pub. L. 111-147, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109-74, title III, §301(b), Sept. 29, 2005, 119 Stat. 2032, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Sept. 29, 2005].”

Amendment by section 11115(b)(1)–(2)(D), (c) of Pub. L. 109-59 effective Oct. 1, 2005, see section 11115(d) of Pub. L. 109-59, set out as a note under section 551 of Title 6, Domestic Security.

Pub. L. 109-59, title XI, §11151(f)(2), Aug. 10, 2005, 119 Stat. 1969, provided that: “The amendment made by subsection (c) [amending this section] shall take effect as if included in the provision of the Transportation Equity Act for the 21st Century [Pub. L. 105-178] to which it relates.”

Amendment by section 7(b) of Pub. L. 109-42 effective July 30, 2005, and amendment by section 7(d)(2), (3) of Pub. L. 109-42 effective Aug. 10, 2005, see section 7(e) of Pub. L. 109-42, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-130 effective Oct. 1, 1997, see section 9(d) of Pub. L. 105-130, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Dec. 1, 1990, see section 11211(i)(4) of Pub. L. 101-508, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-448 effective Oct. 1, 1988, see section 6(e) of Pub. L. 100-448, set out as a note under section 777 of Title 16, Conservation.

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title X, §1016(e), July 18, 1984, 98 Stat. 1021, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section, amending section 9503 of this title, and repealing section 13107 of Title 46, Shipping] shall take effect on October 1, 1984.

“(2) BOAT SAFETY ACCOUNT TREATED AS CONTINUATION OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—The Boat Safety Account in the Aquatic Resources Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the National Recreational Boating Safety and Facilities Improvement Fund established by [former] section 13107 of title 46, United States Code. Any reference in any law to the National Recreational Boating Safety and Facilities Improvement Fund established by such section shall be deemed to include (wherever appropriate) a reference to such Boat Safety Account.”

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 110-181, div. C, title XXXV, §3529(c)(2), Jan. 28, 2008, 122 Stat. 603, provided that: “The provisions repealed by paragraph (1) [sections 9(a), 15(21), (33)(A)–(D)(i), and 16(c)(2) of Pub. L. 109-304, amending this section and sections 6101, 70117, 70118, 70120, and 70121 of Title 46, Shipping] shall be treated as if never enacted.”

§ 9505. Harbor Maintenance Trust Fund

(a) Creation of Trust Fund

There is hereby established in the Treasury of the United States a trust fund to be known as the “Harbor Maintenance Trust Fund”, consisting of such amounts as may be—

(1) appropriated to the Harbor Maintenance Trust Fund as provided in this section,

(2) transferred to the Harbor Maintenance Trust Fund by the Saint Lawrence Seaway De-

velopment Corporation pursuant to section 13(a) of the Act of May 13, 1954, or

(3) credited to the Harbor Maintenance Trust Fund as provided in section 9602(b).

(b) Transfer to Harbor Maintenance Trust Fund of amounts equivalent to certain taxes

There are hereby appropriated to the Harbor Maintenance Trust Fund amounts equivalent to the taxes received in the Treasury under section 4461 (relating to harbor maintenance tax).

(c) Expenditures from Harbor Maintenance Trust Fund

Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriation Acts, for making expenditures—

(1) to carry out section 210 of the Water Resources Development Act of 1986,

(2) for payments of rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on April 1, 1987), and

(3) for the payment of all expenses of administration incurred by the Department of the Treasury, the Army Corps of Engineers, and the Department of Commerce related to the administration of subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of \$5,000,000 for any fiscal year.

(Added Pub. L. 99-662, title XIV, §1403(a), Nov. 17, 1986, 100 Stat. 4269; amended Pub. L. 103-182, title VI, §683(a), Dec. 8, 1993, 107 Stat. 2218; Pub. L. 104-303, title VI, §601, Oct. 12, 1996, 110 Stat. 3792; Pub. L. 113-121, title II, §2102(c), June 10, 2014, 128 Stat. 1278.)

REFERENCES IN TEXT

Section 13 of the Act of May 13, 1954, referred to in subsecs. (a)(2) and (c)(2), is classified to section 988a of Title 33, Navigation and Navigable Waters.

Section 210 of the Water Resources Development Act of 1986, referred to in subsec. (c)(1), is classified to section 2238 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113-121 struck out “(as in effect on the date of the enactment of the Water Resources Development Act of 1996)” after “1986”.

1996—Subsec. (c)(1). Pub. L. 104-303 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “to carry out section 210(a) of the Water Resources Development Act of 1986 (as in effect on the date of enactment of this section),”.

1993—Subsec. (c)(3). Pub. L. 103-182 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “for the payment of all expenses of administration incurred—

“(A) by the Department of the Treasury in administering subchapter A of chapter 36 (relating to harbor maintenance tax), but not in excess of \$5,000,000 for any fiscal year, and

“(B) for periods during which no fee applies under paragraph (9) or (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-182, title VI, §683(b), Dec. 8, 1993, 107 Stat. 2218, provided that: “The amendment made by subsection (a) [amending this section] shall apply to fiscal years beginning after the date of the enactment of this Act [Dec. 8, 1993].”

EFFECTIVE DATE

Pub. L. 99-662, title XIV, §1403(d), Nov. 17, 1986, 100 Stat. 4270, provided that: “The amendments made by

this section [enacting this section] shall take effect on April 1, 1987.”

HARBOR MAINTENANCE TRUST FUND DEPOSITS AND EXPENDITURES

Pub. L. 102-580, title III, §330, Oct. 31, 1992, 106 Stat. 4851, provided that:

“(a) REPORT.—Not later than March 1, 1993, and annually thereafter, the President shall transmit to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on expenditures from and deposits into the Harbor Maintenance Trust Fund.

“(b) CONTENTS.—

“(1) IN GENERAL.—Each report to be transmitted under subsection (a) shall contain the following:

“(A) A description of expenditures made from the trust fund in the previous fiscal year on a project-by-project basis.

“(B) A description of deposits made into the trust fund in the previous fiscal year and the sources of such deposits.

“(C) A 5-year projection of expenditures from and deposits into the trust fund.

“(2) PREVIOUS YEARS INFORMATION.—In addition to information required under paragraph (1), the initial report to be transmitted under subsection (a) shall contain the information described in subparagraphs (A) and (B) of paragraph (1) for fiscal years 1987 through 1992.”

§ 9506. Inland Waterways Trust Fund

(a) Creation of Trust Fund

There is hereby established in the Treasury of the United States a trust fund to be known as the “Inland Waterways Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) Transfer to Trust Fund of amounts equivalent to certain taxes

There are hereby appropriated to the Inland Waterways Trust Fund amounts equivalent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways). The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b).

(c) Expenditures from Trust Fund

(1) In general

Except as provided in paragraph (2), amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts, for making construction and rehabilitation expenditures for navigation on the inland and coastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section.

(2) Exception for certain projects

Not more than ½ of the cost of any construction to which section 102(a) of the Water Resources Development Act of 1986 applies (as in effect on the date of the enactment of this section) may be paid from the Inland Waterways Trust Fund.

(Added Pub. L. 99-662, title XIV, §1405(a), Nov. 17, 1986, 100 Stat. 4271; amended Pub. L. 99-499,

title V, §521(b)(3), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100-647, title I, §1018(u)(18), Nov. 10, 1988, 102 Stat. 3591.)

REFERENCES IN TEXT

Section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section, referred to in subsec. (c)(1), is classified to section 1804 of Title 33, Navigation and Navigable Waters. The date of the enactment of section 9506 of this title is the date of enactment of Pub. L. 99-662, which was approved Nov. 17, 1986.

Section 102(a) of the Water Resources Development Act of 1986 (as in effect on the date of enactment of this section), referred to in subsec. (c)(2), is classified to section 2212(a) of Title 33. The date of enactment of section 9506 of this title is the date of enactment of Pub. L. 99-662, which was approved Nov. 17, 1986.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-647 made technical corrections to directory language of Pub. L. 99-499, §521(b)(3), see 1986 Amendment note below.

1986—Subsec. (b). Pub. L. 99-499, as amended by Pub. L. 100-647, §1018(u)(18), inserted at end “The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b).”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Pub. L. 99-662, title XIV, §1405(d), Nov. 17, 1986, 100 Stat. 4271, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and repealing sections 1801 and 1802 of Title 33, Navigation and Navigable Waters] shall take effect on January 1, 1987.

“(2) INLAND WATERWAYS TRUST FUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978 [former 33 U.S.C. 1801]. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.”

§ 9507. Hazardous Substance Superfund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Hazardous Substance Superfund” (hereinafter in this section referred to as the “Superfund”), consisting of such amounts as may be—

- (1) appropriated to the Superfund as provided in this section,
- (2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1986, or
- (3) credited to the Superfund as provided in section 9602(b).

(b) Transfers to Superfund

There are hereby appropriated to the Superfund amounts equivalent to—

(1) the taxes received in the Treasury under section 4611, 4661, or 4671 (relating to environmental taxes),

(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as “CERCLA”),

(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,¹

(4) penalties assessed under title I of CERCLA, and

(5) punitive damages under section 107(c)(3) of CERCLA.

In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c).

(c) Expenditures from Superfund

(1) In general

Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

(A) to carry out the purposes of—

(i) paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,

(ii) section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof, and

(iii) section 111(m) of CERCLA (as so in effect), or

(B) hereafter authorized by a law which does not authorize the expenditure out of the Superfund for a general purpose not covered by subparagraph (A) (as so in effect).

(2) Exception for certain transfers, etc., of hazardous substances

No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator of the Environmental Protection Agency and a State if the following conditions apply—

(A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement,

(B) the transfer is to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act was issued after January 1, 1983, and before November 1, 1984, and

(C) the transfer is from a facility identified as the McColl Site in Fullerton, California.

(d) Authority to borrow

(1) In general

There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

(2) Limitation on aggregate advances

The maximum aggregate amount of repayable advances to the Superfund which is out-

¹ See References in Text note below.

standing at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts appropriated to the Superfund under subsection (b)(1) during the following 24 months.

(3) Repayment of advances

(A) In general

Advances made to the Superfund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

(B) Final repayment

No advance shall be made to the Superfund after December 31, 1995, and all advances to such Fund shall be repaid on or before such date.

(C) Rate of interest

Interest on advances made to the Superfund shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(e) Liability of United States limited to amount in Trust Fund

(1) General rule

Any claim filed against the Superfund may be paid only out of the Superfund.

(2) Coordination with other provisions

Nothing in CERCLA or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

(3) Order in which unpaid claims are to be paid

If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(Added Pub. L. 99-499, title V, § 517(a), Oct. 17, 1986, 100 Stat. 1772; amended Pub. L. 99-509, title VIII, § 8032(c)(4), Oct. 21, 1986, 100 Stat. 1959; Pub. L. 101-508, title XI, § 11231(c), Nov. 5, 1990, 104 Stat. 1388-445; Pub. L. 113-295, div. A, title II, § 221(a)(12)(L), Dec. 19, 2014, 128 Stat. 4039.)

REFERENCES IN TEXT

Section 517(b) of the Superfund Revenue Act of 1986, referred to in subsec. (a)(2), is section 517(b) of Pub. L. 99-499, which is set out as a note under this section.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and CERCLA, referred to in subsecs. (b)(2), (4), (5), (c)(1)(A), and (e)(2), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended,

which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. Title I of CERCLA is classified to subchapter I (§9601 et seq.) of chapter 103 of Title 42. Sections 107(c)(3) and 111(a)(1), (2), (5), and (6), (c), and (m) of CERCLA are classified to sections 9607(c)(3) and 9611(a)(1), (2), (5), and (6), (c), and (m) of Title 42, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Section 311(b)(6)(B) of the Clean Water Act, referred to in subsec. (b)(3), which was classified to section 1321(b)(6)(B) of Title 33, Navigation and Navigable Waters, and which related to civil actions by the Administrator to impose penalties for prohibited discharges was struck out by Pub. L. 101-380, title IV, § 4301(b), Aug. 18, 1990, 104 Stat. 533, which added a new section 311(b)(6)(B) relating to classes of civil penalties imposed by the Secretary of the department in which the Coast Guard is operating or the Administrator for prohibited discharges or violations of regulations.

The date of the enactment of the Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (c)(1)(A)(i), is the date of enactment of Pub. L. 99-499, which was approved Oct. 17, 1986.

Section 3005(a) of the Solid Waste Disposal Act, referred to in subsec. (c)(2)(B), is classified to section 6925(a) of Title 42, The Public Health and Welfare.

The Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (e)(2), is Pub. L. 99-499, Oct. 17, 1986, 100 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 9601 of Title 42 and Tables.

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113-295 struck out “59A,” before “4611.”

1990—Subsec. (d)(3)(B). Pub. L. 101-508 substituted “December 31, 1995” for “December 31, 1991”.

1986—Subsec. (b). Pub. L. 99-509 inserted at end “In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c).”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 effective on commencement date as defined in former section 4611(f)(2), see section 8032(d) of Pub. L. 99-509, set out as a note under section 4611 of this title.

EFFECTIVE DATE

Pub. L. 99-499, title V, § 517(e), Oct. 17, 1986, 100 Stat. 1774, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section, amending section 9601 of Title 42, The Public Health and Welfare, and repealing sections 9631 to 9633 of Title 42] shall take effect on January 1, 1987.

“(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980 [former 42 U.S.C. 9631]. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.”

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 99-499, title V, § 517(b), Oct. 17, 1986, 100 Stat. 1773, as amended by Pub. L. 101-508, title XI, § 11231(d),

Nov. 5, 1990, 104 Stat. 1388–445, provided that: “There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

- “(1) 1987, \$250,000,000,
- “(2) 1988, \$250,000,000,
- “(3) 1989, \$250,000,000,
- “(4) 1990, \$250,000,000,
- “(5) 1991, \$250,000,000, and [sic]
- “(6) 1992, \$250,000,000,
- “(7) 1993, \$250,000,000,
- “(8) 1994, \$250,000,000, and
- “(9) 1995, \$250,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980 [probably means section 221(b)(2) of the Hazardous Substance Response Revenue Act of 1980, which was classified to 42 U.S.C. 9631(b)(2) before its repeal by section 517(c)(1) of Pub. L. 99–499], as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.”

[Pub. L. 101–508, title XI, §11231(d), Nov. 5, 1990, 104 Stat. 1388–445, directed that section 517(b) of Pub. L. 99–499, set out above, be “amended by striking ‘and’ at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ‘, and’, and by adding at the end thereof” new pars. (6) to (9), with par. (9) ending in a period. Pub. L. 104–188, title I, §1704(t)(44), Aug. 20, 1996, 110 Stat. 1889, provided that section 11231(d) of Pub. L. 101–508 “shall be applied as if ‘comma’ appeared instead of ‘period’ [in the directory language amending section 517(b)(5) of Pub. L. 99–499] and as if the paragraph (9) proposed to be added ended with a comma”.]

§ 9508. Leaking Underground Storage Tank Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Leaking Underground Storage Tank Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) Transfers to Trust Fund

There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

- (1) taxes received in the Treasury under section 4041(d) (relating to additional taxes on motor fuels),
- (2) taxes received in the Treasury under section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section,
- (3) taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and
- (4) amounts received in the Treasury and collected under section 9003(h)(6) of the Solid Waste Disposal Act.

For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.

(c) Expenditures

(1) In general

Except as provided in paragraphs (2), (3), and (4), amounts in the Leaking Underground

Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013 of the Solid Waste Disposal Act as in effect on the date of the enactment of the¹ Public Law 109–168.

(2) Transfer to Highway Trust Fund

Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$2,400,000,000 to be transferred under section 9503(f)(3) to the Highway Account (as defined in section 9503(e)(5)(B)) in the Highway Trust Fund.

(3) Additional transfer to Highway Trust Fund

Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$1,000,000,000 to be transferred under section 9503(f)(6) to the Highway Account (as defined in section 9503(e)(5)(B)) in the Highway Trust Fund.

(4) Additional transfer to Highway Trust Fund

Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated—

- (A) on the date of the enactment of the FAST Act, \$100,000,000,
- (B) on October 1, 2016, \$100,000,000, and
- (C) on October 1, 2017, \$100,000,000,

to be transferred under section 9503(f)(9) to the Highway Account (as defined in section 9503(e)(5)(B)) in the Highway Trust Fund.

(d) Liability of the United States limited to amount in Trust Fund

(1) General rule

Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

(2) Coordination with other provisions

Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

(3) Order in which unpaid claims are to be paid

If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(e) Limitation on transfers to Leaking Underground Storage Tank Trust Fund

(1) In general

Except as provided in paragraph (2), no amount may be appropriated to the Leaking

¹ So in original.

Underground Storage Tank Trust Fund on and after the date of any expenditure from the Leaking Underground Storage Tank Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(2) Exception for prior obligations

Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2020, in accordance with the provisions of this section.

(Added Pub. L. 99-499, title V, §522(a), Oct. 17, 1986, 100 Stat. 1780; amended Pub. L. 100-203, title X, §10502(d)(16), (17), Dec. 22, 1987, 101 Stat. 1330-445; Pub. L. 101-239, title VII, §7822(b)(7), Dec. 19, 1989, 103 Stat. 2425; Pub. L. 103-66, title XIII, §§13163(c), 13242(d)(42), Aug. 10, 1993, 107 Stat. 454, 528; Pub. L. 105-34, title X, §1032(e)(13), Aug. 5, 1997, 111 Stat. 935; Pub. L. 108-357, title VIII, §853(d)(2)(P), (Q), Oct. 22, 2004, 118 Stat. 1614; Pub. L. 109-58, title XIII, §1362(c), Aug. 8, 2005, 119 Stat. 1059; Pub. L. 109-59, title XI, §11147(a), Aug. 10, 2005, 119 Stat. 1967; Pub. L. 109-432, div. A, title II, §210(a), Dec. 20, 2006, 120 Stat. 2947; Pub. L. 109-433, §1(a), Dec. 20, 2006, 120 Stat. 3196; Pub. L. 112-30, title I, §141(c), Sept. 16, 2011, 125 Stat. 355; Pub. L. 112-102, title IV, §401(c), Mar. 30, 2012, 126 Stat. 281; Pub. L. 112-140, title IV, §401(c), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40101(c), title II, §40201(a), July 6, 2012, 126 Stat. 844, 846; Pub. L. 113-159, title II, §§2001(c), 2002(b), Aug. 8, 2014, 128 Stat. 1848; Pub. L. 114-21, title II, §2001(c), May 29, 2015, 129 Stat. 226; Pub. L. 114-41, title II, §2001(c), July 31, 2015, 129 Stat. 454; Pub. L. 114-73, title II, §2001(c), Oct. 29, 2015, 129 Stat. 583; Pub. L. 114-87, title II, §2001(c), Nov. 20, 2015, 129 Stat. 685; Pub. L. 114-94, div. C, title XXXI, §§31101(c), 31203, Dec. 4, 2015, 129 Stat. 1727, 1729.)

REFERENCES IN TEXT

Sections 9003 to 9005 and 9010 to 9013 of the Solid Waste Disposal Act, referred to in subsecs. (b)(4) and (c)(1), are classified to sections 6991b to 6991d and 6991i to 6991l, respectively, of Title 42, The Public Health and Welfare.

The date of the enactment of Public Law 109-168, referred to in subsec. (c)(1), is Jan. 10, 2006.

The date of the enactment of the FAST Act, referred to in subsec. (c)(4)(A), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (d)(2), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

The Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (d)(2), is Pub. L. 99-499, Oct. 17, 1986, 100 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1986 Amend-

ment note set out under section 9601 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (c)(1). Pub. L. 114-94, §31203(b), substituted “paragraphs (2), (3), and (4)” for “paragraphs (2) and (3)”.

Subsec. (c)(4). Pub. L. 114-94, §31203(a), added par. (4). Subsec. (e)(2). Pub. L. 114-94, §31101(c), substituted “October 1, 2020” for “December 5, 2015”.

Pub. L. 114-87 substituted “December 5, 2015” for “November 21, 2015”.

Pub. L. 114-73 substituted “November 21, 2015” for “October 30, 2015”.

Pub. L. 114-41 substituted “October 30, 2015” for “August 1, 2015”.

Pub. L. 114-21 substituted “August 1, 2015” for “June 1, 2015”.

2014—Subsec. (c)(1). Pub. L. 113-159, §2002(b)(2), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (c)(3). Pub. L. 113-159, §2002(b)(1), added par. (3).

Subsec. (e)(2). Pub. L. 113-159, §2001(c), substituted “June 1, 2015” for “October 1, 2014”.

2012—Subsec. (c). Pub. L. 112-141, §40201(a), inserted par. (1) designation and heading, substituted “Except as provided in paragraph (2), amounts” for “Amounts”, and added par. (2).

Subsec. (e)(2). Pub. L. 112-141, §40101(c), substituted “October 1, 2014” for “July 1, 2012”.

Pub. L. 112-140, §§1(c), 401(c), temporarily substituted “July 7, 2012” for “July 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 substituted “July 1, 2012” for “April 1, 2012”.

2011—Subsec. (e)(2). Pub. L. 112-30 substituted “April 1, 2012” for “October 1, 2011”.

2006—Subsec. (c). Pub. L. 109-433, which directed an amendment of subsec. (c) identical to that by Pub. L. 109-432, to be treated as not having been enacted. See Amendment note and Construction of Amendment by Pub. L. 109-433 note below.

Pub. L. 109-432 substituted “sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013” for “section 9003(h)” and “Public Law 109-168” for “Superfund Amendments and Reauthorization Act of 1986”.

2005—Subsec. (c). Pub. L. 109-58 reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, subsec. (c) related to availability of amounts in the Leaking Underground Storage Tank Trust Fund and transfers from the Trust Fund for certain repayments and credits.

Subsec. (e). Pub. L. 109-59, §11147(a), added subsec. (e).

2004—Subsec. (b)(3) to (5). Pub. L. 108-357, §853(d)(2)(P), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “taxes received in the Treasury under section 4091 (relating to tax on aviation fuel) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.”.

Subsec. (c)(2)(A). Pub. L. 108-357, §853(d)(2)(Q), substituted “section 4081” for “sections 4081 and 4091” in concluding provisions.

1997—Subsec. (b)(2). Pub. L. 105-34 substituted “, diesel fuel, and kerosene” for “and diesel fuel”.

1993—Subsec. (b). Pub. L. 103-66, §13242(d)(42)(C), which directed the substitution of “4081” for “4091” in last sentence, could not be executed because last sentence did not contain a reference to “4091”.

Pub. L. 103-66, §13163(c), inserted at end “For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.”

Subsec. (b)(2). Pub. L. 103-66, §13242(d)(42)(A), inserted “and diesel fuel” after “gasoline”.

Subsec. (b)(3). Pub. L. 103-66, §13242(d)(42)(B), struck out “diesel fuel and” before “aviation fuel”.

1989—Subsecs. (b)(3), (c)(2)(A). Pub. L. 101-239 substituted “Storage Tank Trust Fund financing” for “Storage Trust Fund financing”.

1987—Subsec. (b)(3) to (5). Pub. L. 100-203, §10502(d)(16), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (c)(2)(A). Pub. L. 100-203, §10502(d)(17), added cl. (ii) and closing provisions, and struck out former cl. (ii) which read as follows: “credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081 (to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081).”

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 40101(c) of Pub. L. 112-141 effective July 1, 2012, see section 40101(d) of Pub. L. 112-141, set out as a note under section 9503 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 112-140 effective July 1, 2012, see section 401(d) of Pub. L. 112-140, set out as a note under section 9503 of this title.

Amendment by Pub. L. 112-102 effective Apr. 1, 2012, see section 401(d) of Pub. L. 112-102, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-30 effective Oct. 1, 2011, see section 141(d) of Pub. L. 112-30, set out as a note under section 9503 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-433, §1(c), Dec. 20, 2006, 120 Stat. 3196, provided that: “The amendments made by this section [amending this section and section 6991m of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Dec. 20, 2006].”

Pub. L. 109-432, div. A, title II, §210(c), Dec. 20, 2006, 120 Stat. 2947, provided that: “The amendments made by this section [amending this section and section 6991m of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 2005 AMENDMENTS

Pub. L. 109-59, title XI, §11147(b), Aug. 10, 2005, 119 Stat. 1968, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 2005].”

Amendment by Pub. L. 109-58 effective Oct. 1, 2005, see section 1362(d)(1) of Pub. L. 109-58, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see sections 13163(d) and 13242(e) of Pub. L. 103-66, set out as notes under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10502(d)(16) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

Amendment by section 10502(d)(17) of Pub. L. 100-203 treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 [Pub. L. 99-499, title V, see Effective Date of 1986 Amendment note set out under section 4041 of this title], except that reference to section 4091 of this title in subsec. (c)(2)(A) of this section not applicable to sales before Apr. 1, 1988, see section 2001(d)(1)(A) of Pub. L. 100-647, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Pub. L. 99-499, title V, §522(c), Oct. 17, 1986, 100 Stat. 1781, provided that: “The amendments made by this section [enacting this section] shall take effect on January 1, 1987.”

CONSTRUCTION OF AMENDMENT BY PUB. L. 109-433

Pub. L. 110-172, §11(a)(46), Dec. 29, 2007, 121 Stat. 2488, provided that: “The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made by section 1(a) of Public Law 109-433 [amending this section] had never been enacted.”

§ 9509. Oil Spill Liability Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Oil Spill Liability Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) Transfers to Trust Fund

There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

(2) amounts recovered under the Oil Pollution Act of 1990 for damages to natural resources which are required to be deposited in the Fund under section 1006(f) of such Act,

(3) amounts recovered by such Trust Fund under section 1015 of such Act,

(4) amounts required to be transferred by such Act from the revolving fund established under section 311(k) of the Federal Water Pollution Control Act,

(5) amounts required to be transferred by the Oil Pollution Act of 1990 from the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974,

(6) amounts required to be transferred by the Oil Pollution Act of 1990 from the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978,

(7) amounts required to be transferred by the Oil Pollution Act of 1990 from the Trans-Alaska Pipeline Liability Fund established under section 204 of the Trans-Alaska Pipeline Authorization Act, and

(8) any penalty paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of such Act (as a result of violations of such section 311), the Deepwater Port

Act of 1974, or section 207 of the Trans-Alaska Pipeline Authorization Act.

(c) Expenditures

(1) Expenditure purposes

Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making expenditures—

(A) for the payment of removal costs and other costs, expenses, claims, and damages referred to in section 1012 of such Act,

(B) to carry out sections 5 and 7 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

(C) for the payment of liabilities incurred by the revolving fund established by section 311(k) of the Federal Water Pollution Control Act,

(D) to carry out subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act with respect to prevention, removal, and enforcement related to oil discharges (as defined in such section),

(E) for the payment of liabilities incurred by the Deepwater Port Liability Fund, and

(F) for the payment of liabilities incurred by the Offshore Oil Pollution Compensation Fund.

(2) Limitations on expenditures

(A) \$1,000,000,000 per incident, etc.

The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to—

(i) any single incident shall not exceed \$1,000,000,000, and

(ii) natural resource damage assessments and claims in connection with any single incident shall not exceed \$500,000,000.

(B) \$30,000,000 minimum balance

Except in the case of payments of removal costs, a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than \$30,000,000.

(d) Authority to borrow

(1) In general

There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

(2) Limitation on amount outstanding

The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed \$1,000,000,000.

(3) Repayment of advances

(A) In general

Advances made to the Oil Spill Liability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Fund.

(B) Final repayment

No advance shall be made to the Oil Spill Liability Trust Fund after December 31, 1994,

and all advances to such Fund shall be repaid on or before such date.

(C) Rate of interest

Interest on advances made pursuant to this subsection shall be—

(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

(ii) compounded annually.

(e) Liability of the United States limited to amount in Trust Fund

(1) General rule

Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

(2) Coordination with other provisions

Nothing in the Oil Pollution Act of 1990 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

(3) Order in which unpaid claims are to be paid

If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) and such subsection, be paid in full in the order in which they were finally determined.

(f) References to Oil Pollution Act of 1990

Any reference in this section to the Oil Pollution Act of 1990 or any other Act referred to in a subparagraph of subsection (c)(1) shall be treated as a reference to such Act as in effect on the date of the enactment of this subsection.

(Added Pub. L. 99-509, title VIII, §8033(a), Oct. 21, 1986, 100 Stat. 1959, §9507; renumbered §9509, Pub. L. 99-509, title VIII, §8033(c)(2)(B), Oct. 21, 1986, 100 Stat. 1962; amended Pub. L. 100-647, title I, §1018(u)(20), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 101-239, title VII, §§7505(d)(2), 7811(m)(3), Dec. 19, 1989, 103 Stat. 2364, 2412; Pub. L. 101-380, title IX, §9001, Aug. 18, 1990, 104 Stat. 573.)

REFERENCES IN TEXT

The Oil Pollution Act of 1990, referred to in subsecs. (b)(2), (3), (5)–(7), (c)(1), (e)(2), and (f), is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, which is classified principally to chapter 40 (§2701 et seq.) of Title 33, Navigation and Navigable Waters. Sections 1006, 1012, 1015, and 6002 of the Act are classified to sections 2706, 2712, 2715, and 2752 of Title 33, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 33 and Tables.

Section 311 of the Federal Water Pollution Control Act, referred to in subsecs. (b)(4), (8) and (c)(1)(C), (D), is classified to section 1321 of Title 33. Subsec. (d) of section 311, which related to maritime disaster dis-

charges, was amended generally by Pub. L. 101-380, title IV, § 4201(b), Aug. 18, 1990, 104 Stat. 525. Subsec. (k) of section 311 was repealed by Pub. L. 101-380, title II, § 2002(b)(2), Aug. 18, 1990, 104 Stat. 507.

The Deepwater Port Act of 1974, referred to in subsec. (b)(5), (8), is Pub. L. 93-627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified generally to chapter 29 (§ 1501 et seq.) of Title 33. Section 18 of the Act was classified to section 1517 of Title 33 prior to its repeal by Pub. L. 101-380, title II, § 2003(a)(2), Aug. 18, 1990, 104 Stat. 507. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 33 and Tables.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, referred to in subsec. (b)(6), was classified to section 1812 of Title 43, Public Lands, prior to its repeal by Pub. L. 101-380, title II, § 2004, Aug. 18, 1990, 104 Stat. 507.

Sections 204 and 207 of the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (b)(7), (8), are classified to sections 1653 and 1656, respectively, of Title 43.

Section 309(c) of the Federal Water Pollution Control Act, referred to in subsec. (b)(8), is classified to section 1319(c) of Title 33, Navigation and Navigable Waters.

Sections 5 and 7 of the Intervention on the High Seas Act, referred to in subsec. (c)(1)(B), are classified to sections 1474 and 1476, respectively, of Title 33.

The date of the enactment of this subsection, referred to in subsec. (f), probably means the date of enactment of Pub. L. 101-380, which was approved Aug. 18, 1990, and which amended subsec. (f) generally.

AMENDMENTS

1990—Subsec. (b)(2) to (8). Pub. L. 101-380, § 9001(a), added pars. (2) to (8) and struck out former pars. (2) to (5) which read as follows:

“(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

“(3) amounts remaining (on January 1, 1990) in the Deepwater Port Liability Fund established by section 18(f) of the Deepwater Port Act of 1974,

“(4) amounts remaining (on such date) in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

“(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.”

Subsec. (c)(1). Pub. L. 101-380, § 9001(b), amended par. (1) generally, substituting “Expenditure purposes” for “General expenditure purposes” in heading and substituting current text consisting of subpars. (A) to (F) for former text consisting of general provisions in subpar. (A) and special rules in subpar. (B).

Subsec. (c)(2)(A). Pub. L. 101-380, § 9001(c), substituted “\$1,000,000,000” for “\$500,000,000” in heading and in cl. (i), and substituted “\$500,000,000” for “\$250,000,000” in cl. (ii).

Subsec. (c)(2)(B). Pub. L. 101-380, § 9001(e)(2), substituted “payments of removal costs” for “payments described in paragraph (1)(A)(i)”.

Subsec. (d)(2). Pub. L. 101-380, § 9001(d)(1), substituted “\$1,000,000,000” for “\$500,000,000”.

Subsec. (d)(3)(B). Pub. L. 101-380, § 9001(d)(2), substituted “December 31, 1994” for “December 31, 1991”.

Subsec. (e)(2). Pub. L. 101-380, § 9001(e)(1), substituted “Oil Pollution Act of 1990” for “Comprehensive Oil Pollution Liability and Compensation Act”.

Subsec. (f). Pub. L. 101-380, § 9001(e)(3), substituted “References to Oil Pollution Act of 1990” for “References to Comprehensive Oil Pollution Liability and Compensation Act” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives.”

1989—Subsec. (b)(3). Pub. L. 101-239, § 7811(m)(3), made technical correction to directory language of Pub. L. 101-647, see 1988 Amendment note below.

Pub. L. 101-239, § 7505(d)(2)(B), substituted “(on January 1, 1990)” for “(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)”.

Subsec. (c)(1)(A). Pub. L. 101-239, § 7505(d)(2)(C), which directed amendment of subsec. (c)(1) by striking the last sentence, was executed by striking out the last sentence of subsec. (c)(1)(A), as the probable intent of Congress. Such sentence read as follows: “For purposes of this subparagraph, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to qualified authorizing legislation (as defined in section 4611).”

Subsec. (f). Pub. L. 101-239, § 7505(d)(2)(A), added subsec. (f).

1988—Subsec. (b)(3). Pub. L. 100-647, as amended by Pub. L. 101-239, § 7811(m)(3), substituted “Deepwater” for “Deep Water” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7811(m)(3) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 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

Pub. L. 99-509, title VIII, § 8033(c)(1), Oct. 21, 1986, 100 Stat. 1961, provided that: “The amendments made by this section [enacting this section] shall take effect on the commencement date (as defined in section 4611 of the Internal Revenue Code of 1954 [now 1986], as amended by this part).”

[For purposes of section 8033(c) of Pub. L. 99-509, set out as notes above and below, the commencement date is Jan. 1, 1990, see section 7505(d)(1) of Pub. L. 101-239, set out as an Effective Date of 1986 Amendment note under section 4611 of this title.]

REPORT ON OIL SPILL LIABILITY TRUST FUND

Pub. L. 107-295, title III, § 322(a), Nov. 25, 2002, 116 Stat. 2103, provided that: “The report regarding the Oil Spill Liability Trust Fund required by the Conference Report (House Report 101-892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, [Pub. L. 101-516] as that requirement was amended by section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66) [see below], shall no longer be submitted to the Congress.”

Pub. L. 104-66, title I, § 1122(a), Dec. 21, 1995, 109 Stat. 724, provided that: “The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101-892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991 [Pub. L. 101-516], shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.”

[House Report 101-892, 101st Congress, 2d Session, provided that: “The conferees direct the Coast Guard to

submit quarterly reports to the House and Senate Committee on Appropriations detailing and summarizing all transfers to and expenditures from the oil spill liability trust fund. Each report shall account for each transfer to and expenditure from the fund as authorized by Section 9509 of the Internal Revenue Code of 1986, as amended, and Sections 5003 and 5004 of the Oil Pollution Act of 1990 (Public Law 101-380) [33 U.S.C. 2733, 2734]. The report shall also show amounts collectable under Section 9509(b)(2), (3), and (8) of the Internal Revenue Code of 1986. For those authorized expenditures subject to limitations, the report shall so indicate. The Coast Guard shall confer with the House and Senate Committees on Appropriations as to the format for these reports.”]

DEEPWATER PORT LIABILITY FUND

Pub. L. 101-380, title II, §2003(b), Aug. 18, 1990, 104 Stat. 507, provided that: “Any amounts remaining in the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974 (33 U.S.C. [former] 1517(f)) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund.”

OFFSHORE OIL POLLUTION COMPENSATION FUND

Pub. L. 101-380, title II, §2004, Aug. 18, 1990, 104 Stat. 507, provided that: “Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811-1824) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title (43 U.S.C. 1812) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.”

DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND

Pub. L. 101-380, title IV, §4304, Aug. 18, 1990, 104 Stat. 540, provided that: “Penalties paid pursuant to section 311 of the Federal Water Pollution Control Act [33 U.S.C. 1321], section 309(c) of that Act [33 U.S.C. 1319(c)], as a result of violations of section 311 of that Act, and the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], shall be deposited in the Oil Spill Liability Trust Fund created under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).”

COORDINATION WITH SUPERFUND REAUTHORIZATION

Pub. L. 99-509, title VIII, §8033(c)(2), Oct. 21, 1986, 100 Stat. 1961, provided that: “If the Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99-499, see Short Title of 1986 Amendment note set out under section 9601 of Title 42, The Public Health and Welfare] is enacted—

“(A) subsection (a) of this section shall be applied by substituting ‘section 9508’ for ‘section 9506’,

“(B) section 9507 of the Internal Revenue Code of 1954 [now 1986], as added by this section, is hereby redesignated as section 9509 of such Code, and

“(C) in lieu of the amendment made by subsection (b), the table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9508 the following new item:

“‘Sec. 9509. Oil Spill Liability Trust Fund.’”

§ 9510. Vaccine Injury Compensation Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Vaccine Injury Compensation Trust Fund”, consisting of such amounts as may be appro-

priated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) Transfers to Trust Fund

(1) In general

There are hereby appropriated to the Vaccine Injury Compensation Trust Fund amounts equivalent to the net revenues received in the Treasury from the tax imposed by section 4131 (relating to tax on certain vaccines).

(2) Net revenues

For purposes of paragraph (1), the term “net revenues” means the amount estimated by the Secretary based on the excess of—

(A) the taxes received in the Treasury under section 4131 (relating to tax on certain vaccines), over

(B) the decrease in the tax imposed by chapter 1 resulting from the tax imposed by section 4131.

(3) Limitation on transfers to Vaccine Injury Compensation Trust Fund

No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(c) Expenditures from Trust Fund

(1) In general

Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on October 18, 2000) for vaccine-related injury or death with respect to any vaccine—

(i) which is administered after September 30, 1988, and

(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time compensation is paid under such subtitle 2, or

(B) the payment of all expenses of administration (but not in excess of \$9,500,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.

(2) Transfers for certain repayments

(A) In general

The Secretary shall pay from time to time from the Vaccine Injury Compensation Trust Fund into the general fund of the Treasury amounts equivalent to amounts paid under section 4132(b) and section 6416 with respect to the taxes imposed by section 4131.

(B) Transfers based on estimates

Transfers under subparagraph (A) shall be made on the basis of estimates by the Sec-

retary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(d) Liability of United States limited to amount in Trust Fund

(1) General rule

Any claim filed against the Vaccine Injury Compensation Trust Fund may be paid only out of such Trust Fund.

(2) Coordination with other provisions

Nothing in the National Childhood Vaccine Injury Act of 1986 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Vaccine Injury Compensation Trust Fund.

(3) Order in which unpaid claims to be paid

If at any time the Vaccine Injury Compensation Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) be paid in full in the order in which they are finally determined.

(Added Pub. L. 100-203, title IX, § 9202(a), Dec. 22, 1987, 101 Stat. 1330-330; amended Pub. L. 100-647, title II, § 2006(b), Nov. 10, 1988, 102 Stat. 3613; Pub. L. 101-239, title VII, § 7841(g)(1), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 103-66, title XIII, § 13421(b), Aug. 10, 1993, 107 Stat. 566; Pub. L. 105-277, div. C, title XV, § 1504(a), div. J, title IV, § 4003(d), Oct. 21, 1998, 112 Stat. 2681-741, 2681-909; Pub. L. 106-170, title V, § 523(b)(1), (2), Dec. 17, 1999, 113 Stat. 1927; Pub. L. 106-554, § 1(a)(7) [title III, § 318(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (c)(1)(A), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subtitle 2 of title XXI of the Public Health Service Act is classified generally to part 2 (§ 300aa-10 et seq.) of subchapter XIX of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The National Childhood Vaccine Injury Act of 1986, referred to in subsec. (d)(2), is title III of Pub. L. 99-660, Nov. 14, 1986, 100 Stat. 3755, as amended, which is classified principally to subchapter XIX (§ 300aa-1 et seq.) of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (c)(1)(A). Pub. L. 106-554 substituted “October 18, 2000” for “December 31, 1999”.

1999—Subsec. (b)(3). Pub. L. 106-170, § 523(b)(1), repealed Pub. L. 105-277, § 1504(a)(2). See 1998 Amendment note below.

Subsec. (c)(1). Pub. L. 106-170, § 523(b)(1), repealed Pub. L. 105-277, § 1504(a)(1). See 1998 Amendment note below.

Subsec. (c)(1)(A). Pub. L. 106-170, § 523(b)(2), substituted “December 31, 1999” for “August 5, 1997”.

1998—Subsec. (b)(3). Pub. L. 105-277, § 4003(d)(2), added par. (3).

Pub. L. 105-277, § 1504(a)(2), which directed amendment of subsec. (b) by adding a new par. (3) at the end, was repealed by Pub. L. 106-170, § 523(b)(1).

Subsec. (c)(1). Pub. L. 105-277, § 4003(d)(1), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on the date of the enactment of this section) for vaccine-related injury or death with respect to vaccines administered after September 30, 1988, or for the payment of all expenses of administration (but not in excess of \$6,000,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.”

Pub. L. 105-277, § 1504(a)(1), which directed the general amendment of par. (1), was repealed by Pub. L. 106-170, § 523(b)(1).

1993—Subsec. (c)(1). Pub. L. 103-66 struck out “and before October 1, 1992,” after “September 30, 1988.”

1989—Subsec. (c)(1). Pub. L. 101-239 inserted before period at end “, or for the payment of all expenses of administration (but not in excess of \$6,000,000 for any fiscal year) incurred by the Federal Government in administering such subtitle”.

1988—Subsec. (a). Pub. L. 100-647 inserted “appropriated or” before “credited” and “this section or” before “section 9602(b)”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 effective as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277, to which such amendment relates, see section 523(b)(3) of Pub. L. 106-170, set out as a note under section 4132 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title XV, § 1504(b), Oct. 21, 1998, 112 Stat. 2681-742, which provided that the amendments made to this section by Pub. L. 105-277, § 1504, were to take effect as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which they related, was repealed by Pub. L. 106-170, title V, § 523(b)(1), Dec. 17, 1999, 113 Stat. 1927.

Amendment by section 4003(d) of Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(l) of Pub. L. 105-277, set out as a note under section 86 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7841(g)(2), Dec. 19, 1989, 103 Stat. 2429, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to fiscal years beginning after September 30, 1989.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, see section 2006(c) of Pub. L. 100-647, set out as a note under section 4132 of this title.

EFFECTIVE DATE

Pub. L. 100-203, title IX, § 9202(c), Dec. 22, 1987, 101 Stat. 1330-331, provided that: “The amendments made by this section [enacting this section] shall take effect on January 1, 1988.”

§ 9511. Patient-Centered Outcomes Research Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Patient-Centered Outcomes Research Trust Fund” (hereafter in this section referred to as the “PCORTF”), consisting of such amounts as may be appropriated or credited to such Trust

Fund as provided in this section and section 9602(b).

(b) Transfers to Fund

(1) Appropriation

There are hereby appropriated to the Trust Fund the following:

- (A) For fiscal year 2010, \$10,000,000.
- (B) For fiscal year 2011, \$50,000,000.
- (C) For fiscal year 2012, \$150,000,000.
- (D) For fiscal year 2013—

(i) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

(ii) \$150,000,000.

(E) For each of fiscal years 2014, 2015, 2016, 2017, 2018, and 2019—

(i) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

(ii) \$150,000,000.

The amounts appropriated under subparagraphs (A), (B), (C), (D)(ii), and (E)(ii) shall be transferred from the general fund of the Treasury, from funds not otherwise appropriated.

(2) Trust Fund transfers

In addition to the amounts appropriated under paragraph (1), there shall be credited to the PCORTF the amounts transferred under section 1183 of the Social Security Act.

(3) Limitation on transfers to PCORTF

No amount may be appropriated or transferred to the PCORTF on and after the date of any expenditure from the PCORTF which is not an expenditure permitted under this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this chapter or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(c) Trustee

The Secretary of the Treasury shall be a trustee of the PCORTF.

(d) Expenditures from Fund

(1) Amounts available to the Patient-Centered Outcomes Research Institute

Subject to paragraph (2), amounts in the PCORTF are available, without further appropriation, to the Patient-Centered Outcomes Research Institute established under section 1181(b) of the Social Security Act for carrying out part D of title XI of the Social Security Act (as in effect on the date of enactment of such Act).

(2) Transfer of funds

(A) In general

The trustee of the PCORTF shall provide for the transfer from the PCORTF of 20 percent of the amounts appropriated or credited to the PCORTF for each of fiscal years 2011 through 2019 to the Secretary of Health and Human Services to carry out section 937 of the Public Health Service Act.

(B) Availability

Amounts transferred under subparagraph (A) shall remain available until expended.

(C) Requirements

Of the amounts transferred under subparagraph (A) with respect to a fiscal year, the Secretary of Health and Human Services shall distribute—

(i) 80 percent to the Office of Communication and Knowledge Transfer of the Agency for Healthcare Research and Quality (or any other relevant office designated by Agency for Healthcare Research and Quality) to carry out the activities described in section 937 of the Public Health Service Act; and

(ii) 20 percent to the Secretary to carry out the activities described in such section 937.

(e) Net revenues

For purposes of this section, the term “net revenues” means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the fees received in the Treasury under subchapter B of chapter 34, over

(2) the decrease in the tax imposed by chapter 1 resulting from the fees imposed by such subchapter.

(f) Termination

No amounts shall be available for expenditure from the PCORTF after September 30, 2019, and any amounts in such Trust Fund after such date shall be transferred to the general fund of the Treasury.

(Added Pub. L. 111-148, title VI, §6301(e)(1)(A), Mar. 23, 2010, 124 Stat. 742.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(2) and (d)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part D of title XI of the Act is classified generally to part D (§1320e et seq.) of subchapter XI of chapter 7 of Title 42, The Public Health and Welfare. Sections 1181(b) and 1183 of the Act are classified to sections 1320e(b) and 1320e-2, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of such Act, referred to in subsec. (d)(1), probably means the date of enactment of Pub. L. 111-148, which enacted part D of title XI of the Social Security Act and was approved Mar. 23, 2010.

Section 937 of the Public Health Service Act, referred to in subsec. (d)(2)(A), (C), is classified to section 299b-37 of Title 42, The Public Health and Welfare.

PRIOR PROVISIONS

A prior section 9511, added Pub. L. 102-240, title VIII, §8003(a), Dec. 18, 1991, 105 Stat. 2205; amended Pub. L. 105-130, §9(c), Dec. 1, 1997, 111 Stat. 2561, related to Na-

tional Recreational Trails Trust Fund, prior to repeal by Pub. L. 105-178, title IX, §9011(a), June 9, 1998, 112 Stat. 508.

Subchapter B—General Provisions

Sec.	
9601.	Transfer of amounts.
9602.	Management of Trust Funds.

§ 9601. Transfer of amounts

The amounts appropriated by any section of subchapter A to any Trust Fund established by such subchapter shall be transferred at least monthly from the general fund of the Treasury to such Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such section. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(Added Pub. L. 97-119, title I, §103(a), Dec. 29, 1981, 95 Stat. 1638.)

§ 9602. Management of Trust Funds

(a) Report

It shall be the duty of the Secretary of the Treasury to hold each Trust Fund established by subchapter A, and (after consultation with any other trustees of the Trust Fund) to report to the Congress each year on the financial condition and the results of the operations of each such Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(b) Investment

(1) In general

It shall be the duty of the Secretary of the Treasury to invest such portion of any Trust Fund established by subchapter A as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

- (A) on original issue at the issue price, or
- (B) by purchase of outstanding obligations at the market price.

(2) Sale of obligations

Any obligation acquired by a Trust Fund established by subchapter A may be sold by the Secretary of the Treasury at the market price.

(3) Interest on certain proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in a Trust Fund established by subchapter A shall be credited to and form a part of the Trust Fund.

(Added Pub. L. 97-119, title I, §103(a), Dec. 29, 1981, 95 Stat. 1638.)

Subtitle J—Coal Industry Health Benefits

Chapter		Sec. ¹
99.	Coal industry health benefits	9701

CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

Subchapter		Sec. ¹
A.	Definitions of general applicability	9701
B.	Combined benefit fund	9702
C.	Health benefits of certain miners	9711
D.	Other provisions	9721

Subchapter A—Definitions of General Applicability

Sec.	
9701.	Definitions of general applicability.

§ 9701. Definitions of general applicability

(a) Plans and funds

For purposes of this chapter—

(1) UMWA Benefit Plan

(A) In general

The term “UMWA Benefit Plan” means a plan—

- (i) which is described in section 404(c), or a continuation thereof; and
- (ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

(B) 1950 UMWA Benefit Plan

The term “1950 UMWA Benefit Plan” means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

(C) 1974 UMWA Benefit Plan

The term “1974 UMWA Benefit Plan” means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

(2) 1950 UMWA Pension Plan

The term “1950 UMWA Pension Plan” means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

(3) 1974 UMWA Pension Plan

The term “1974 UMWA Pension Plan” means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

(4) 1992 UMWA Benefit Plan

The term “1992 UMWA Benefit Plan” means the plan referred to in section 9713A.¹

(5) Combined Fund

The term “Combined Fund” means the United Mine Workers of America Combined Benefit Fund established under section 9702.

(b) Agreements

For purposes of this section—

¹ Section numbers editorially supplied.

¹ See References in Text note below.

(1) Coal wage agreement

The term “coal wage agreement” means—

(A) the National Bituminous Coal Wage Agreement, or

(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

(2) Settlors

The term “settlors” means the United Mine Workers of America and the Bituminous Coal Operators’ Association, Inc. (referred to in this chapter as the “BCOA”).

(3) National Bituminous Coal Wage Agreement

The term “National Bituminous Coal Wage Agreement” means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

(c) Terms relating to operators

For purposes of this section—

(1) Signatory operator

The term “signatory operator” means a person which is or was a signatory to a coal wage agreement.

(2) Related persons**(A) In general**

A person shall be considered to be a related person to a signatory operator if that person is—

(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

(B) Time for determination

The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

(3) 1988 agreement operator

The term “1988 agreement operator” means—

(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

(4) Last signatory operator

The term “last signatory operator” means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

(5) Assigned operator

The term “assigned operator” means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

(6) Operators of dependent beneficiaries

For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

(7) Business

For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

(8) Successor in interest**(A) Safe harbor**

The term “successor in interest” shall not include any person who—

(i) is an unrelated person to an eligible seller described in subparagraph (C); and

(ii) purchases for fair market value assets, or all of the stock, of a related person to such seller, in a bona fide, arm’s-length sale.

(B) Unrelated person

The term “unrelated person” means a purchaser who does not bear a relationship to the eligible seller described in section 267(b).

(C) Eligible seller

For purposes of this paragraph, the term “eligible seller” means an assigned operator described in section 9704(j)(2) or a related person to such assigned operator.

(d) Enactment date

For purposes of this chapter, the term “enactment date” means the date of the enactment of this chapter.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3037; amended Pub. L. 109-432, div. C, title II, §211(d), Dec. 20, 2006, 120 Stat. 3023.)

REFERENCES IN TEXT

Section 9713A, referred to in subsec. (a)(4), probably should be a reference to section 9712 which provided for the establishment of the United Mine Workers of America 1992 Benefit Plan, referred to in that section as the “1992 UMWA Benefit Plan”. No section 9713A of this title has been enacted.

The date of the enactment of this chapter, referred to in subsec. (d), is the date of the enactment of Pub. L. 102-486, which was approved Oct. 24, 1992.

AMENDMENTS

2006—Subsec. (c)(8). Pub. L. 109-432 added par. (8).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, §211(e), Dec. 20, 2006, 120 Stat. 3023, provided that: “The amendments made by this section [amending this section and sections 9704, 9711, and 9712 of this title] shall take effect on the date of the enactment of this Act [Dec. 20, 2006], except that the amendment made by subsection (d) [amending this section] shall apply to transactions after the date of the enactment of this Act.”

FINDINGS AND DECLARATION OF POLICY

Pub. L. 102-486, title XIX, §19142, Oct. 24, 1992, 106 Stat. 3037, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

“(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

“(b) STATEMENT OF POLICY.—It is the policy of this subtitle [subtitle C (§§19141-19143) of title XIX of Pub. L. 102-486, enacting this subtitle, amending sections 1231 and 1232 of Title 30, Mineral Lands and Mining, and enacting provisions set out as a note under section 1 of this title]—

“(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

“(2) to allow for sufficient operating assets for such plans; and

“(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.”

Subchapter B—Combined Benefit Fund

Part	
I.	Establishment and Benefits.
II.	Financing.
III.	Enforcement.
IV.	Other Provisions.

PART I—ESTABLISHMENT AND BENEFITS

Sec.	
9702.	Establishment of the United Mine Workers of America Combined Benefit Fund.
9703.	Plan benefits.

§ 9702. Establishment of the United Mine Workers of America Combined Benefit Fund

(a) Establishment

(1) In general

As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

(2) Merger of retiree benefit plans

As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

(3) Treatment of plan

The Combined Fund shall be—

(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

(4) Tax treatment

For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

(b) Board of trustees

(1) In general

For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows—

(A) 2 individuals who represent employers in the coal mining industry shall be designated by the BCOA;

(B) 2 individuals designated by the United Mine Workers of America; and

(C) 3 individuals selected by the individuals appointed under subparagraphs (A) and (B).

(2) Successor trustees

Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

(3) Special rule

If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

(c) Plan year

The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3040; amended Pub. L. 109-432, div. C, title II, §213(a), Dec. 20, 2006, 120 Stat. 3027.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-432 reenacted heading without change and amended text of subsec. (b) generally. Prior to amendment, text contained provisions which related to: in par. (1), appointment of one trustee by the BCOA, one by the three employers having the greatest number of eligible beneficiaries under section 9706, two by the United Mine Workers of America, and three by the persons otherwise appointed; in par. (2), successor trustees and removal of trustees; and in par. (3), special rules relating to designation of trustees or successor trustees if the BCOA should cease to exist and designation of the initial trustee.

§ 9703. Plan benefits

(a) In general

Each eligible beneficiary of the Combined Fund shall receive—

- (1) health benefits described in subsection (b), and
- (2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

(b) Health benefits

(1) In general

The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

(2) Plan payment rates

(A) In general

The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

- (i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and
- (ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

(B) Reductions

The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

- (i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and
- (ii) by the amount reserved for plan administration under subsection (d).

(C) Increases

The amount determined under subparagraph (A)(ii) shall be increased—

- (i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,
- (ii) by any carryover to the plan year from any preceding plan year which—
 - (I) is derived from amounts described in section 9704(e)(3)(B)(i), and
 - (II) the trustees elect to use to pay benefits for the current plan year, and
- (iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

(3) Qualified providers

The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

(4) Effective date

Benefits shall be provided under paragraph (1) on and after February 1, 1993.

(c) Death benefits coverage

(1) In general

The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

(2) Termination of coverage

The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

(d) Reserves for administration

The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

(e) Limitation on enrollment

The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

(f) Eligible beneficiary

For purposes of this subchapter, the term “eligible beneficiary” means an individual who—

- (1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3041.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PART II—FINANCING

Sec.	
9704.	Liability of assigned operators.
9705.	Transfers.
9706.	Assignment of eligible beneficiaries.

§ 9704. Liability of assigned operators

(a) Annual premiums

Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

- (1) the health benefit premium determined under subsection (b) for such plan year, plus
- (2) the death benefit premium determined under subsection (c) for such plan year, plus
- (3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

(b) Health benefit premium

For purposes of this chapter—

(1) In general

The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

(2) Per beneficiary premium

The Commissioner of Social Security shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

- (A) the amount determined by dividing—
 - (i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by
 - (ii) the number of such individuals, plus
- (B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

(3) Adjustments for medicare reductions

If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

(c) Death benefit premium

The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

(d) Unassigned beneficiaries premium

(1) Plan years ending on or before September 30, 2006

For plan years ending on or before September 30, 2006, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

(2) Plan years beginning on or after October 1, 2006

(A) In general

For plan years beginning on or after October 1, 2006, subject to subparagraph (B), there shall be no unassigned beneficiaries premium, and benefit costs with respect to eligible beneficiaries who are not assigned under section 9706 to any person for any such plan year shall be paid from amounts transferred under section 9705(b).

(B) Inadequate transfers

If, for any plan year beginning on or after October 1, 2006, the amounts transferred under section 9705(b) are less than the amounts required to be transferred to the Combined Fund under subsection (h)(2)(A) or (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232)),¹ then the unassigned beneficiaries premium for any assigned operator shall be equal to the operator's applicable percentage of the amount required to be so transferred which was not so transferred.

(e) Premium accounts; adjustments

(1) Accounts

The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and amounts transferred under section 9705(b) and debited with expenditures allocable to such premiums.

¹ So in original. Second closing parenthesis probably should not appear.

(2) Allocations**(A) Administrative expenses**

Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

(B) Interest

Interest shall be allocated to the account established for health benefit premiums.

(3) Shortfalls and surpluses**(A) In general**

Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus. Amounts credited to an account from amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.

(B) Exception

Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

- (i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or
- (ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

(C) No authority for increased payments

Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

(f) Applicable percentage

For purposes of this section—

(1) In general

The term “applicable percentage” means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

(2) Annual adjustments

In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

- (A) Such assignments shall be modified to reflect any changes during the period begin-

ning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

(C) In the case of plan years beginning on or after October 1, 2007, the total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries whose assignments have been revoked under section 9706(h).

(g) Payment of premiums**(1) In general**

The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

(2) Deductibility

Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

(h) Information

The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Commissioner of Social Security information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary² may require to compute any premium under this section.

(i) Transition rules**(1) 1988 agreement operators****(A) 1st year costs**

During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

(B) Deficits from merged plans

During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

(C) Failure

If any 1988 agreement operator fails to meet any obligation under this paragraph,

² So in original. Probably should be “Commissioner”.

any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

(D) Premium reductions

(i) 1st year payments

In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

(ii) Deficit payments

In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the “evergreen clause” found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

(iii) Limitation

Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

(iv) Plan years

Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

(E) Allocations of contributions and refunds

Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

(2) 1st plan year

In the case of the plan year of the Combined Fund beginning February 1, 1993—

(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

(3) Startup costs

The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

(j) Prepayment of premium liability

(1) In general

If—

(A) a payment meeting the requirements of paragraph (3) is made to the Combined Fund by or on behalf of—

(i) any assigned operator to which this subsection applies, or

(ii) any related person to any assigned operator described in clause (i), and

(B) the common parent of the controlled group of corporations described in paragraph (2)(B) is jointly and severally liable for any premium under this section which (but for this subsection) would be required to be paid by the assigned operator or related person,

then such common parent (and no other person) shall be liable for such premium.

(2) Assigned operators to which subsection applies

(A) In general

This subsection shall apply to any assigned operator if—

(i) the assigned operator (or a related person to the assigned operator)—

(I) made contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for employment during the period covered by the 1988 agreement; and

(II) is not a 1988 agreement operator,

(ii) the assigned operator (and all related persons to the assigned operator) are not actively engaged in the production of coal as of July 1, 2005, and

(iii) the assigned operator was, as of July 20, 1992, a member of a controlled group of corporations described in subparagraph (B).

(B) Controlled group of corporations

A controlled group of corporations is described in this subparagraph if the common parent of such group is a corporation the shares of which are publicly traded on a United States exchange.

(C) Coordination with repeal of assignments

A person shall not fail to be treated as an assigned operator to which this subsection applies solely because the person ceases to be an assigned operator by reason of section 9706(h)(1) if the person otherwise meets the requirements of this subsection and is liable for the payment of premiums under section 9706(h)(3).

(D) Controlled group

For purposes of this subsection, the term “controlled group of corporations” has the meaning given such term by section 52(a).

(3) Requirements

A payment meets the requirements of this paragraph if—

(A) the amount of the payment is not less than the present value of the total premium liability under this chapter with respect to the Combined Fund of the assigned operators or related persons described in paragraph (1) or their assignees, as determined by the operator’s or related person’s enrolled actuary (as defined in section 7701(a)(35))

using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

(B) such enrolled actuary files with the Secretary of Labor a signed actuarial report containing—

(i) the date of the actuarial valuation applicable to the report; and

(ii) a statement by the enrolled actuary signing the report that, to the best of the actuary's knowledge, the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

(C) 90 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.

(4) Use of prepayment

The Combined Fund shall—

(A) establish and maintain an account for each assigned operator or related person by, or on whose behalf, a payment described in paragraph (3) was made,

(B) credit such account with such payment (and any earnings thereon), and

(C) use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3042; amended Pub. L. 103-296, title I, §108(h)(9)(A), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 109-432, div. C, title II, §§211(a), 212(a)(2), Dec. 20, 2006, 120 Stat. 3020, 3024.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-432, §212(a)(2)(A), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: “The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.”

Subsec. (e)(1). Pub. L. 109-432, §212(a)(2)(B)(i), inserted “and amounts transferred under section 9705(b)” after “premiums received”.

Subsec. (e)(3)(A). Pub. L. 109-432, §212(a)(2)(B)(ii), inserted at end “Amounts credited to an account from

amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.”

Subsec. (f)(2)(C). Pub. L. 109-432, §212(a)(2)(C), added subpar. (C).

Subsec. (j). Pub. L. 109-432, §211(a), added subsec. (j). 1994—Subsecs. (b)(2), (h). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, §212(a)(4), Dec. 20, 2006, 120 Stat. 3025, provided that: “The amendments made by this subsection [amending this section and sections 9705 and 9706 of this title] shall apply to plan years of the Combined Fund beginning after September 30, 2006.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

§ 9705. Transfers

(a) Transfer of assets from 1950 UMWA Pension Plan

(1) In general

From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

(A) \$70,000,000 on February 1, 1993,

(B) \$70,000,000 on October 1, 1993, and

(C) \$70,000,000 on October 1, 1994.

(2) Reservation

Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate \$210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

(3) Use of funds

Amounts transferred to the Combined Fund under paragraph (1) shall—

(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

(4) Tax treatment; validity of transfer

(A) No deduction

No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under ap-

plicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMW Pension Plan, the 1950 UMW Benefit Plan, the 1974 UMW Pension Plan, the 1974 UMW Benefit Plan, the 1992 UMW Benefit Plan, or the Combined Fund.

(B) Other tax provisions

Any transfer pursuant to paragraph (1)—

(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMW Pension Plan.

(5) Treatment of transfer

Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

(b) Transfers

(1) In general

The Combined Fund shall include any amount transferred to the Fund under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).¹

(2) Use of funds

Any amount transferred under paragraph (1) for any fiscal year shall be used to pay benefits and administrative costs of beneficiaries of the Combined Fund or for such other purposes as are specifically provided in the Acts² described in paragraph (1).

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3046; amended Pub. L. 109-432, div. C, title II, § 212(a)(1), Dec. 20, 2006, 120 Stat. 3023.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-432, § 212(a)(1)(C), struck out “from abandoned mine reclamation fund” after “Transfers” in heading.

Subsec. (b)(1). Pub. L. 109-432, § 212(a)(1)(A), substituted “subsections (h) and (i) of section 402” for “section 402(h)”.

Subsec. (b)(2). Pub. L. 109-432, § 212(a)(1)(B), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to plan years of the Combined Fund beginning after Sept. 30, 2006, see section 212(a)(4) of Pub. L. 109-432, set out as a note under section 9704 of this title.

§ 9706. Assignment of eligible beneficiaries

(a) In general

For purposes of this chapter, the Commissioner of Social Security shall, before October 1,

1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

(1) First, to the signatory operator which—

(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

(b) Rules relating to employment and reassignment upon purchase

For purposes of subsection (a)—

(1) Aggregation rules

(A) Related person

Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

(B) Certain employment disregarded

Employment with—

(i) a person which is (and all related persons with respect to which are) no longer in business, or

(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

(2) Reassignment upon purchase

If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

(c) Identification of eligible beneficiaries

The 1950 UMW Benefit Plan and the 1974 UMW Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Commissioner of So-

¹ So in original. Probably should be “(30 U.S.C. 1232).”

² So in original. Probably should be “Act”.

cial Security a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

(d) Cooperation by other agencies and persons

(1) Cooperation

The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Commissioner of Social Security in providing information which will enable the Commissioner to carry out his responsibilities under this section.

(2) Providing of information

(A) In general

Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Commissioner of Social Security in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Commissioner shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Commissioner, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Commissioner shall be so advised.

(B) Limitation

Any information provided under subparagraph (A) shall be limited to information necessary for the Commissioner to carry out his duties under this section.

(3) Trustees

The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Commissioner in furnishing, or assisting the Commissioner to obtain, any information the Commissioner needs to carry out the Commissioner's responsibilities under this section.

(e) Notice by Commissioner

(1) Notice to Fund

The Commissioner of Social Security shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

(2) Other notice

The Commissioner of Social Security shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

(f) Reconsideration by Commissioner

(1) In general

Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Commissioner of Social Security detailed information as to the work history of the beneficiary and the basis of the assignment.

(2) Review

An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Commissioner of Social Security shall conduct such review if the Commissioner finds the operator provided evidence with the request constituting a prima facie case of error.

(3) Results of review

(A) Error

If the Commissioner of Social Security determines under a review under paragraph (2) that an assignment was in error—

(i) the Commissioner shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

(ii) the Commissioner shall review the beneficiary's record for reassignment under subsection (a).

(B) No error

If the Commissioner of Social Security determines under a review conducted under paragraph (2) that no error occurred, the Commissioner shall notify the assigned operator.

(4) Determinations

Any determination by the Commissioner of Social Security under paragraph (2) or (3) shall be final.

(5) Payment pending review

An assigned operator shall pay the premiums under section 9704 pending review by the Commissioner of Social Security or by a court under this subsection.

(6) Private actions

Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Commissioner.

(g) Confidentiality of information

Any person to which information is provided by the Commissioner of Social Security under

this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

(h) Assignments as of October 1, 2007

(1) In general

Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and

(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

(2) Reassignment upon purchase

This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

(3) Liability of persons during three fiscal years beginning on and after October 1, 2007

In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

(A) For the fiscal year beginning on October 1, 2007, 55 percent.

(B) For the fiscal year beginning on October 1, 2008, 40 percent.

(C) For the fiscal year beginning on October 1, 2009, 15 percent.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3047; amended Pub. L. 103-296, title I, § 108(h)(9)(B), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 109-432, div. C, title II, § 212(a)(3), Dec. 30, 2006, 120 Stat. 3025.)

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as added by section 19143(a) of Pub. L. 102-486, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix I, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2006—Subsec. (h). Pub. L. 109-432 added subsec. (h).

1994—Subsecs. (a), (c) to (g). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”, “Commissioner” for “Secretary”, and “Commissioner’s” for “Secretary’s”, wherever appearing in text.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to plan years of the Combined Fund beginning after Sept. 30,

2006, see section 212(a)(4) of Pub. L. 109-432, set out as a note under section 9704 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

PART III—ENFORCEMENT

Sec.

9707. Failure to pay premium.

§ 9707. Failure to pay premium

(a) Failures to pay

(1) Premiums for eligible beneficiaries

There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

(2) Contributions required under the mining laws

There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.

(b) Amount of penalty

The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be \$100 per day in the noncompliance period with respect to any such failure.

(c) Noncompliance period

For purposes of this section, the term “noncompliance period” means, with respect to any failure to pay any premium or installment thereof, the period—

(1) beginning on the due date for such premium or installment, and

(2) ending on the date of payment of such premium or installment.

(d) Limitations on amount of penalty

(1) In general

No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

(2) Corrections

No penalty shall be imposed by subsection (a) on any failure if—

(A) such failure was due to reasonable cause and not to willful neglect, and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

(3) Waiver

In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

(e) Liability for penalty

The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

(f) Treatment

For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3050; amended Pub. L. 104-188, title I, §1704(t)(65), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109-432, div. C, title II, §213(b)(1), Dec. 20, 2006, 120 Stat. 3027.)

REFERENCES IN TEXT

Section 402 of the Surface Mining Control and Reclamation Act of 1977, referred to in subsec. (a)(2), is classified to section 1232 of Title 30, Mineral Lands and Mining.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-432 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.”

1996—Subsec. (d)(1). Pub. L. 104-188 struck out comma after “diligence”.

PART IV—OTHER PROVISIONS

Sec.
9708. Effect on pending claims or obligations.

§ 9708. Effect on pending claims or obligations

All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the “evergreen” clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3051.)

**Subchapter C—Health Benefits of Certain
Miners**

Part
I. Individual employer plans.
II. 1992 UMWA benefit plan.

PART I—INDIVIDUAL EMPLOYER PLANS

Sec.
9711. Continued obligations of individual employer plans.

§ 9711. Continued obligations of individual employer plans**(a) Coverage of current recipients**

The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

(b) Coverage of eligible recipients**(1) In general**

The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

(2) Coverage

Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

(c) Joint and several liability of related persons**(1) In general**

Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

(2) Liability limited if security provided

If—

(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

(i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or

(ii) any related person to any last signatory operator described in clause (i), and

(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable for the provision of health care under this section which the last signatory operator or related person would otherwise be required to provide. Security may be provided under this paragraph without regard to whether a payment was made under section 9704(j).

(3) Security

Security meets the requirements of this paragraph if—

(A) the security—

(i) is in the form of a bond, letter of credit, or cash escrow,

(ii) is provided to the trustees of the 1992 UMW Benefit Plan solely for the purpose of paying premiums for beneficiaries who would be described in section 9712(b)(2)(B) if the requirements of this section were not met by the last signatory operator, and

(iii) is in an amount equal to 1 year of liability of the last signatory operator under this section, determined by using the average cost of such operator's liability during the prior 3 calendar years;

(B) the security is in addition to any other security required under any other provision of this title; and

(C) the security remains in place for 5 years.

(4) Refunds of security

The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

(A) the termination of the obligations of the last signatory operator under this section, or

(B) the end of the 5-year period described in paragraph (4)(C).¹

(d) Managed care and cost containment

The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

(e) Treatment of noncovered employees

The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

¹ So in original. Probably should be "paragraph (3)(C)."

(f) Eligible beneficiary

For purposes of this section, the term "eligible beneficiary" means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

(g) Rules applicable to this part and part II

For purposes of this part and part II—

(1) Successor

The term "last signatory operator" shall include a successor in interest of such operator.

(2) Reassignment upon purchase

If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMW Benefit Plan of any transfer described in this paragraph.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3051; amended Pub. L. 109-432, div. C, title II, § 211(b), Dec. 20, 2006, 120 Stat. 3022.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-432 reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, text read as follows: "Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b)."

PART II—1992 UMW BENEFIT PLAN

Sec.

9712. Establishment and coverage of 1992 UMW Benefit Plan.

§ 9712. Establishment and coverage of 1992 UMW Benefit Plan

(a) Creation of plan

(1) In general

As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMW Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMW Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially

consist of five members and shall thereafter be the number set by the settlors.

(2) Treatment of plan

The 1992 UMWA Benefit Plan shall be—

(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

(3) Transfers under other Federal statutes

(A) In general

The 1992 UMWA Benefit Plan shall include any amount transferred to the plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

(B) Use of funds

Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in subsection (c) with respect to any beneficiary for whom no monthly per beneficiary premium is paid pursuant to paragraph (1)(A) or (3) of subsection (d).

(4) Special rule for 1993 plan

(A) In general

The plan described in section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)) shall include any amount transferred to the plan under subsections (h) and (i) of¹ the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

(B) Use of funds

Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C) of such Act (30 U.S.C. 1232(h)(2)(C)).

(b) Coverage requirement

(1) In general

The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

(2) Eligible beneficiary

For purposes of this section, the term “eligible beneficiary” means an individual who—

(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

(c) Health benefits

(1) In general

The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

(2) Managed care

The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

(3) Major elements of rules

Elements described in this paragraph are—

(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

(D) utilizing, in the claims payment function “appropriateness of service” protocols under title XVIII of the Social Security Act if more stringent,

(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

¹ So in original. Probably should be followed by “section 402 of”.

(4) Last signatory operators

The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

(5) Standards of quality

Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

(A) by the settlors, or

(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

(d) Guarantee of benefits**(1) In general**

All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan.

(B) The provision of a security (in the form of a bond, letter of credit, or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator.

(C) If the amounts transferred under subsection (a)(3) are less than the amounts required to be transferred to the 1992 UMWA Benefit Plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), the payment of an additional backstop premium by each 1988 last signatory operator which is equal to such operator's share of the amounts required to be so transferred but which were not so transferred, determined on the basis of the number of eligible and potentially eligible beneficiaries attributable to the operator.

(2) Adjustments

The 1992 UMWA Benefit Plan shall provide for—

(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

(B) adjustments as necessary to the annual backstop premium to reflect changes in the

cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

(3) Additional liability

Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(A) for each eligible beneficiary described in such paragraph attributable to that operator.

(4) Joint and several liability

A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section. The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.

(5) Deductibility

Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

(6) 1988 last signatory operator

For purposes of this section, the term “1988 last signatory operator” means a last signatory operator which is a 1988 agreement operator.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3053; amended Pub. L. 109-432, div. C, title II, §§ 211(c), 212(b)(1)–(2)(B), Dec. 20, 2006, 120 Stat. 3023, 3025, 3026.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (a)(3), (4). Pub. L. 109-432, § 212(b)(1), added pars. (3) and (4).

Subsec. (d)(1). Pub. L. 109-432, § 212(b)(2)(A), amended text of par. (1) generally. Prior to amendment, par. (1) provided that the contribution requirements of all 1988 last signatory operators include the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries, payment of a monthly per beneficiary premium, and provision of security.

Subsec. (d)(2)(B). Pub. L. 109-432, § 212(b)(2)(B)(i), substituted “backstop” for “prefunding”.

Subsec. (d)(3). Pub. L. 109-432, § 212(b)(2)(B)(ii), substituted “paragraph (1)(A)” for “paragraph (1)(B)”.

Subsec. (d)(4). Pub. L. 109-432, § 211(c), inserted at end “The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or

both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, §212(b)(2)(C), Dec. 20, 2006, 120 Stat. 3026, provided that: “The amendments made by this paragraph [amending this section] shall apply to fiscal years beginning on or after October 1, 2010.”

Subchapter D—Other Provisions

Sec.	
9721.	Civil enforcement.
9722.	Sham transactions.

§ 9721. Civil enforcement

The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—

- (1) arising out of an obligation to pay any amount required to be paid by this chapter; or
- (2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3055; amended Pub. L. 109-432, div. C, title II, §213(b)(2), Dec. 20, 2006, 120 Stat. 3027.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Subtitle E of title IV of the Act is classified generally to subtitle E (§1381 et seq.) of subchapter III of chapter 18 of Title 29, Labor. Section 4301 of the Act is classified to section 1451 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

2006—Pub. L. 109-432 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.”

§ 9722. Sham transactions

If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3056.)

Subtitle K—Group Health Plan Requirements

Chapter		Sec. ¹
100.	Group health plan requirements	9801

AMENDMENTS

1997—Pub. L. 105-34, title XV, §1531(a)(1), Aug. 5, 1997, 111 Stat. 1080, struck out “Portability, Access, and Renewability” before “Requirements” in subtitle heading and made similar change in item for chapter 100.

CHAPTER 100—GROUP HEALTH PLAN REQUIREMENTS

Subchapter		Sec. ¹
A.	Requirements relating to portability, access, and renewability	9801
B.	Other requirements	9811
C.	General provisions	9831

AMENDMENTS

1997—Pub. L. 105-34, title XV, §1531(a)(1), Aug. 5, 1997, 111 Stat. 1080, struck out “PORTABILITY, ACCESS, AND RENEWABILITY” in chapter heading and added analysis for chapter.

Subchapter A—Requirements Relating to Portability, Access, and Renewability

Sec.	
9801.	Increased portability through limitation on preexisting condition exclusions.
9802.	Prohibiting discrimination against individual participants and beneficiaries based on health status.
9803.	Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.
[9804-9806. Renumbered.]	

AMENDMENTS

1997—Pub. L. 105-34, title XV, §1531(a)(1), Aug. 5, 1997, 111 Stat. 1081, added subchapter heading and items 9801 to 9803 and struck out former items 9801 “Increased portability through limitation on preexisting condition exclusions”, 9802 “Prohibiting discrimination against individual participants and beneficiaries based on health status”, 9803 “Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements”, 9804 “General exceptions”, 9805 “Definitions”, and 9806 “Regulations”.

§ 9801. Increased portability through limitation on preexisting condition exclusions

(a) Limitation on preexisting condition exclusion period; crediting for periods of previous coverage

Subject to subsection (d), a group health plan may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

- (1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;
- (2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

¹ Section number editorially supplied.

¹ Section numbers editorially supplied.

(3) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

(b) Definitions

For purposes of this section—

(1) Preexisting condition exclusion

(A) In general

The term “preexisting condition exclusion” means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

(B) Treatment of genetic information

For purposes of this section, genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

(2) Enrollment date

The term “enrollment date” means, with respect to an individual covered under a group health plan, the date of enrollment of the individual in the plan or, if earlier, the first day of the waiting period for such enrollment.

(3) Late enrollee

The term “late enrollee” means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

(A) the first period in which the individual is eligible to enroll under the plan, or

(B) a special enrollment period under subsection (f).

(4) Waiting period

The term “waiting period” means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(c) Rules relating to crediting previous coverage

(1) Creditable coverage defined

For purposes of this part, the term “creditable coverage” means, with respect to an individual, coverage of the individual under any of the following:

(A) A group health plan.

(B) Health insurance coverage.

(C) Part A or part B of title XVIII of the Social Security Act.

(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

(E) Chapter 55 of title 10, United States Code.

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A State health benefits risk pool.

(H) A health plan offered under chapter 89 of title 5, United States Code.

(I) A public health plan (as defined in regulations).

(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 9832(c)).

(2) Not counting periods before significant breaks in coverage

(A) In general

A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

(B) Waiting period not treated as a break in coverage

For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under subparagraph (A).

(C) Affiliation period

(i) In general

For purposes of this section, the term “affiliation period” means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. During such an affiliation period, the organization is not required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(ii) Beginning

Such period shall begin on the enrollment date.

(iii) Runs concurrently with waiting periods

Any such affiliation period shall run concurrently with any waiting period under the plan.

(D) TAA-eligible individuals

In the case of plan years beginning before January 1, 2014—

(i) TAA pre-certification period rule

In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is 7 days after the date of the issuance by the Secretary (or by any person or entity designated by the Secretary) of a qualified health insurance costs credit eligibility certificate for such individual for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

(ii) Definitions

The terms “TAA-eligible individual” and “TAA-related loss of coverage” have the

meanings given such terms in section 4980B(f)(5)(C)(iv).

(3) Method of crediting coverage

(A) Standard method

Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan shall count a period of creditable coverage without regard to the specific benefits for which coverage is offered during the period.

(B) Election of alternative method

A group health plan may elect to apply subsection (a)(3) based on coverage of any benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

(C) Plan notice

In the case of an election with respect to a group health plan under subparagraph (B), the plan shall—

- (i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and
- (ii) include in such statements a description of the effect of this election.

(4) Establishment of period

Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

(d) Exceptions

(1) Exclusion not applicable to certain newborns

Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

(2) Exclusion not applicable to certain adopted children

Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

(3) Exclusion not applicable to pregnancy

For purposes of this section, a group health plan may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

(4) Loss if break in coverage

Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

(e) Certifications and disclosure of coverage

(1) Requirement for certification of period of creditable coverage

(A) In general

A group health plan shall provide the certification described in subparagraph (B)—

- (i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,
- (ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and
- (iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

(B) Certification

The certification described in this subparagraph is a written certification of—

- (i) the period of creditable coverage of the individual under such plan and the coverage under such COBRA continuation provision, and
- (ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

(C) Issuer compliance

To the extent that medical care under a group health plan consists of health insurance coverage offered in connection with the plan, the plan is deemed to have satisfied the certification requirement under this paragraph if the issuer provides for such certification in accordance with this paragraph.

(2) Disclosure of information on previous benefits

(A) In general

In the case of an election described in subsection (c)(3)(B) by a group health plan, if the plan enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

- (i) upon request of such plan, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan information on coverage of classes and categories of health benefits available under such entity's plan, and
- (ii) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

(3) Regulations

The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

(f) Special enrollment periods**(1) Individuals losing other coverage**

A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor (or the health insurance issuer offering health insurance coverage in connection with the plan) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

(C) The employee's or dependent's coverage described in subparagraph (A)—

(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

(2) For dependent beneficiaries**(A) In general**

If—

(i) a group health plan makes coverage available with respect to a dependent of an individual,

(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

(B) Dependent special enrollment period

The dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

(i) the date dependent coverage is made available, or

(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

(C) No waiting period

If an individual seeks coverage of a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) in the case of a dependent's birth, as of the date of such birth; or

(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(3) Special rules relating to Medicaid and CHIP**(A) In general**

A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

(i) Termination of Medicaid or CHIP coverage

The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

(ii) Eligibility for employment assistance under Medicaid or CHIP

The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in

relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

(B) Employee outreach and disclosure

(i) Outreach to employees regarding availability of Medicaid and CHIP coverage

(I) In general

Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

(II) Option to provide concurrent with provision of plan materials to employee

An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

(ii) Disclosure about group health plan benefits to States for Medicaid and CHIP eligible individuals

In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a

determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.

(Added Pub. L. 104–191, title IV, § 401(a), Aug. 21, 1996, 110 Stat. 2073; amended Pub. L. 105–34, title XV, § 1531(b)(1)(A), Aug. 5, 1997, 111 Stat. 1084; Pub. L. 111–3, title III, § 311(a), Feb. 4, 2009, 123 Stat. 64; Pub. L. 111–5, div. B, title I, § 1899D(a), Feb. 17, 2009, 123 Stat. 425; Pub. L. 111–344, title I, § 114(a), Dec. 29, 2010, 124 Stat. 3615; Pub. L. 112–40, title II, § 242(a)(1), Oct. 21, 2011, 125 Stat. 419.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c)(1)(C), (D), (f)(3)(A)(i), (B)(i)(I), (ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and B of title XVIII of the Act are classified generally to parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§ 1396 et seq.) and XXI (§ 1397aa et seq.), respectively, of chapter 7 of Title 42. Sections 1928 and 2105 of the Act are classified to sections 1396s and 1397ee, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, referred to in subsec. (f)(3)(B)(ii), is section 311(b)(1)(C) of Pub. L. 111–3, which is set out as a note under section 1181 of Title 29, Labor.

AMENDMENTS

2011—Subsec. (c)(2)(D). Pub. L. 112–40 substituted “January 1, 2014” for “February 13, 2011” in introductory provisions.

2010—Subsec. (c)(2)(D). Pub. L. 111–344 substituted “February 13, 2011” for “January 1, 2011” in introductory provisions.

2009—Subsec. (c)(2)(D). Pub. L. 111–5 added subpar. (D).

Subsec. (f)(3). Pub. L. 111–3 added par. (3).

1997—Subsec. (c)(1). Pub. L. 105–34 substituted “section 9832(c)” for “section 9805(c)” in concluding provisions.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–40, title II, § 242(b), Oct. 21, 2011, 125 Stat. 419, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section, section 1181 of Title 29, Labor, and sections 300gg and 300gg–3 of Title 42, The Public Health and Welfare] shall apply to plan years beginning after February 12, 2011.

“(2) TRANSITIONAL RULES.—

“(A) BENEFIT DETERMINATIONS.—Notwithstanding the amendments made by this section (and the provisions of law amended thereby), a plan shall not be required to modify benefit determinations for the period beginning on February 13, 2011, and ending 30 days after the date of the enactment of this Act [Oct. 21, 2011], but a plan shall not fail to be qualified health insurance within the meaning of section 35(e) of the Internal Revenue Code of 1986 during this period merely due to such failure to modify benefit determinations.

“(B) GUIDANCE CONCERNING PERIODS BEFORE 30 DAYS AFTER ENACTMENT.—Except as provided in subpara-

graph (A), the Secretary of the Treasury (or his designee), in consultation with the Secretary of Health and Human Services and the Secretary of Labor, may issue regulations or other guidance regarding the scope of the application of the amendments made by this section to periods before the date which is 30 days after the date of the enactment of this Act.

“(C) SPECIAL RULE RELATING TO CERTAIN LOSS OF COVERAGE.—In the case of a TAA-related loss of coverage (as defined in section 4980B(f)(5)(C)(iv) of the Internal Revenue Code of 1986) that occurs during the period beginning on February 13, 2011, and ending 30 days after the date of the enactment of this Act, the 7-day period described in section 9801(c)(2)(D) of the Internal Revenue Code of 1986, section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181(c)(2)(C)], and section 2701(c)(2)(C) of the Public Health Service Act [renumbered section 2704(c)(2)(C), see 42 U.S.C. 300gg-3(c)(2)(C)] shall be extended until 30 days after such date of enactment.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-344, title I, § 114(d), Dec. 29, 2010, 124 Stat. 3615, provided that: “The amendments made by this section [amending this section, section 1181 of Title 29, Labor, and section 300gg of Title 42, The Public Health and Welfare] shall apply to plan years beginning after December 31, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

Pub. L. 111-5, div. B, title I, § 1899D(d), Feb. 17, 2009, 123 Stat. 426, provided that: “The amendments made by this section [amending this section, section 1181 of Title 29, Labor, and section 300gg of Title 42, The Public Health and Welfare] shall apply to plan years beginning after the date of the enactment of this Act [Feb. 17, 2009].”

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 1531(c) of Pub. L. 105-34, set out as a note under section 4980D of this title.

EFFECTIVE DATE

Pub. L. 104-191, title IV, § 401(c), Aug. 21, 1996, 110 Stat. 2082, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this subtitle] shall apply to plan years beginning after June 30, 1997.

“(2) DETERMINATION OF CREDITABLE COVERAGE.—

“(A) PERIOD OF COVERAGE.—

“(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under chapter 100 of the Internal Revenue Code of 1986 (as added by this section) in determining creditable coverage.

“(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of the Treasury, consistent with section 104 [42 U.S.C. 300gg-92 note], shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

“(B) CERTIFICATIONS, ETC.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 9801 of the Internal Revenue Code of 1986 (as added by this section) shall apply to events occurring after June 30, 1996.

“(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

“(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

“(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

“(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

“(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

“(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Aug. 21, 1996], the amendments made by this section shall not apply to plan years beginning before the later of—

“(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

“(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

“(4) TIMELY REGULATIONS.—The Secretary of the Treasury, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section.

“(5) LIMITATION ON ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.”

§ 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status

(a) In eligibility to enroll

(1) In general

Subject to paragraph (2), a group health plan may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following factors in relation to the individual or a dependent of the individual:

- (A) Health status.
- (B) Medical condition (including both physical and mental illnesses).
- (C) Claims experience.
- (D) Receipt of health care.
- (E) Medical history.
- (F) Genetic information.
- (G) Evidence of insurability (including conditions arising out of acts of domestic violence).
- (H) Disability.

(2) No application to benefits or exclusions

To the extent consistent with section 9801, paragraph (1) shall not be construed—

- (A) to require a group health plan to provide particular benefits (or benefits with respect to a specific procedure, treatment, or service) other than those provided under the terms of such plan; or
- (B) to prevent such a plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

(3) Construction

For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

(b) In premium contributions

(1) In general

A group health plan may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any factor described in subsection (a)(1) in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

(2) Construction

Nothing in paragraph (1) shall be construed—

- (A) to restrict the amount that an employer may be charged for coverage under a group health plan except as provided in paragraph (3); or
- (B) to prevent a group health plan from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) No group-based discrimination on basis of genetic information

(A) In general

For purposes of this section, a group health plan may not adjust premium or contribution amounts for the group covered under such plan on the basis of genetic information.

(B) Rule of construction

Nothing in subparagraph (A) or in paragraphs (1) and (2) of subsection (d) shall be construed to limit the ability of a group

health plan to increase the premium for an employer based on the manifestation of a disease or disorder of an individual who is enrolled in the plan. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the employer.

(c) Genetic testing

(1) Limitation on requesting or requiring genetic testing

A group health plan may not request or require an individual or a family member of such individual to undergo a genetic test.

(2) Rule of construction

Paragraph (1) shall not be construed to limit the authority of a health care professional who is providing health care services to an individual to request that such individual undergo a genetic test.

(3) Rule of construction regarding payment

(A) In general

Nothing in paragraph (1) shall be construed to preclude a group health plan from obtaining and using the results of a genetic test in making a determination regarding payment (as such term is defined for the purposes of applying the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) consistent with subsection (a).

(B) Limitation

For purposes of subparagraph (A), a group health plan may request only the minimum amount of information necessary to accomplish the intended purpose.

(4) Research exception

Notwithstanding paragraph (1), a group health plan may request, but not require, that a participant or beneficiary undergo a genetic test if each of the following conditions is met:

- (A) The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or regulations for the protection of human subjects in research.
- (B) The plan clearly indicates to each participant or beneficiary, or in the case of a minor child, to the legal guardian of such beneficiary, to whom the request is made that—

- (i) compliance with the request is voluntary; and
- (ii) non-compliance will have no effect on enrollment status or premium or contribution amounts.

(C) No genetic information collected or acquired under this paragraph shall be used for underwriting purposes.

(D) The plan notifies the Secretary in writing that the plan is conducting activities pursuant to the exception provided for

under this paragraph, including a description of the activities conducted.

(E) The plan complies with such other conditions as the Secretary may by regulation require for activities conducted under this paragraph.

(d) Prohibition on collection of genetic information

(1) In general

A group health plan shall not request, require, or purchase genetic information for underwriting purposes (as defined in section 9832).

(2) Prohibition on collection of genetic information prior to enrollment

A group health plan shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan or in connection with such enrollment.

(3) Incidental collection

If a group health plan obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

(e) Application to all plans

The provisions of subsections (a)(1)(F), (b)(3), (c), and (d) and subsection (b)(1) and section 9801 with respect to genetic information, shall apply to group health plans without regard to section 9831(a)(2).

(f) Special rules for church plans

A church plan (as defined in section 414(e)) shall not be treated as failing to meet the requirements of this section solely because such plan requires evidence of good health for coverage of—

(1) both any employee of an employer with 10 or less employees (determined without regard to section 414(e)(3)(C)) and any self-employed individual, or

(2) any individual who enrolls after the first 90 days of initial eligibility under the plan.

This subsection shall apply to a plan for any year only if the plan included the provisions described in the preceding sentence on July 15, 1997, and at all times thereafter before the beginning of such year.

(g) Genetic information of a fetus or embryo

Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(Added Pub. L. 104-191, title IV, § 401(a), Aug. 21, 1996, 110 Stat. 2078; amended Pub. L. 105-34, title

XV, § 1532(a), Aug. 5, 1997, 111 Stat. 1085; Pub. L. 110-233, title I, § 103(a)-(c), May 21, 2008, 122 Stat. 896, 897; Pub. L. 113-295, div. A, title II, § 220(aa), Dec. 19, 2014, 128 Stat. 4037.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§ 1320d et seq.) of subchapter XI of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (c)(3)(A), is section 264 of Pub. L. 104-191, which is set out as a note under section 1320d-2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2014—Subsecs. (f), (g). Pub. L. 113-295 redesignated subsec. (f) relating to genetic information of a fetus or embryo as (g).

2008—Subsec. (b)(2)(A). Pub. L. 110-233, § 103(a)(1), inserted “except as provided in paragraph (3)” before semicolon.

Subsec. (b)(3). Pub. L. 110-233, § 103(a)(2), added par. (3).

Subsecs. (c) to (e). Pub. L. 110-233, § 103(b), added subsecs. (c) to (e). Former subsec. (c) redesignated (f) relating to special rules for church plans.

Subsec. (f). Pub. L. 110-233, § 103(c), added subsec. (f) relating to genetic information of a fetus or embryo.

Pub. L. 110-233, § 103(b), redesignated subsec. (c) as (f) relating to special rules for church plans.

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-233, title I, § 103(f)(2), May 21, 2008, 122 Stat. 899, provided that: “The amendments made by this section [enacting section 9834 of this title and amending this section and section 9832 of this title] shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of the enactment of this Act [May 21, 2008].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XV, § 1532(b), Aug. 5, 1997, 111 Stat. 1085, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 401(a) of the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191].”

REGULATIONS

Pub. L. 110-233, title I, § 103(f)(1), May 21, 2008, 122 Stat. 899, provided that: “The Secretary of the Treasury shall issue final regulations or other guidance not later than 12 months after the date of the enactment of this Act [May 21, 2008] to carry out the amendments made by this section [enacting section 9834 of this title and amending this section and section 9832 of this title].”

EFFECTIVE DATE

Section applicable to plan years beginning after June 30, 1997, see section 401(c) of Pub. L. 104-191, set out as a note under section 9801 of this title.

§ 9803. Guaranteed renewability in multi-employer plans and certain multiple employer welfare arrangements

(a) In general

A group health plan which is a multiemployer plan (as defined in section 414(f)) or which is a multiple employer welfare arrangement may not

deny an employer continued access to the same or different coverage under such plan, other than—

- (1) for nonpayment of contributions;
- (2) for fraud or other intentional misrepresentation of material fact by the employer;
- (3) for noncompliance with material plan provisions;
- (4) because the plan is ceasing to offer any coverage in a geographic area;
- (5) in the case of a plan that offers benefits through a network plan, because there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or a factor described in section 9802(a)(1) in relation to such individuals or their dependents; or
- (6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

(b) Multiple employer welfare arrangement

For purposes of subsection (a), the term “multiple employer welfare arrangement” has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section.

(Added Pub. L. 104–191, title IV, § 401(a), Aug. 21, 1996, 110 Stat. 2079.)

REFERENCES IN TEXT

Section 3(40) of the Employee Retirement Income Security Act of 1974, referred to in subsec. (b), is classified to section 1002(40) of Title 29, Labor.

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 104–191, which was approved Aug. 21, 1996.

EFFECTIVE DATE

Section applicable to plan years beginning after June 30, 1997, see section 401(c) of Pub. L. 104–191, set out as a note under section 9801 of this title.

[§ 9804. Renumbered § 9831]

[§ 9805. Renumbered § 9832]

[§ 9806. Renumbered § 9833]

Subchapter B—Other Requirements

Sec.	
9811.	Standards relating to benefits for mothers and newborns.
9812.	Parity in mental health and substance use disorder benefits.
9813.	Coverage of dependent students on medically necessary leave of absence.
9815.	Additional market reforms. ¹

AMENDMENTS

2008—Pub. L. 110–381, § 2(c)(2), Oct. 9, 2008, 122 Stat. 4086, added item 9813.

Pub. L. 110–343, div. C, title V, § 512(g)(3)(B), Oct. 3, 2008, 122 Stat. 3892, added item 9812 and struck out

¹Editorially supplied. Section 9815 added by Pub. L. 111–148 without corresponding amendment of analysis. No section 9814 has been enacted.

former item 9812 “Parity in the application of certain limits to mental health benefits”.

1997—Pub. L. 105–34, title XV, § 1531(a)(4), Aug. 5, 1997, 111 Stat. 1081, added subchapter heading and analysis.

§ 9811. Standards relating to benefits for mothers and newborns

(a) Requirements for minimum hospital stay following birth

(1) In general

A group health plan may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours; or

(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a caesarean section, to less than 96 hours; or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) Exception

Paragraph (1)(A) shall not apply in connection with any group health plan in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

(b) Prohibitions

A group health plan may not—

(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) Rules of construction

(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

(A) to give birth in a hospital; or

(B) to stay in the hospital for a fixed period of time following the birth of her child.

(2) This section shall not apply with respect to any group health plan which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

(3) Nothing in this section shall be construed as preventing a group health plan from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) Level and type of reimbursements

Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) Preemption; exception for health insurance coverage in certain States

The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (including a decision, rule, regulation, or other State action having the effect of law) for a State that regulates such coverage that is described in any of the following paragraphs:

(1) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a caesarean section.

(2) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

(3) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

(Added Pub. L. 105-34, title XV, § 1531(a)(4), Aug. 5, 1997, 111 Stat. 1081; amended Pub. L. 105-206, title VI, § 6015(e), July 22, 1998, 112 Stat. 821.)

AMENDMENTS

1998—Subsecs. (e), (f). Pub. L. 105-206 redesignated subsec. (f) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 1531(c) of Pub. L. 105-34, set out as an Effective

Date of 1997 Amendment note under section 4980D of this title.

§ 9812. Parity in mental health and substance use disorder benefits

(a) In general

(1) Aggregate lifetime limits

In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits—

(A) No lifetime limit

If the plan does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan may not impose any aggregate lifetime limit on mental health or substance use disorder benefits.

(B) Lifetime limit

If the plan includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the “applicable lifetime limit”), the plan shall either—

(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health and substance use disorder benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health and substance use disorder benefits; or

(ii) not include any aggregate lifetime limit on mental health or substance use disorder benefits that is less than the applicable lifetime limit.

(C) Rule in case of different limits

In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health and substance use disorder benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

(2) Annual limits

In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits—

(A) No annual limit

If the plan does not include an annual limit on substantially all medical and surgical benefits, the plan may not impose any annual limit on mental health or substance use disorder benefits.

(B) Annual limit

If the plan includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the “applicable annual limit”), the plan shall either—

(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health and substance use disorder benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health and substance use disorder benefits; or

(ii) not include any annual limit on mental health or substance use disorder benefits that is less than the applicable annual limit.

(C) Rule in case of different limits

In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health and substance use disorder benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

(3) Financial requirements and treatment limitations

(A) In general

In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that—

(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan, and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

(B) Definitions

In this paragraph:

(i) Financial requirement

The term “financial requirement” includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),¹

(ii) Predominant

A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

(iii) Treatment limitation

The term “treatment limitation” includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

(4) Availability of plan information

The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits shall be made available by the plan administrator in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator to the participant or beneficiary in accordance with regulations.

(5) Out-of-network providers

In the case of a plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan provides coverage for medical or surgical benefits provided by out-of-network providers, the plan shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.

(b) Construction

Nothing in this section shall be construed—

(1) as requiring a group health plan to provide any mental health or substance use disorder benefits; or

(2) in the case of a group health plan that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan relating to such benefits under the plan, except as provided in subsection (a).

(c) Exemptions

(1) Small employer exemption

(A) In general

This section shall not apply to any group health plan for any plan year of a small employer.

(B) Small employer

For purposes of subparagraph (A), the term “small employer” means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer and rules similar to rules of subparagraphs (B) and (C) of section 4980D(d)(2) shall apply.

¹ So in original. The comma probably should be a period.

(2) Cost exemption**(A) In general**

With respect to a group health plan, if the application of this section to such plan results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan during the following plan year, and such exemption shall apply to the plan for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan involved regardless of any increase in total costs.

(B) Applicable percentage

With respect to a plan, the applicable percentage described in this subparagraph shall be—

- (i) 2 percent in the case of the first plan year in which this section is applied; and
- (ii) 1 percent in the case of each subsequent plan year.

(C) Determinations by actuaries

Determinations as to increases in actual costs under a plan for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan for a period of 6 years following the notification made under subparagraph (E).

(D) 6-month determinations

If a group health plan seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan has complied with this section for the first 6 months of the plan year involved.

(E) Notification**(i) In general**

A group health plan that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

(ii) Requirement

A notification to the Secretary under clause (i) shall include—

- (I) a description of the number of covered lives under the plan involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan;

- (II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

- (III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

(iii) Confidentiality

A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

- (I) a breakdown of States by the size and type of employers submitting such notification; and

- (II) a summary of the data received under clause (ii).

(F) Audits by appropriate agencies

To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.

(d) Separate application to each option offered

In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

(e) Definitions

For purposes of this section:

(1) Aggregate lifetime limit

The term “aggregate lifetime limit” means, with respect to benefits under a group health plan, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan with respect to an individual or other coverage unit.

(2) Annual limit

The term “annual limit” means, with respect to benefits under a group health plan, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan with respect to an individual or other coverage unit.

(3) Medical or surgical benefits

The term “medical or surgical benefits” means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health or substance use disorder benefits.

(4) Mental health benefits

The term “mental health benefits” means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(5) Substance use disorder benefits

The term “substance use disorder benefits” means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(Added Pub. L. 105-34, title XV, § 1531(a)(4), Aug. 5, 1997, 111 Stat. 1083; amended Pub. L. 107-116, title VII, § 701(c), Jan. 10, 2002, 115 Stat. 2228; Pub. L. 107-147, title VI, § 610(a), Mar. 9, 2002, 116 Stat. 60; Pub. L. 108-311, title III, § 302(a), Oct. 4, 2004, 118 Stat. 1178; Pub. L. 109-151, § 1(c), Dec. 30, 2005, 119 Stat. 2886; Pub. L. 109-432, div. A, title I, § 115(a), Dec. 20, 2006, 120 Stat. 2941; Pub. L. 110-245, title IV, § 401(a), June 17, 2008, 122 Stat. 1649; Pub. L. 110-343, div. C, title V, § 512(c), (g)(3)(A), Oct. 3, 2008, 122 Stat. 3888, 3892.)

AMENDMENTS

2008—Pub. L. 110-343, § 512(g)(3)(A), substituted “Parity in mental health and substance use disorder benefits” for “Parity in the application of certain limits to mental health benefits” in section catchline.

Subsec. (a)(1), (2). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits” wherever appearing in pars. (1)(introductory provisions), (A), and (B)(ii) and (2)(introductory provisions), (A), and (B)(ii).

Pub. L. 110-343, § 512(c)(6), substituted “mental health and substance use disorder benefits” for “mental health benefits” wherever appearing in pars. (1)(B)(i) and (C) and (2)(B)(i) and (C).

Subsec. (a)(3) to (5). Pub. L. 110-343, § 512(c)(1), added pars. (3) to (5).

Subsec. (b)(1). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits”.

Subsec. (b)(2). Pub. L. 110-343, § 512(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “in the case of a group health plan that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).”

Subsec. (c)(1). Pub. L. 110-343, § 512(c)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: “This section shall not apply to any group health plan for any plan year of a small employer (as defined in section 4980D(d)(2)).”

Subsec. (c)(2). Pub. L. 110-343, § 512(c)(3)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.”

Subsec. (e)(3). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits”.

Subsec. (e)(4). Pub. L. 110-343, § 512(c)(7), which directed substitution of “mental health or substance use disorder benefits” for “mental health benefits” wherever appearing in this section (other than in any provision amended by section 512(c)(6) of Pub. L. 110-343), was not executed to par. (4) as added by Pub. L. 110-343, § 512(c)(4), to reflect the probable intent of Congress. See below.

Subsec. (e)(4). Pub. L. 110-343, § 512(c)(4), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “The term ‘mental health benefits’ means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to treatment of substance abuse or chemical dependency.”

Subsec. (e)(5). Pub. L. 110-343, § 512(c)(4), added par. (5).

Subsec. (f). Pub. L. 110-343, § 512(c)(5), struck out subsec. (f). Text read as follows: “This section shall not apply to benefits for services furnished—

“(1) on or after September 30, 2001, and before January 10, 2002,

“(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004,

“(3) on or after January 1, 2008, and before the date of the enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008, and

“(4) after December 31, 2008.”

Subsec. (f)(3), (4). Pub. L. 110-245 added pars. (3) and (4) and struck out former par. (3) which read as follows: “after December 31, 2007.”

2006—Subsec. (f)(3). Pub. L. 109-432 substituted “December 31, 2007” for “December 31, 2006”.

2005—Subsec. (f)(3). Pub. L. 109-151 substituted “December 31, 2006” for “December 31, 2005”.

2004—Subsec. (f)(2), (3). Pub. L. 108-311 added pars. (2) and (3) and struck out former par. (2) which read as follows: “after December 31, 2003.”

2002—Subsec. (f). Pub. L. 107-147 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “This section shall not apply to benefits for services furnished on or after December 31, 2002.”

Subsec. (f). Pub. L. 107-116 substituted “December 31, 2002” for “September 30, 2001”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable with respect to group health plans for plan years beginning after the date that is 1 year after Oct. 3, 2008, except that amendment by section 512(c)(5) of Pub. L. 110-343 effective Jan. 1, 2009, with special rule for collective bargaining agreements, see section 512(e) of Pub. L. 110-343, set out as a note under section 300gg-26 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, § 302(d), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendments made by this section [amending this section, section 1185a of Title 29, Labor, and section 300gg-5 of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Oct. 4, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title VI, § 610(b), Mar. 9, 2002, 116 Stat. 60, provided that: “The amendment made by subsection (a) [amending this section] shall apply to plan years beginning after December 31, 2000.”

EFFECTIVE DATE

Section applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 1531(c) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 4980D of this title.

§ 9813. Coverage of dependent students on medically necessary leave of absence**(a) Medically necessary leave of absence**

In this section, the term “medically necessary leave of absence” means, with respect to a dependent child described in subsection (b)(2) in connection with a group health plan, a leave of

absence of such child from a postsecondary educational institution (including an institution of higher education as defined in section 102 of the Higher Education Act of 1965), or any other change in enrollment of such child at such an institution, that—

- (1) commences while such child is suffering from a serious illness or injury;
- (2) is medically necessary; and
- (3) causes such child to lose student status for purposes of coverage under the terms of the plan or coverage.

(b) Requirement to continue coverage

(1) In general

In the case of a dependent child described in paragraph (2), a group health plan shall not terminate coverage of such child under such plan due to a medically necessary leave of absence before the date that is the earlier of—

- (A) the date that is 1 year after the first day of the medically necessary leave of absence; or
- (B) the date on which such coverage would otherwise terminate under the terms of the plan.

(2) Dependent child described

A dependent child described in this paragraph is, with respect to a group health plan, a beneficiary under the plan who—

- (A) is a dependent child, under the terms of the plan, of a participant or beneficiary under the plan; and
- (B) was enrolled in the plan, on the basis of being a student at a postsecondary educational institution (as described in subsection (a)), immediately before the first day of the medically necessary leave of absence involved.

(3) Certification by physician

Paragraph (1) shall apply to a group health plan only if the plan, or the issuer of health insurance coverage offered in connection with the plan, has received written certification by a treating physician of the dependent child which states that the child is suffering from a serious illness or injury and that the leave of absence (or other change of enrollment) described in subsection (a) is medically necessary.

(c) Notice

A group health plan shall include, with any notice regarding a requirement for certification of student status for coverage under the plan, a description of the terms of this section for continued coverage during medically necessary leaves of absence. Such description shall be in language which is understandable to the typical plan participant.

(d) No change in benefits

A dependent child whose benefits are continued under this section shall be entitled to the same benefits as if (during the medically necessary leave of absence) the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

(e) Continued application in case of changed coverage

If—

(1) a dependent child of a participant or beneficiary is in a period of coverage under a group health plan, pursuant to a medically necessary leave of absence of the child described in subsection (b);

(2) the manner in which the participant or beneficiary is covered under the plan changes, whether through a change in health insurance coverage or health insurance issuer, a change between health insurance coverage and self-insured coverage, or otherwise; and

(3) the coverage as so changed continues to provide coverage of beneficiaries as dependent children,

this section shall apply to coverage of the child under the changed coverage for the remainder of the period of the medically necessary leave of absence of the dependent child under the plan in the same manner as it would have applied if the changed coverage had been the previous coverage.

(Added Pub. L. 110-381, §2(c)(1), Oct. 9, 2008, 122 Stat. 4084.)

REFERENCES IN TEXT

Section 102 of the Higher Education Act of 1965, referred to in subsec. (a), is classified to section 1002 of Title 20, Education.

EFFECTIVE DATE

Pub. L. 110-381, §2(d), Oct. 9, 2008, 122 Stat. 4086, provided that: “The amendments made by this Act [enacting this section, section 1185c of Title 29, Labor, and sections 300gg-7 and 300gg-54 of Title 42, The Public Health and Welfare] shall apply with respect to plan years beginning on or after the date that is one year after the date of the enactment of this Act [Oct. 9, 2008] and to medically necessary leaves of absence beginning during such plan years.”

§ 9815.¹ Additional market reforms

(a) General rule

Except as provided in subsection (b)—

(1) the provisions of part A of title XXVII of the Public Health Service Act (as amended by the Patient Protection and Affordable Care Act) shall apply to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans, as if included in this subchapter; and

(2) to the extent that any provision of this subchapter conflicts with a provision of such part A with respect to group health plans, or health insurance issuers providing health insurance coverage in connection with group health plans, the provisions of such part A shall apply.

(b) Exception

Notwithstanding subsection (a), the provisions of sections 2716 and 2718 of title XXVII of the Public Health Service Act (as amended by the Patient Protection and Affordable Care Act) shall not apply with respect to self-insured group health plans, and the provisions of this subchapter shall continue to apply to such plans as if such sections of the Public Health Service Act (as so amended) had not been enacted.

¹ So in original. No section 9814 has been enacted.

(Added Pub. L. 111–148, title I, §1563(f), formerly §1562(f), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 270, 911.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682. Part A of title XXVII of the Act is classified generally to part A (§300gg et seq.) of subchapter XXV of chapter 6A of Title 42, The Public Health and Welfare. Sections 2716 and 2718 of title XXVII of the Act are classified to sections 300gg–16 and 300gg–18, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this Title 42 and Tables.

The Patient Protection and Affordable Care Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of Title 42, The Public Health and Welfare, and Tables.

Subchapter C—General Provisions

Sec.	
9831.	General exceptions.
9832.	Definitions.
9833.	Regulations.
9834.	Enforcement.

AMENDMENTS

2008—Pub. L. 110–233, title I, §103(e)(2), May 21, 2008, 122 Stat. 899, added item 9834.

1997—Pub. L. 105–34, title XV, §1531(a)(3), Aug. 5, 1997, 111 Stat. 1081, added subchapter heading and analysis.

§ 9831. General exceptions

(a) Exception for certain plans

The requirements of this chapter shall not apply to—

- (1) any governmental plan, and
- (2) any group health plan for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

(b) Exception for certain benefits

The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9832(c)(1).

(c) Exception for certain benefits if certain conditions met

(1) Limited, excepted benefits

The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9832(c)(2) if the benefits—

- (A) are provided under a separate policy, certificate, or contract of insurance; or
- (B) are otherwise not an integral part of the plan.

(2) Noncoordinated, excepted benefits

The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9832(c)(3) if all of the following conditions are met:

- (A) The benefits are provided under a separate policy, certificate, or contract of insurance.
- (B) There is no coordination between the provision of such benefits and any exclusion

of benefits under any group health plan maintained by the same plan sponsor.

(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

(3) Supplemental excepted benefits

The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9832(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

(d) Exception for qualified small employer health reimbursement arrangements

(1) In general

For purposes of this title (except as provided in section 4980I(f)(4) and notwithstanding any other provision of this title), the term “group health plan” shall not include any qualified small employer health reimbursement arrangement.

(2) Qualified small employer health reimbursement arrangement

For purposes of this subsection—

(A) In general

The term “qualified small employer health reimbursement arrangement” means an arrangement which—

- (i) is described in subparagraph (B), and
- (ii) is provided on the same terms to all eligible employees of the eligible employer.

(B) Arrangement described

An arrangement is described in this subparagraph if—

- (i) such arrangement is funded solely by an eligible employer and no salary reduction contributions may be made under such arrangement,
- (ii) such arrangement provides, after the employee provides proof of coverage, for the payment of, or reimbursement of, an eligible employee for expenses for medical care (as defined in section 213(d)) incurred by the eligible employee or the eligible employee’s family members (as determined under the terms of the arrangement), and
- (iii) the amount of payments and reimbursements described in clause (ii) for any year do not exceed \$4,950 (\$10,000 in the case of an arrangement that also provides for payments or reimbursements for family members of the employee).

(C) Certain variation permitted

For purposes of subparagraph (A)(ii), an arrangement shall not fail to be treated as provided on the same terms to each eligible employee merely because the employee’s permitted benefit under such arrangement varies in accordance with the variation in the price of an insurance policy in the relevant individual health insurance market based on—

- (i) the age of the eligible employee (and, in the case of an arrangement which cov-

ers medical expenses of the eligible employee's family members, the age of such family members), or

(ii) the number of family members of the eligible employee the medical expenses of which are covered under such arrangement.

The variation permitted under the preceding sentence shall be determined by reference to the same insurance policy with respect to all eligible employees.

(D) Rules relating to maximum dollar limitation

(i) Amount prorated in certain cases

In the case of an individual who is not covered by an arrangement for the entire year, the limitation under subparagraph (B)(iii) for such year shall be an amount which bears the same ratio to the amount which would (but for this clause) be in effect for such individual for such year under subparagraph (B)(iii) as the number of months for which such individual is covered by the arrangement for such year bears to 12.

(ii) Inflation adjustment

In the case of any year beginning after 2016, each of the dollar amounts in subparagraph (B)(iii) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2015” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any dollar amount increased under the preceding sentence is not a multiple of \$50, such dollar amount shall be rounded to the next lowest multiple of \$50.

(3) Other definitions

For purposes of this subsection—

(A) Eligible employee

The term “eligible employee” means any employee of an eligible employer, except that the terms of the arrangement may exclude from consideration employees described in any clause of section 105(h)(3)(B) (applied by substituting “90 days” for “3 years” in clause (i) thereof).

(B) Eligible employer

The term “eligible employer” means an employer that—

(i) is not an applicable large employer as defined in section 4980H(c)(2), and

(ii) does not offer a group health plan to any of its employees.

(C) Permitted benefit

The term “permitted benefit” means, with respect to any eligible employee, the maximum dollar amount of payments and reimbursements which may be made under the terms of the qualified small employer health reimbursement arrangement for the year with respect to such employee.

(4) Notice

(A) In general

An employer funding a qualified small employer health reimbursement arrangement for any year shall, not later than 90 days before the beginning of such year (or, in the case of an employee who is not eligible to participate in the arrangement as of the beginning of such year, the date on which such employee is first so eligible), provide a written notice to each eligible employee which includes the information described in subparagraph (B).

(B) Contents of notice

The notice required under subparagraph (A) shall include each of the following:

(i) A statement of the amount which would be such eligible employee's permitted benefit under the arrangement for the year.

(ii) A statement that the eligible employee should provide the information described in clause (i) to any health insurance exchange to which the employee applies for advance payment of the premium assistance tax credit.

(iii) A statement that if the employee is not covered under minimum essential coverage for any month the employee may be subject to tax under section 5000A for such month and reimbursements under the arrangement may be includible in gross income.

(Added Pub. L. 104-191, title IV, § 401(a), Aug. 21, 1996, 110 Stat. 2080, § 9804; renumbered § 9831 and amended Pub. L. 105-34, title XV, § 1531(a)(2), (b)(1)(B)–(E), Aug. 5, 1997, 111 Stat. 1081, 1084, 1085; Pub. L. 114-255, div. C, title XVIII, § 18001(a)(1), Dec. 13, 2016, 130 Stat. 1338; Pub. L. 115-97, title I, § 11002(d)(1)(TT), Dec. 22, 2017, 131 Stat. 2061.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2017—Subsec. (d)(2)(D)(ii)(II). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2016—Subsec. (d). Pub. L. 114-255 added subsec. (d).

1997—Pub. L. 105-34 renumbered section 9804 of this title as this section and substituted reference to section 9832 of this title for reference to section 9805 of this title in subsecs. (b) and (c)(1) to (3).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-255 applicable to years beginning after Dec. 31, 2016, see section 18001(a)(7) of Pub. L. 114-255, set out as a note under section 36B of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable with respect to group health plans for plan years beginning on or

after Jan. 1, 1998, see section 1531(c) of Pub. L. 105-34, set out as a note under section 4980D of this title.

EFFECTIVE DATE

Section applicable to plan years beginning after June 30, 1997, see section 401(c) of Pub. L. 104-191, set out as a note under section 9801 of this title.

§ 9832. Definitions

(a) Group health plan

For purposes of this chapter, the term “group health plan” has the meaning given to such term by section 5000(b)(1).

(b) Definitions relating to health insurance

For purposes of this chapter—

(1) Health insurance coverage

(A) In general

Except as provided in subparagraph (B), the term “health insurance coverage” means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(B) No application to certain excepted benefits

In applying subparagraph (A), excepted benefits described in subsection (c)(1) shall not be treated as benefits consisting of medical care.

(2) Health insurance issuer

The term “health insurance issuer” means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section). Such term does not include a group health plan.

(3) Health maintenance organization

The term “health maintenance organization” means—

(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(c) Excepted benefits

For purposes of this chapter, the term “excepted benefits” means benefits under one or more (or any combination thereof) of the following:

(1) Benefits not subject to requirements

(A) Coverage only for accident, or disability income insurance, or any combination thereof.

(B) Coverage issued as a supplement to liability insurance.

(C) Liability insurance, including general liability insurance and automobile liability insurance.

(D) Workers’ compensation or similar insurance.

(E) Automobile medical payment insurance.

(F) Credit-only insurance.

(G) Coverage for on-site medical clinics.

(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(2) Benefits not subject to requirements if offered separately

(A) Limited scope dental or vision benefits.

(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(C) Such other similar, limited benefits as are specified in regulations.

(3) Benefits not subject to requirements if offered as independent, noncoordinated benefits

(A) Coverage only for a specified disease or illness.

(B) Hospital indemnity or other fixed indemnity insurance.

(4) Benefits not subject to requirements if offered as separate insurance policy

Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

(d) Other definitions

For purposes of this chapter—

(1) COBRA continuation provision

The term “COBRA continuation provision” means any of the following:

(A) Section 4980B, other than subsection (f)(1) thereof insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609 of such Act.

(C) Title XXII of the Public Health Service Act.

(2) Governmental plan

The term “governmental plan” has the meaning given such term by section 414(d).

(3) Medical care

The term “medical care” has the meaning given such term by section 213(d) determined without regard to—

(A) paragraph (1)(C) thereof, and

(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance.

(4) Network plan

The term “network plan” means health insurance coverage of a health insurance issuer

under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the issuer.

(5) Placed for adoption defined

The term “placement”, or being “placed”, for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child’s placement with such person terminates upon the termination of such legal obligation.

(6) Family member

The term “family member” means, with respect to any individual—

(A) a dependent (as such term is used for purposes of section 9801(f)(2)) of such individual, and

(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

(7) Genetic information

(A) In general

The term “genetic information” means, with respect to any individual, information about—

- (i) such individual’s genetic tests,
- (ii) the genetic tests of family members of such individual, and
- (iii) the manifestation of a disease or disorder in family members of such individual.

(B) Inclusion of genetic services and participation in genetic research

Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(C) Exclusions

The term “genetic information” shall not include information about the sex or age of any individual.

(8) Genetic test

(A) In general

The term “genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) Exceptions

The term “genetic test” does not mean—

- (i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or
- (ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

(9) Genetic services

The term “genetic services” means—

- (A) a genetic test;
- (B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or
- (C) genetic education.

(10) Underwriting purposes

The term “underwriting purposes” means, with respect to any group health plan, or health insurance coverage offered in connection with a group health plan—

- (A) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage;
- (B) the computation of premium or contribution amounts under the plan or coverage;
- (C) the application of any pre-existing condition exclusion under the plan or coverage; and
- (D) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

(Added Pub. L. 104–191, title IV, § 401(a), Aug. 21, 1996, 110 Stat. 2080, § 9805; renumbered § 9832, Pub. L. 105–34, title XV, § 1531(a)(2), Aug. 5, 1997, 111 Stat. 1081; amended Pub. L. 110–233, title I, § 103(d), May 21, 2008, 122 Stat. 898.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsecs. (b)(2) and (d)(1)(B), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 832, as amended. Section 514(b)(2) of the Act is classified to section 1144(b)(2) of Title 29, Labor. Section 609 of the Act is classified to section 1169 of Title 29. Part 6 of subtitle B of title I of the Act is classified generally to part 6 (§1161 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The date of the enactment of this section, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 104–191, which was approved Aug. 21, 1996.

Section 1882(g)(1) of the Social Security Act, referred to in subsec. (c)(4), is classified to section 1395ss(g)(1) of Title 42, The Public Health and Welfare.

The Public Health Service Act, referred to in subsec. (d)(1)(C), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XXII of the Act is classified generally to subchapter XX (§300bb–1 et seq.) of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2008—Subsec. (d)(6) to (10). Pub. L. 110–233 added pars. (6) to (10).

1997—Pub. L. 105–34 renumbered section 9805 of this title as this section.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–233 applicable with respect to group health plans for plan years beginning after the date that is one year after May 21, 2008, see section 103(f)(2) of Pub. L. 110–233, set out as a note under section 9802 of this title.

EFFECTIVE DATE

Section applicable to plan years beginning after June 30, 1997, see section 401(c) of Pub. L. 104–191, set out as a note under section 9801 of this title.

§ 9833. Regulations

The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this chapter. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this chapter.

(Added Pub. L. 104-191, title IV, §401(a), Aug. 21, 1996, 110 Stat. 2082; §9806; renumbered §9833, Pub. L. 105-34, title XV, §1531(a)(2), Aug. 5, 1997, 111 Stat. 1081.)

REFERENCES IN TEXT

Section 104 of the Health Care Portability and Accountability Act of 1996, referred to in text, is section 104 of Pub. L. 104-191, which is set out as a note under section 300gg-92 of Title 42, The Public Health and Welfare.

AMENDMENTS

1997—Pub. L. 105-34 renumbered section 9806 of this title as this section.

EFFECTIVE DATE

Section applicable to plan years beginning after June 30, 1997, see section 401(c) of Pub. L. 104-191, set out as a note under section 9801 of this title.

§ 9834. Enforcement

For the imposition of tax on any failure of a group health plan to meet the requirements of this chapter, see section 4980D.

(Added Pub. L. 110-233, title I, §103(e)(1), May 21, 2008, 122 Stat. 899.)

EFFECTIVE DATE

Section applicable with respect to group health plans for plan years beginning after the date that is one year after May 21, 2008, see section 103(f)(2) of Pub. L. 110-233, set out as an Effective Date of 2008 Amendment note under section 9802 of this title.