

effect on or after the date of the enactment of this Act [June 7, 2001].

“(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986, and section 204(h) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1054(h)], as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

“(3) SPECIAL NOTICE RULE.—

“(A) IN GENERAL.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

“(B) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, before April 25, 2001, notice was provided to participants and beneficiaries adversely affected by the plan amendment (and their representatives) which was reasonably expected to notify them of the nature and effective date of the plan amendment.”

§ 4980G. Failure of employer to make comparable health savings account contributions

(a) General rule

In the case of an employer who makes a contribution to the health savings account of any employee during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (b) for such calendar year.

(b) Rules and requirements

Rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

(c) Regulations

The Secretary shall issue regulations to carry out the purposes of this section, including regulations providing special rules for employers who make contributions to Archer MSAs and health savings accounts during the calendar year.

(d) Exception

For purposes of applying section 4980E to a contribution to a health savings account of an employee who is not a highly compensated employee (as defined in section 414(q)), highly compensated employees shall not be treated as comparable participating employees.

(Added Pub. L. 108–173, title XII, §1201(d)(4)(A), Dec. 8, 2003, 117 Stat. 2478; amended Pub. L. 109–432, div. A, title III, §306(a), Dec. 20, 2006, 120 Stat. 2951.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–432 added subsec. (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title III, §306(b), Dec. 20, 2006, 120 Stat. 2951, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108–173, set out as an Effective Date of 2003 Amendment note under section 62 of this title.

§ 4980H. Shared responsibility for employers regarding health coverage

(a) Large employers not offering health coverage

If—

(1) any applicable large employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan (as defined in section 5000A(f)(2)) for any month, and

(2) at least one full-time employee of the applicable large employer has been certified to the employer under section 1411 of the Patient Protection and Affordable Care Act as having enrolled for such month in a qualified health plan with respect to which an applicable premium tax credit or cost-sharing reduction is allowed or paid with respect to the employee,

then there is hereby imposed on the employer an assessable payment equal to the product of the applicable payment amount and the number of individuals employed by the employer as full-time employees during such month.

(b) Large employers offering coverage with employees who qualify for premium tax credits or cost-sharing reductions

(1) In general

If—

(A) an applicable large employer offers to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan (as defined in section 5000A(f)(2)) for any month, and

(B) 1 or more full-time employees of the applicable large employer has been certified to the employer under section 1411 of the Patient Protection and Affordable Care Act as having enrolled for such month in a qualified health plan with respect to which an applicable premium tax credit or cost-sharing reduction is allowed or paid with respect to the employee,

then there is hereby imposed on the employer an assessable payment equal to the product of the number of full-time employees of the applicable large employer described in subparagraph (B) for such month and an amount equal to $\frac{1}{12}$ of \$3,000.

(2) Overall limitation

The aggregate amount of tax determined under paragraph (1) with respect to all employees of an applicable large employer for any month shall not exceed the product of the applicable payment amount and the number of individuals employed by the employer as full-time employees during such month.

(c) Definitions and special rules

For purposes of this section—

(1) Applicable payment amount

The term “applicable payment amount” means, with respect to any month, $\frac{1}{12}$ of \$2,000.

(2) Applicable large employer

(A) In general

The term “applicable large employer” means, with respect to a calendar year, an

employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year.

(B) Exemption for certain employers

(i) In general

An employer shall not be considered to employ more than 50 full-time employees if—

(I) the employer's workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year, and

(II) the employees in excess of 50 employed during such 120-day period were seasonal workers.

(ii) Definition of seasonal workers

The term “seasonal worker” means a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor, including workers covered by section 500.20(s)(1) of title 29, Code of Federal Regulations and retail workers employed exclusively during holiday seasons.

(C) Rules for determining employer size

For purposes of this paragraph—

(i) Application of aggregation rule for employers

All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(ii) Employers not in existence in preceding year

In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is an applicable large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(iii) Predecessors

Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(D) Application of employer size to assessable penalties

(i) In general

The number of individuals employed by an applicable large employer as full-time employees during any month shall be reduced by 30 solely for purposes of calculating—

(I) the assessable payment under subsection (a), or

(II) the overall limitation under subsection (b)(2).

(ii) Aggregation

In the case of persons treated as 1 employer under subparagraph (C)(i), only 1 reduction under subclause (I) or (II)¹ shall be allowed with respect to such persons and such reduction shall be allocated among

such persons ratably on the basis of the number of full-time employees employed by each such person.

(E) Full-time equivalents treated as full-time employees

Solely for purposes of determining whether an employer is an applicable large employer under this paragraph, an employer shall, in addition to the number of full-time employees for any month otherwise determined, include for such month a number of full-time employees determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120.

(F) Exemption for health coverage under TRICARE or the Veterans Administration

Solely for purposes of determining whether an employer is an applicable large employer under this paragraph for any month, an individual shall not be taken into account as an employee for such month if such individual has medical coverage for such month under—

(i) chapter 55 of title 10, United States Code, including coverage under the TRICARE program, or

(ii) under a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary.

(3) Applicable premium tax credit and cost-sharing reduction

The term “applicable premium tax credit and cost-sharing reduction” means—

(A) any premium tax credit allowed under section 36B,

(B) any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, and

(C) any advance payment of such credit or reduction under section 1412 of such Act.

(4) Full-time employee

(A) In general

The term “full-time employee” means, with respect to any month, an employee who is employed on average at least 30 hours of service per week.

(B) Hours of service

The Secretary, in consultation with the Secretary of Labor, shall prescribe such regulations, rules, and guidance as may be necessary to determine the hours of service of an employee, including rules for the application of this paragraph to employees who are not compensated on an hourly basis.

(5) Inflation adjustment

(A) In general

In the case of any calendar year after 2014, each of the dollar amounts in subsection (b) and paragraph (1) shall be increased by an amount equal to the product of—

(i) such dollar amount, and

(ii) the premium adjustment percentage (as defined in section 1302(c)(4) of the Pa-

¹ So in original. Probably means subclause (I) or (II) of clause (i).

tient Protection and Affordable Care Act) for the calendar year.

(B) Rounding

If the amount of any increase under subparagraph (A) is not a multiple of \$10, such increase shall be rounded to the next lowest multiple of \$10.

(6) Other definitions

Any term used in this section which is also used in the Patient Protection and Affordable Care Act shall have the same meaning as when used in such Act.

(7) Tax nondeductible

For denial of deduction for the tax imposed by this section, see section 275(a)(6).

(d) Administration and procedure

(1) In general

Any assessable payment provided by this section shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as an assessable penalty under subchapter B of chapter 68.

(2) Time for payment

The Secretary may provide for the payment of any assessable payment provided by this section on an annual, monthly, or other periodic basis as the Secretary may prescribe.

(3) Coordination with credits, etc.

The Secretary shall prescribe rules, regulations, or guidance for the repayment of any assessable payment (including interest) if such payment is based on the allowance or payment of an applicable premium tax credit or cost-sharing reduction with respect to an employee, such allowance or payment is subsequently disallowed, and the assessable payment would not have been required to be made but for such allowance or payment.

(Added and amended Pub. L. 111-148, title I, §1513(a), title X, §§10106(e)–(f)(2), 10108(i)(1)(A), Mar. 23, 2010, 124 Stat. 253, 910, 914; Pub. L. 111-152, title I, §1003, Mar. 30, 2010, 124 Stat. 1033; Pub. L. 112-10, div. B, title VIII, §1858(b)(4), Apr. 15, 2011, 125 Stat. 169; Pub. L. 114-41, title IV, §4007(a)(1), July 31, 2015, 129 Stat. 465.)

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in subsecs. (a)(2), (b)(1)(B), and (c)(3)(B), (C), (5)(A)(ii), (6), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. Sections 1302(c)(4), 1402, 1411, and 1412 of the Act are classified to sections 18022(c)(4), 18071, 18081, and 18082, respectively, of Title 42, The Public Health and Welfare. Section 10108 of the Act enacted former section 139D of this title and section 18101 of Title 42, amended sections 36B, 162, 4980H, 6056, and 6724 of this title and section 218b of Title 29, Labor, and enacted provisions set out as notes under sections 36B, 162, 4980H, and 6056 of this title and former section 139D of this title. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (c)(2)(F). Pub. L. 114-41 added subpar. (F).

2011—Subsec. (b)(3). Pub. L. 112-10 struck out par. (3). Text read as follows: “No assessable payment shall be

imposed under paragraph (1) for any month with respect to any employee to whom the employer provides a free choice voucher under section 10108 of the Patient Protection and Affordable Care Act for such month.”

2010—Subsec. (b). Pub. L. 111-152, §1003(d), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to large employers with enrollment waiting periods exceeding 60 days.

Pub. L. 111-148, §10106(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to large employers with enrollment waiting periods exceeding 30 days.

Subsec. (c). Pub. L. 111-152, §1003(d), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 111-152, §1003(b)(1), substituted “an amount equal to 1/2 of \$3,000” for “400 percent of the applicable payment amount” in concluding provisions.

Subsec. (c)(3). Pub. L. 111-148, §10108(i)(1)(A), added par. (3).

Subsec. (d). Pub. L. 111-152, §1003(d), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 111-152, §1003(b)(2), substituted “\$2,000” for “\$750”.

Subsec. (d)(2)(D). Pub. L. 111-152, §1003(a), amended subpar. (D) generally. Prior to amendment, text read as follows: “In the case of any employer the substantial annual gross receipts of which are attributable to the construction industry—

“(i) subparagraph (A) shall be applied by substituting ‘who employed an average of at least 5 full-time employees on business days during the preceding calendar year and whose annual payroll expenses exceed \$250,000 for such preceding calendar year’ for ‘who employed an average of at least 50 full-time employees on business days during the preceding calendar year’, and

“(ii) subparagraph (B) shall be applied by substituting ‘5’ for ‘50’.”

Pub. L. 111-148, §10106(f)(2), added subpar. (D).

Subsec. (d)(2)(E). Pub. L. 111-152, §1003(c), added subpar. (E).

Subsec. (d)(4)(A). Pub. L. 111-148, §10106(f)(1), inserted “, with respect to any month,” after “means”.

Subsec. (d)(5)(A). Pub. L. 111-152, §1003(b)(3), substituted “subsection (b) and paragraph (1)” for “subsection (b)(2) and (d)(1)” in introductory provisions.

Subsec. (e). Pub. L. 111-152, §1003(d), redesignated subsec. (e) as (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-41, title IV, §4007(a)(2), July 31, 2015, 129 Stat. 466, provided that: “The amendment made by this subsection [amending this section] shall apply to months beginning after December 31, 2013.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-10 effective as if included in the provisions of, and the amendments made by, the provisions of Pub. L. 111-148 to which it relates, see section 1858(d) of Pub. L. 112-10, set out as a note under section 36B of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title X, §10106(f)(3), Mar. 23, 2010, 124 Stat. 911, provided that: “The amendment made by paragraph (2) [amending this section] shall apply to months beginning after December 31, 2013.”

Pub. L. 111-148, title X, §10108(i)(1)(B), Mar. 23, 2010, 124 Stat. 914, provided that: “The amendment made by this paragraph [amending this section] shall apply to months beginning after December 31, 2013.”

EFFECTIVE DATE

Pub. L. 111-148, title I, §1513(d), Mar. 23, 2010, 124 Stat. 256, provided that: “The amendments made by this section [enacting this section] shall apply to months beginning after December 31, 2013.”

§ 4980I. Excise tax on high cost employer-sponsored health coverage

(a) Imposition of tax

If—

- (1) an employee is covered under any applicable employer-sponsored coverage of an employer at any time during a taxable period, and
- (2) there is any excess benefit with respect to the coverage,

there is hereby imposed a tax equal to 40 percent of the excess benefit.

(b) Excess benefit

For purposes of this section—

(1) In general

The term “excess benefit” means, with respect to any applicable employer-sponsored coverage made available by an employer to an employee during any taxable period, the sum of the excess amounts determined under paragraph (2) for months during the taxable period.

(2) Monthly excess amount

The excess amount determined under this paragraph for any month is the excess (if any) of—

- (A) the aggregate cost of the applicable employer-sponsored coverage of the employee for the month, over
- (B) an amount equal to $\frac{1}{12}$ of the annual limitation under paragraph (3) for the calendar year in which the month occurs.

(3) Annual limitation

For purposes of this subsection—

(A) In general

The annual limitation under this paragraph for any calendar year is the dollar limit determined under subparagraph (C) for the calendar year.

(B) Applicable annual limitation

(i) In general

Except as provided in clause (ii), the annual limitation which applies for any month shall be determined on the basis of the type of coverage (as determined under subsection (f)(1)) provided to the employee by the employer as of the beginning of the month.

(ii) Multiemployer plan coverage

Any coverage provided under a multiemployer plan (as defined in section 414(f)) shall be treated as coverage other than self-only coverage.

(C) Applicable dollar limit

(i) 2018

In the case of 2018, the dollar limit under this subparagraph is—

- (I) in the case of an employee with self-only coverage, \$10,200 multiplied by the health cost adjustment percentage (determined by only taking into account self-only coverage), and
- (II) in the case of an employee with coverage other than self-only coverage, \$27,500 multiplied by the health cost ad-

justment percentage (determined by only taking into account coverage other than self-only coverage).

(ii) Health cost adjustment percentage

For purposes of clause (i), the health cost adjustment percentage is equal to 100 percent plus the excess (if any) of—

- (I) the percentage by which the per employee cost for providing coverage under the Blue Cross/Blue Shield standard benefit option under the Federal Employees Health Benefits Plan for plan year 2018 (determined by using the benefit package for such coverage in 2010) exceeds such cost for plan year 2010, over
- (II) 55 percent.

(iii) Age and gender adjustment

(I) In general

The amount determined under subclause (I) or (II) of clause (i), whichever is applicable, for any taxable period shall be increased by the amount determined under subclause (II).

(II) Amount determined

The amount determined under this subclause is an amount equal to the excess (if any) of—

- (aa) the premium cost of the Blue Cross/Blue Shield standard benefit option under the Federal Employees Health Benefits Plan for the type of coverage provided such individual in such taxable period if priced for the age and gender characteristics of all employees of the individual's employer, over
- (bb) that premium cost for the provision of such coverage under such option in such taxable period if priced for the age and gender characteristics of the national workforce.

(iv) Exception for certain individuals

In the case of an individual who is a qualified retiree or who participates in a plan sponsored by an employer the majority of whose employees covered by the plan are engaged in a high-risk profession or employed to repair or install electrical or telecommunications lines—

- (I) the dollar amount in clause (i)(I) shall be increased by \$1,650, and
- (II) the dollar amount in clause (i)(II) shall be increased by \$3,450,¹

(v) Subsequent years

In the case of any calendar year after 2018, each of the dollar amounts under clauses (i) (after the application of clause (ii)) and (iv) shall be increased to the amount equal to such amount as determined for the calendar year preceding such year, increased by an amount equal to the product of—

- (I) such amount as so determined, multiplied by
- (II) the cost-of-living adjustment determined under section 1(f)(3) for such

¹ So in original. The comma probably should be a period.

year (determined by substituting the calendar year that is 2 years before such year for “2016” in subparagraph (A)(ii) thereof), increased by 1 percentage point in the case of determinations for calendar years beginning before 2020.

If any amount determined under this clause is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50.

(c) Liability to pay tax

(1) In general

Each coverage provider shall pay the tax imposed by subsection (a) on its applicable share of the excess benefit with respect to an employee for any taxable period.

(2) Coverage provider

For purposes of this subsection, the term “coverage provider” means each of the following:

(A) Health insurance coverage

If the applicable employer-sponsored coverage consists of coverage under a group health plan which provides health insurance coverage, the health insurance issuer.

(B) HSA and MSA contributions

If the applicable employer-sponsored coverage consists of coverage under an arrangement under which the employer makes contributions described in subsection (b) or (d) of section 106, the employer.

(C) Other coverage

In the case of any other applicable employer-sponsored coverage, the person that administers the plan benefits.

(3) Applicable share

For purposes of this subsection, a coverage provider’s applicable share of an excess benefit for any taxable period is the amount which bears the same ratio to the amount of such excess benefit as—

(A) the cost of the applicable employer-sponsored coverage provided by the provider to the employee during such period, bears to

(B) the aggregate cost of all applicable employer-sponsored coverage provided to the employee by all coverage providers during such period.

(4) Responsibility to calculate tax and applicable shares

(A) In general

Each employer shall—

(i) calculate for each taxable period the amount of the excess benefit subject to the tax imposed by subsection (a) and the applicable share of such excess benefit for each coverage provider, and

(ii) notify, at such time and in such manner as the Secretary may prescribe, the Secretary and each coverage provider of the amount so determined for the provider.

(B) Special rule for multiemployer plans

In the case of applicable employer-sponsored coverage made available to employees

through a multiemployer plan (as defined in section 414(f)), the plan sponsor shall make the calculations, and provide the notice, required under subparagraph (A).

(d) Applicable employer-sponsored coverage; cost

For purposes of this section—

(1) Applicable employer-sponsored coverage

(A) In general

The term “applicable employer-sponsored coverage” means, with respect to any employee, coverage under any group health plan made available to the employee by an employer which is excludable from the employee’s gross income under section 106, or would be so excludable if it were employer-provided coverage (within the meaning of such section 106).

(B) Exceptions

The term “applicable employer-sponsored coverage” shall not include—

(i) any coverage (whether through insurance or otherwise) described in section 9832(c)(1) (other than subparagraph (G) thereof) or for long-term care, or

(ii) any coverage under a separate policy, certificate, or contract of insurance which provides benefits substantially all of which are for treatment of the mouth (including any organ or structure within the mouth) or for treatment of the eye, or

(iii) any coverage described in section 9832(c)(3) the payment for which is not excludable from gross income and for which a deduction under section 162(l) is not allowable.

(C) Coverage includes employee paid portion

Coverage shall be treated as applicable employer-sponsored coverage without regard to whether the employer or employee pays for the coverage.

(D) Self-employed individual

In the case of an individual who is an employee within the meaning of section 401(c)(1), coverage under any group health plan providing health insurance coverage shall be treated as applicable employer-sponsored coverage if a deduction is allowable under section 162(l) with respect to all or any portion of the cost of the coverage.

(E) Governmental plans included

Applicable employer-sponsored coverage shall include coverage under any group health plan established and maintained primarily for its civilian employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any such government.

(2) Determination of cost

(A) In general

The cost of applicable employer-sponsored coverage shall be determined under rules similar to the rules of section 4980B(f)(4), except that in determining such cost, any portion of the cost of such coverage which is at-

tributable to the tax imposed under this section shall not be taken into account and the amount of such cost shall be calculated separately for self-only coverage and other coverage. In the case of applicable employer-sponsored coverage which provides coverage to retired employees, the plan may elect to treat a retired employee who has not attained the age of 65 and a retired employee who has attained the age of 65 as similarly situated beneficiaries.

(B) Health FSAs

In the case of applicable employer-sponsored coverage consisting of coverage under a flexible spending arrangement (as defined in section 106(c)(2)), the cost of the coverage shall be equal to the sum of—

(i) the amount of employer contributions under any salary reduction election under the arrangement, plus

(ii) the amount determined under subparagraph (A) with respect to any reimbursement under the arrangement in excess of the contributions described in clause (i).

(C) Archer MSAs and HSAs

In the case of applicable employer-sponsored coverage consisting of coverage under an arrangement under which the employer makes contributions described in subsection (b) or (d) of section 106, the cost of the coverage shall be equal to the amount of employer contributions under the arrangement.

(D) Qualified small employer health reimbursement arrangements

In the case of applicable employer-sponsored coverage consisting of coverage under any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2)), the cost of coverage shall be equal to the amount described in section 6051(a)(15).

(E) Allocation on a monthly basis

If cost is determined on other than a monthly basis, the cost shall be allocated to months in a taxable period on such basis as the Secretary may prescribe.

(3) Employee

The term “employee” includes any former employee, surviving spouse, or other primary insured individual.

(e) Penalty for failure to properly calculate excess benefit

(1) In general

If, for any taxable period, the tax imposed by subsection (a) exceeds the tax determined under such subsection with respect to the total excess benefit calculated by the employer or plan sponsor under subsection (c)(4)—

(A) each coverage provider shall pay the tax on its applicable share (determined in the same manner as under subsection (c)(4)) of the excess, but no penalty shall be imposed on the provider with respect to such amount, and

(B) the employer or plan sponsor shall, in addition to any tax imposed by subsection

(a), pay a penalty in an amount equal to such excess, plus interest at the underpayment rate determined under section 6621 for the period beginning on the due date for the payment of tax imposed by subsection (a) to which the excess relates and ending on the date of payment of the penalty.

(2) Limitations on penalty

(A) Penalty not to apply where failure not discovered exercising reasonable diligence

No penalty shall be imposed by paragraph (1)(B) on any failure to properly calculate the excess benefit during any period for which it is established to the satisfaction of the Secretary that the employer or plan sponsor neither knew, nor exercising reasonable diligence would have known, that such failure existed.

(B) Penalty not to apply to failures corrected within 30 days

No penalty shall be imposed by paragraph (1)(B) on any such failure if—

(i) such failure was due to reasonable cause and not to willful neglect, and

(ii) such failure is corrected during the 30-day period beginning on the 1st date that the employer knew, or exercising reasonable diligence would have known, that such failure existed.

(C) Waiver by Secretary

In the case of any such failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by paragraph (1), to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the failure involved.

(f) Other definitions and special rules

For purposes of this section—

(1) Coverage determinations

(A) In general

Except as provided in subparagraph (B), an employee shall be treated as having self-only coverage with respect to any applicable employer-sponsored coverage of an employer.

(B) Minimum essential coverage

An employee shall be treated as having coverage other than self-only coverage only if the employee is enrolled in coverage other than self-only coverage in a group health plan which provides minimum essential coverage (as defined in section 5000A(f)) to the employee and at least one other beneficiary, and the benefits provided under such minimum essential coverage do not vary based on whether any individual covered under such coverage is the employee or another beneficiary.

(2) Qualified retiree

The term “qualified retiree” means any individual who—

(A) is receiving coverage by reason of being a retiree,

(B) has attained age 55, and

(C) is not entitled to benefits or eligible for enrollment under the Medicare program under title XVIII of the Social Security Act.

(3) Employees engaged in high-risk profession

The term “employees engaged in a high-risk profession” means law enforcement officers (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968), employees in fire protection activities (as such term is defined in section 3(y) of the Fair Labor Standards Act of 1938), individuals who provide out-of-hospital emergency medical care (including emergency medical technicians, paramedics, and first-responders), individuals whose primary work is longshore work (as defined in section 258(b) of the Immigration and Nationality Act (8 U.S.C. 1288(b)), determined without regard to paragraph (2) thereof), and individuals engaged in the construction, mining, agriculture (not including food processing), forestry, and fishing industries. Such term includes an employee who is retired from a high-risk profession described in the preceding sentence, if such employee satisfied the requirements of such sentence for a period of not less than 20 years during the employee’s employment.

(4) Group health plan

The term “group health plan” has the meaning given such term by section 5000(b)(1). Section 9831(d)(1) shall not apply for purposes of this section.

(5) Health insurance coverage; health insurance issuer**(A) Health insurance coverage**

The term “health insurance coverage” has the meaning given such term by section 9832(b)(1) (applied without regard to subparagraph (B) thereof, except as provided by the Secretary in regulations).

(B) Health insurance issuer

The term “health insurance issuer” has the meaning given such term by section 9832(b)(2).

(6) Person that administers the plan benefits

The term “person that administers the plan benefits” shall include the plan sponsor if the plan sponsor administers benefits under the plan.

(7) Plan sponsor

The term “plan sponsor” has the meaning given such term in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

(8) Taxable period

The term “taxable period” means the calendar year or such shorter period as the Secretary may prescribe. The Secretary may have different taxable periods for employers of varying sizes.

(9) Aggregation rules

All employers treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

(10) Deductibility of tax

Section 275(a)(6) shall not apply to the tax imposed by subsection (a).

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this section.

(Added and amended Pub. L. 111–148, title IX, §9001(a), title X, §10901(a), (b), Mar. 23, 2010, 124 Stat. 847, 1015, 1016; Pub. L. 111–152, title I, §1401(a), Mar. 30, 2010, 124 Stat. 1059; Pub. L. 114–113, div. P, title I, §§101(b), 102, Dec. 18, 2015, 129 Stat. 3037; Pub. L. 114–255, div. C, title XVIII, §18001(a)(4), Dec. 13, 2016, 130 Stat. 1342; Pub. L. 115–97, title I, §11002(d)(12), Dec. 22, 2017, 131 Stat. 2062.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. 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.

Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (f)(3), is classified to section 10284 of Title 34, Crime Control and Law Enforcement.

Section 3(y) of the Fair Labor Standards Act of 1938, referred to in subsec. (f)(3), is classified to section 203(y) of Title 29, Labor.

Section 3(16)(B) of the Employee Retirement Income Security Act of 1974, referred to in subsec. (f)(7), is classified to section 1002(16)(B) of Title 29, Labor.

AMENDMENTS

2017—Subsec. (b)(3)(C)(v)(II). Pub. L. 115–97 substituted “for ‘2016’ in subparagraph (A)(ii)” for “for ‘1992’ in subparagraph (B)”.

2016—Subsec. (d)(2)(D), (E). Pub. L. 114–255, §18001(a)(4)(B), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (f)(4). Pub. L. 114–255, §18001(a)(4)(A), inserted at end “Section 9831(d)(1) shall not apply for purposes of this section.”.

2015—Subsec. (b)(3)(C)(v). Pub. L. 114–113, §101(b), substituted “as determined for” for “as in effect” in introductory provisions and “as so determined” for “as so in effect” in subcl. (I).

Subsec. (f)(10). Pub. L. 114–113, §102, amended par. (10) generally. Prior to amendment, text read as follows: “For denial of a deduction for the tax imposed by this section, see section 275(a)(6).”

2010—Subsec. (b)(3)(B). Pub. L. 111–152, §1401(a)(1), designated existing provisions as cl. (i), inserted heading, substituted “Except as provided in clause (ii), the annual” for “The annual”, and added cl. (ii).

Subsec. (b)(3)(C). Pub. L. 111–152, §1401(a)(2)(A), struck out introductory provisions which read: “Except as provided in subparagraph (D)—”.

Subsec. (b)(3)(C)(i). Pub. L. 111–152, §1401(a)(2)(B)(i), substituted “2018” for “2013” in heading and introductory provisions.

Subsec. (b)(3)(C)(i)(I). Pub. L. 111–152, §1401(a)(2)(B)(ii), substituted “\$10,200 multiplied by the health cost adjustment percentage (determined by only taking into account self-only coverage)” for “\$8,500”.

Subsec. (b)(3)(C)(i)(II). Pub. L. 111–152, §1401(a)(2)(B)(iii), substituted “\$27,500 multiplied by the health cost adjustment percentage (determined by only taking into account coverage other than self-only coverage)” for “\$23,000”.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 111–152, §1401(a)(2)(C), added cls. (ii) and (iii). Former cls. (ii) and (iii) redesignated (iv) and (v), respectively.

Subsec. (b)(3)(C)(iv). Pub. L. 111–152, §1401(a)(2)(D), inserted “covered by the plan” after “whose employees” in introductory provisions, added subcls. (I) and (II), and struck out former subcls. (I) and (II) which read as follows:

“(I) the dollar amount in clause (i)(I) (determined after the application of subparagraph (D)) shall be increased by \$1,350, and

“(II) the dollar amount in clause (i)(II) (determined after the application of subparagraph (D)) shall be increased by \$3,000.”

Pub. L. 111-152, §1401(a)(2)(C), redesignated cl. (ii) as (iv).

Subsec. (b)(3)(C)(v). Pub. L. 111-152, §1401(a)(2)(E)(i), (ii), substituted “2018” for “2013” and “clauses (i) (after the application of clause (ii)) and (iv)” for “clauses (i) and (ii)” in introductory provisions.

Pub. L. 111-152, §1401(a)(2)(C), redesignated cl. (iii) as (v).

Subsec. (b)(3)(C)(v)(II). Pub. L. 111-152, §1401(a)(2)(E)(iii), inserted “in the case of determinations for calendar years beginning before 2020” after “1 percentage point”.

Subsec. (b)(3)(D). Pub. L. 111-152, §1401(a)(3), struck out subpar. (D) which provided transition rule for States with highest coverage costs.

Subsec. (d)(1)(B)(i). Pub. L. 111-148, §10901(b), substituted “section 9832(c)(1) (other than subparagraph (G) thereof)” for “section 9832(c)(1)(A)”.

Subsec. (d)(1)(B)(ii), (iii). Pub. L. 111-152, §1401(a)(4), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (d)(3). Pub. L. 111-152, §1401(a)(5), added par. (3).

Subsec. (f)(3). Pub. L. 111-148, §10901(a), inserted “individuals whose primary work is longshore work (as defined in section 258(b) of the Immigration and Nationality Act (8 U.S.C. 1288(b)), determined without regard to paragraph (2) thereof,” before “and individuals engaged in the construction, mining”.

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 2010 AMENDMENT

Pub. L. 111-148, title X, §10901(c), Mar. 23, 2010, 124 Stat. 1016, as amended by Pub. L. 111-152, title I, §1401(b)(2), Mar. 30, 2010, 124 Stat. 1060; Pub. L. 114-113, div. P, title I, §101(a), Dec. 18, 2015, 129 Stat. 3037, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2019.”

EFFECTIVE DATE

Pub. L. 111-148, title IX, §9001(c), Mar. 23, 2010, 124 Stat. 853, as amended by Pub. L. 111-152, title I, §1401(b)(1), Mar. 30, 2010, 124 Stat. 1060; Pub. L. 114-113, div. P, title I, §101(a), Dec. 18, 2015, 129 Stat. 3037, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 2019.”

CHAPTER 44—QUALIFIED INVESTMENT ENTITIES

Sec.	
4981.	Excise tax on undistributed income of real estate investment trusts.
4982.	Excise tax on undistributed income of regulated investment companies.

AMENDMENTS

1986—Pub. L. 99-514, title VI, §651(c), Oct. 22, 1986, 100 Stat. 2297, substituted: “QUALIFIED INVESTMENT ENTITIES” for “REAL ESTATE INVESTMENT TRUSTS” as chapter heading, substituted “Excise tax on undistributed income of real estate investment trusts” for “Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year” in item 4981, and added item 4982.

1976—Pub. L. 94-455, title XVI, §1605(a), Oct. 4, 1976, 90 Stat. 1754, added chapter heading and section analysis.

§ 4981. Excise tax on undistributed income of real estate investment trusts

(a) Imposition of tax

There is hereby imposed a tax on every real estate investment trust for each calendar year equal to 4 percent of the excess (if any) of—

- (1) the required distribution for such calendar year, over
- (2) the distributed amount for such calendar year.

(b) Required distribution

For purposes of this section—

(1) In general

The term “required distribution” means, with respect to any calendar year, the sum of—

- (A) 85 percent of the real estate investment trust’s ordinary income for such calendar year, plus
- (B) 95 percent of the real estate investment trust’s capital gain net income for such calendar year.

(2) Increase by prior year shortfall

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the grossed up required distribution for the preceding calendar year, over
- (B) the distributed amount for such preceding calendar year.

(3) Grossed up required distribution

The grossed up required distribution for any calendar year is the required distribution for such year determined—

- (A) with the application of paragraph (2) to such taxable year, and
- (B) by substituting “100 percent” for each percentage set forth in paragraph (1).

(c) Distributed amount

For purposes of this section—

(1) In general

The term “distributed amount” means, with respect to any calendar year, the sum of—

- (A) the deduction for dividends paid (as defined in section 561) during such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D)), and
- (B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A)¹ of section 857 for any taxable year ending in such calendar year.

(2) Increase by prior year overdistribution

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over
- (B) the grossed up required distribution for such preceding calendar year.

¹ See References in Text note below.

(3) Determination of dividends paid

The amount of the dividends paid during any calendar year shall be determined without regard to the provisions of section 858.

(d) Time for payment of tax

The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

(e) Definitions and special rules

For purposes of this section—

(1) Ordinary income

The term “ordinary income” means the real estate investment trust taxable income (as defined in section 857(b)(2)) determined—

(A) without regard to subparagraph (B) of section 857(b)(2),

(B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and

(C) by treating the calendar year as the trust’s taxable year.

(2) Capital gain net income**(A) In general**

The term “capital gain net income” has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust’s taxable year).

(B) Reduction for net ordinary loss

The amount determined under subparagraph (A) shall be reduced by the amount of the trust’s net ordinary loss for the taxable year.

(C) Net ordinary loss

For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1).

(3) Treatment of deficiency distributions

In the case of any deficiency dividend (as defined in section 860(f))—

(A) such dividend shall be taken into account when paid without regard to section 860, and

(B) any income giving rise to the adjustment shall be treated as arising when the dividend is paid.

(Added Pub. L. 94-455, title XVI, §1605(a), Oct. 4, 1976, 90 Stat. 1754; amended Pub. L. 99-514, title VI, §668(a), Oct. 22, 1986, 100 Stat. 2306; Pub. L. 100-647, title I, §1006(s)(1), (3), Nov. 10, 1988, 102 Stat. 3418.)

REFERENCES IN TEXT

Subsection (b)(3)(A) of section 857, referred to in subsec. (c)(1)(B), was repealed and subsection (b)(3)(B) was redesignated (b)(3)(A) by Pub. L. 115-97, title I, §13001(b)(2)(K)(i), Dec. 22, 2017, 131 Stat. 2096.

AMENDMENTS

1988—Subsec. (c)(1)(A). Pub. L. 100-647, §1006(s)(3), inserted “(but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))” after “such calendar year”.

Subsec. (e)(2). Pub. L. 100-647, §1006(s)(1), amended par. (2) generally, designating existing provisions as subpar. (A) and adding subpars. (B) and (C).

1986—Pub. L. 99-514 substituted “Excise tax on undistributed income of real estate investment trusts” for “Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year” as section catchline and amended text generally. Prior to amendment text read as follows: “Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year.”

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 calendar years beginning after Dec. 31, 1986, see section 669(b) of Pub. L. 99-514, set out as a note under section 856 of this title.

§ 4982. Excise tax on undistributed income of regulated investment companies**(a) Imposition of tax**

There is hereby imposed a tax on every regulated investment company for each calendar year equal to 4 percent of the excess (if any) of—

- (1) the required distribution for such calendar year, over
- (2) the distributed amount for such calendar year.

(b) Required distribution

For purposes of this section—

(1) In general

The term “required distribution” means, with respect to any calendar year, the sum of—

- (A) 98 percent of the regulated investment company’s ordinary income for such calendar year, plus
- (B) 98.2 percent of the regulated investment company’s capital gain net income for the 1-year period ending on October 31 of such calendar year.

(2) Increase by prior year shortfall

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the grossed up required distribution for the preceding calendar year, over
- (B) the distributed amount for such preceding calendar year.

(3) Grossed up required distribution

The grossed up required distribution for any calendar year is the required distribution for such year determined—

- (A) with the application of paragraph (2) to such taxable year, and
- (B) by substituting “100 percent” for each percentage set forth in paragraph (1).

(c) Distributed amount

For purposes of this section—

(1) In general

The term “distributed amount” means, with respect to any calendar year, the sum of—

- (A) the deduction for dividends paid (as defined in section 561) during such calendar year, and
- (B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A) of section 852 for any taxable year ending in such calendar year.

(2) Increase by prior year overdistribution

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over
- (B) the grossed up required distribution for such preceding calendar year.

(3) Determination of dividends paid

The amount of the dividends paid during any calendar year shall be determined without regard to—

- (A) the provisions of section 855, and
- (B) any exempt-interest dividend as defined in section 852(b)(5).

(4) Special rule for estimated tax payments**(A) In general**

In the case of a regulated investment company which elects the application of this paragraph for any calendar year—

- (i) the distributed amount with respect to such company for such calendar year shall be increased by the amount on which qualified estimated tax payments are made by such company during such calendar year, and
- (ii) the distributed amount with respect to such company for the following calendar year shall be reduced by the amount of such increase.

(B) Qualified estimated tax payments

For purposes of this paragraph, the term “qualified estimated tax payments” means, with respect to any calendar year, payments of estimated tax of a tax described in paragraph (1)(B) for any taxable year which begins (but does not end) in such calendar year.

(d) Time for payment of tax

The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

(e) Definitions and special rules

For purposes of this section—

(1) Ordinary income

The term “ordinary income” means the investment company taxable income (as defined in section 852(b)(2)) determined—

- (A) without regard to subparagraphs (A) and (D) of section 852(b)(2),
- (B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and
- (C) by treating the calendar year as the company’s taxable year.

(2) Capital gain net income**(A) In general**

Except as provided in subparagraph (B), the term “capital gain net income” has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company’s taxable year).

(B) Reduction by net ordinary loss for calendar year

The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company’s net ordinary loss for the calendar year.

(C) Definitions

For purposes of this paragraph—

(i) Net capital gain

The term “net capital gain” has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company’s taxable year).

(ii) Net ordinary loss

The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1).

(3) Treatment of deficiency distributions

In the case of any deficiency dividend (as defined in section 860(f))—

- (A) such dividend shall be taken into account when paid without regard to section 860, and
- (B) any income giving rise to the adjustment shall be treated as arising when the dividend is paid.

(4) Election to use taxable year in certain cases**(A) In general**

If—

- (i) the taxable year of the regulated investment company ends with the month of November or December, and
- (ii) such company makes an election under this paragraph,

subsection (b)(1)(B) and paragraph (2) of this subsection shall be applied by taking into account the company’s taxable year in lieu of the 1-year period ending on October 31 of the calendar year.

(B) Election revocable only with consent

An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

(5) Treatment of specified gains and losses after October 31 of calendar year**(A) In general**

Any specified gain or specified loss which (but for this paragraph) would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year.

(B) Specified gains and losses

For purposes of this paragraph—

(i) Specified gain

The term “specified gain” means ordinary gain from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency gain attributable to a section 988 transaction (within the meaning of section 988) and any amount includible in gross income under section 1296(a)(1).

(ii) Specified loss

The term “specified loss” means ordinary loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency loss attributable to a section 988 transaction (within the meaning of section 988) and any amount allowable as a deduction under section 1296(a)(2).

(C) Special rule for companies electing to use the taxable year

In the case of any company making an election under paragraph (4), subparagraph (A) shall be applied by substituting the last day of the company’s taxable year for October 31.

(6) Treatment of mark to market gain**(A) In general**

For purposes of determining a regulated investment company’s ordinary income, notwithstanding paragraph (1)(C), each specified mark to market provision shall be applied as if such company’s taxable year ended on October 31. In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company’s taxable year for October 31.

(B) Specified mark to market provision

For purposes of this paragraph, the term “specified mark to market provision” means sections 1256 and 1296 and any other provision of this title (or regulations thereunder) which treats property as disposed of on the last day of the taxable year or which determines income by reference to the value of an item on the last day of the taxable year.

(7) Elective deferral of certain ordinary losses

Except as provided in regulations prescribed by the Secretary, in the case of a regulated in-

vestment company which has a taxable year other than the calendar year—

(A) such company may elect to determine its ordinary income and net ordinary loss (as defined in paragraph (2)(C)(ii)) for the calendar year without regard to any portion of any net ordinary loss (determined without regard to specified gains and losses taken into account under paragraph (5)) which is attributable to the portion of such calendar year which is after the beginning of the taxable year which begins in such calendar year, and

(B) any amount of net ordinary loss not taken into account for a calendar year by reason of subparagraph (A) shall be treated as arising on the 1st day of the following calendar year.

(f) Exception for certain regulated investment companies

This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was—

(1) a trust described in section 401(a) and exempt from tax under section 501(a),

(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)),

(3) any other tax-exempt entity whose ownership of beneficial interests in the company would not preclude the application of section 817(h)(4), or

(4) another regulated investment company described in this subsection.

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding \$250,000) made in connection with the organization of such company shall not be taken into account.

(Added Pub. L. 99-514, title VI, § 651(a), Oct. 22, 1986, 100 Stat. 2294; amended Pub. L. 100-203, title X, § 10104(b)(1), Dec. 22, 1987, 101 Stat. 1330-387; Pub. L. 100-647, title I, § 1006(l)(2), (5), (6), Nov. 10, 1988, 102 Stat. 3413, 3414; Pub. L. 101-239, title VII, § 7204(a)(1), Dec. 19, 1989, 103 Stat. 2334; Pub. L. 105-34, title XI, § 1122(c)(1), Aug. 5, 1997, 111 Stat. 976; Pub. L. 111-325, title IV, §§ 401(a), 402(a), 403(a), 404(a), Dec. 22, 2010, 124 Stat. 3552-3554; Pub. L. 113-295, div. A, title II, §§ 205(d), 220(s), Dec. 19, 2014, 128 Stat. 4026, 4036.)

AMENDMENTS

2014—Subsec. (e)(6)(B). Pub. L. 113-295, § 205(d)(1), inserted “or which determines income by reference to the value of an item on the last day of the taxable year” before period at end.

Subsec. (e)(7)(A). Pub. L. 113-295, § 205(d)(2), substituted “such company may elect to determine its ordinary income and net ordinary loss (as defined in paragraph (2)(C)(ii)) for the calendar year without regard to any portion of any net ordinary loss” for “such company may elect to determine its ordinary income for the calendar year without regard to any net ordinary loss”.

Subsec. (f)(2). Pub. L. 113-295, § 220(s), inserted comma at end.

2010—Subsec. (b)(1)(B). Pub. L. 111-325, § 404(a), substituted “98.2 percent” for “98 percent”.

Subsec. (c)(4). Pub. L. 111-325, § 403(a), added par. (4).

Subsec. (e)(5) to (7). Pub. L. 111-325, §402(a), added pars. (5) to (7) and struck out former pars. (5) and (6) which related to treatment of foreign currency gains and losses after October 31 of calendar year and treatment of gain recognized under section 1296, respectively.

Subsec. (f). Pub. L. 111-325, §401(a)(1), struck out “either” before dash at end of introductory provisions.

Subsec. (f)(3), (4). Pub. L. 111-325, §401(a)(2)–(4), added pars. (3) and (4).

1997—Subsec. (e)(6). Pub. L. 105-34 added par. (6).

1989—Subsec. (b)(1)(A). Pub. L. 101-239 substituted “98 percent” for “97 percent”.

1988—Subsec. (e)(2). Pub. L. 100-647, §1006(l)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The term ‘capital gain net income’ has the meaning given to such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company’s taxable year).”

Subsec. (e)(5). Pub. L. 100-647, §1006(l)(5), added par. (5).

Subsec. (f). Pub. L. 100-647, §1006(l)(6), added subsec. (f).

1987—Subsec. (b)(1)(B). Pub. L. 100-203 substituted “98 percent” for “90 percent”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 205(d) of Pub. L. 113-295 effective as if included in the provision of the Regulated Investment Company Modernization Act of 2010, Pub. L. 111-325, to which such amendment relates, with savings provision in certain cases of an election by a regulated investment company under section 852(b)(8) of this title, see section 205(f) of Pub. L. 113-295, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-325, title IV, §401(b), Dec. 22, 2010, 124 Stat. 3552, provided that: “The amendment made by this section [amending this section] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title IV, §402(b), Dec. 22, 2010, 124 Stat. 3553, provided that: “The amendments made by this section [amending this section] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title IV, §403(b), Dec. 22, 2010, 124 Stat. 3554, provided that: “The amendment made by this section [amending this section] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title IV, §404(b), Dec. 22, 2010, 124 Stat. 3554, provided that: “The amendments made by this section [amending this section] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years of United States persons beginning after Dec. 31, 1997, and to taxable years of foreign corporations ending with or within such taxable years of United States persons, see section 1124 of Pub. L. 105-34, set out as a note under section 532 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7204(a)(2), Dec. 19, 1989, 103 Stat. 2334, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to calendar years ending after July 10, 1989.”

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 1987 AMENDMENT

Pub. L. 100-203, title X, §10104(b)(2), Dec. 22, 1987, 101 Stat. 1330-387, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 651 of the Tax Reform Act of 1986 [section 651 of Pub. L. 99-514, see Effective Date note below].”

EFFECTIVE DATE

Pub. L. 99-514, title VI, §651(d), Oct. 22, 1986, 100 Stat. 2297, provided that: “The amendments made by this section [enacting this section and amending sections 852 and 855 of this title] shall apply to calendar years beginning after December 31, 1986.”

CHAPTER 45—PROVISIONS RELATING TO EXPATRIATED ENTITIES

Sec.
4985. Stock compensation of insiders in expatriated corporations.

PRIOR PROVISIONS

A prior chapter 45, consisting of sections 4986 to 4998, related to windfall profit tax on domestic crude oil, prior to repeal by Pub. L. 100-418, title I, §1941(a), (c), Aug. 23, 1988, 102 Stat. 1322, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

§ 4985. Stock compensation of insiders in expatriated corporations

(a) Imposition of tax

In the case of an individual who is a disqualified individual with respect to any expatriated corporation, there is hereby imposed on such person a tax equal to—

(1) the rate of tax specified in section 1(h)(1)(D), multiplied by

(2) the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual’s family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the expatriation date.

(b) Value

For purposes of subsection (a)—

(1) In general

The value of specified stock compensation shall be—

(A) in the case of a stock option (or other similar right) or a stock appreciation right, the fair value of such option or right, and

(B) in any other case, the fair market value of such compensation.

(2) Date for determining value

The determination of value shall be made—

(A) in the case of specified stock compensation held on the expatriation date, on such date,

(B) in the case of such compensation which is canceled during the 6 months before the expatriation date, on the day before such cancellation, and

(C) in the case of such compensation which is granted after the expatriation date, on the date such compensation is granted.

(c) Tax to apply only if shareholder gain recognized

Subsection (a) shall apply to any disqualified individual with respect to an expatriated cor-

poration only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(B)(i) with respect to such corporation.

(d) Exception where gain recognized on compensation

Subsection (a) shall not apply to—

(1) any stock option which is exercised on the expatriation date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the expatriation date with respect to the stock acquired pursuant to such exercise, and

(2) any other specified stock compensation which is exercised, sold, exchanged, distributed, cashed-out, or otherwise paid during such period in a transaction in which income, gain, or loss is recognized in full.

(e) Definitions

For purposes of this section—

(1) Disqualified individual

The term “disqualified individual” means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the expatriation date—

(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

(2) Expatriated corporation; expatriation date

(A) Expatriated corporation

The term “expatriated corporation” means any corporation which is an expatriated entity (as defined in section 7874(a)(2)). Such term includes any predecessor or successor of such a corporation.

(B) Expatriation date

The term “expatriation date” means, with respect to a corporation, the date on which the corporation first becomes an expatriated corporation.

(3) Specified stock compensation

(A) In general

The term “specified stock compensation” means payment (or right to payment) granted by the expatriated corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

(B) Exceptions

Such term shall not include—

(i) any option to which part II of subchapter D of chapter 1 applies, or

(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

(4) Expanded affiliated group

The term “expanded affiliated group” means an affiliated group (as defined in section 1504(a) 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.

(f) Special rules

For purposes of this section—

(1) Cancellation of restriction

The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

(2) Payment or reimbursement of tax by corporation treated as specified stock compensation

Any payment of the tax imposed by this section directly or indirectly by the expatriated corporation or by any member of the expanded affiliated group which includes such corporation—

(A) shall be treated as specified stock compensation, and

(B) shall not be allowed as a deduction under any provision of chapter 1.

(3) Certain restrictions ignored

Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

(4) Property transfers

Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

(5) Other administrative provisions

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

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 108-357, title VIII, §802(a), Oct. 22, 2004, 118 Stat. 1566; amended Pub. L. 115-97, title I, §13604(a), Dec. 22, 2017, 131 Stat. 2165.)

REFERENCES IN TEXT

Section 16(a) of the Securities Exchange Act of 1934, referred to in subsec. (e)(1)(A), is classified to section 78p(a) of Title 15, Commerce and Trade.

PRIOR PROVISIONS

Prior sections 4986 to 4998 were repealed by Pub. L. 100-418, title I, §1941(a), (c), Aug. 23, 1988, 102 Stat. 1322, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

Section 4986, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 230, related to imposition of windfall profit tax on domestic crude oil.

Section 4987, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 230; amended Pub. L. 97-34, title VI, §602(a), Aug. 13, 1981, 95 Stat. 337; Pub. L. 98-369, div. A, title I, §25(a), July 18, 1984, 98 Stat. 506, related to amount of windfall profit tax on domestic crude oil.

Section 4988, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 231; amended Pub. L. 97-448, title II, §201(a), (h)(1)(D), Jan. 12, 1983, 96 Stat. 2391, 2394; Pub. L. 99-514, title XIII, §1301(j)(4), Oct. 22, 1986, 100 Stat. 2657, related to windfall profit and removal price.

Section 4989, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 233; amended Pub. L. 97-448, title II, §201(b), Jan. 12, 1983, 96 Stat. 2392, related to adjusted base price for purposes of windfall profit tax on domestic crude oil.

Section 4990, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 234, related to phaseout of windfall profit tax on domestic crude oil.

Section 4991, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 235; amended Pub. L. 97-34, title VI, §§601(b)(1), 603(a), Aug. 13, 1981, 95 Stat. 336, 338; Pub. L. 97-448, title II, §201(c), Jan. 12, 1983, 96 Stat. 2392; Pub. L. 99-514, title XVIII, §1879(h)(1), Oct. 22, 1986, 100 Stat. 2907, related to taxable crude oil and categories of oil.

Section 4992, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 236; amended Pub. L. 97-34, title VI, §603(c), Aug. 13, 1981, 95 Stat. 338; Pub. L. 97-354, §3(b)(2), Oct. 19, 1982, 96 Stat. 1688; Pub. L. 97-448, title II, §201(d), Jan. 12, 1983, 96 Stat. 2392, related to independent producer oil.

Section 4993, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 239; amended Pub. L. 97-448, title II, §201(e), Jan. 12, 1983, 96 Stat. 2392, related to incremental tertiary oil.

Section 4994, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 241; amended Pub. L. 97-34, title VI, §§601(b)(2), 603(b), 604(a)-(c), Aug. 13, 1981, 95 Stat. 337-339; Pub. L. 97-248, title II, §291, Sept. 3, 1982, 96 Stat. 572; Pub. L. 97-448, title I, §106(a)(2), (4)(B), (b), title II, §201(f), Jan. 12, 1983, 96 Stat. 2388, 2390, 2392, related to definitions and special rules with respect to exempt oil.

Section 4995, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 244; amended Pub. L. 97-34, title VI, §601(b)(3), Aug. 13, 1981, 95 Stat. 337; Pub. L. 97-448, title II, §201(g), Jan. 12, 1983, 96 Stat. 2393, related to withholding and depository requirements bearing on the windfall profit tax.

Section 4996, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 247; amended Pub. L. 97-248, title II, §284(a), Sept. 3, 1982, 96 Stat. 569; Pub. L. 97-354, §3(b)(1), Oct. 19, 1982, 96 Stat. 1688; Pub. L. 97-448, title II, §201(h)(1)(A)-(C), (2), Jan. 12, 1983, 96 Stat. 2393-2395, provided for other definitions and special rules bearing on the windfall profit tax.

Section 4997, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 249; amended Pub. L. 97-448, title II, §201(i)(1), Jan. 12, 1983, 96 Stat. 2395, related to records and information, and regulations, bearing on the windfall profit.

Section 4998, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 250, related to cross references.

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-97 substituted “section 1(h)(1)(D)” for “section 1(h)(1)(C)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13604(b), Dec. 22, 2017, 131 Stat. 2165, provided that: “The amendment made by this section [amending this section] shall apply to corporations first becoming expatriated corporations (as defined in section 4985 of the Internal Revenue Code of 1986) after the date of enactment of this Act [Dec. 22, 2017].”

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §802(d), Oct. 22, 2004, 118 Stat. 1568, provided that: “The amendments made by this section [enacting this chapter and amending sections 162, 275, and 312 of this title] shall take effect on March 4, 2003; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 4985 of the Internal Revenue Code of 1986, as added by this section.”

CHAPTER 46—GOLDEN PARACHUTE PAYMENTS

Sec.
4999. Golden parachute payments.

§ 4999. Golden parachute payments

(a) Imposition of tax

There is hereby imposed on any person who receives an excess parachute payment a tax equal to 20 percent of the amount of such payment.

(b) Excess parachute payment defined

For purposes of this section, the term “excess parachute payment” has the meaning given to such term by section 280G(b).

(c) Administrative provisions

(1) Withholding

In the case of any excess parachute payment which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such payment.

(2) Other administrative provisions

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

(Added Pub. L. 98-369, div. A, title I, §67(b)(1), July 18, 1984, 98 Stat. 587.)

EFFECTIVE DATE

Section applicable to payments under agreements entered into or renewed after June 14, 1984, in taxable years ending after such date, with contracts entered into before June 15, 1984, which are amended after June 14, 1984, in any significant relevant aspect to be treated as a contract entered into after June 14, 1984, see section 67(e) of Pub. L. 98-369, set out as a note under section 280G of this title.

CHAPTER 47—CERTAIN GROUP HEALTH PLANS

Sec.
5000. Certain group health plans.

AMENDMENTS

1989—Pub. L. 101-239, title VI, §6202(b)(4)(A), Dec. 19, 1989, 103 Stat. 2233, struck out “LARGE” after “CERTAIN” in chapter heading and “large” after “Certain” in item 5000.

§ 5000. Certain group health plans

(a) Imposition of tax

There is hereby imposed on any employer (including a self-employed person) or employee organization that contributes to a nonconforming group health plan a tax equal to 25 percent of the employer's or employee organization's expenses incurred during the calendar year for each group health plan to which the employer or employee organization contributes.

(b) Group health plan and large group health plan

For purposes of this section—

(1) Group health plan

The term “group health plan” means a plan (including a self-insured plan) of, or contrib-

uted to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

(2) Large group health plan

The term “large group health plan” means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year. For purposes of the preceding sentence—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer,

(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer, and

(C) leased employees (as defined in section 414(n)(2)) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n).

(c) Nonconforming group health plan

For purposes of this section, the term “nonconforming group health plan” means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of paragraph (1), or with the requirements of paragraph (2), of section 1862(b) of the Social Security Act.

(d) Government entities

For purposes of this section, the term “employer” does not include a Federal or other governmental entity.

(Added Pub. L. 99-509, title IX, §9319(d)(1), Oct. 21, 1986, 100 Stat. 2012; amended Pub. L. 101-239, title VI, §6202(b)(2), Dec. 19, 1989, 103 Stat. 2233; Pub. L. 103-66, title XIII, §13561(d)(2), (e)(2)(A), Aug. 10, 1993, 107 Stat. 594, 595.)

REFERENCES IN TEXT

Section 1862(b) of the Social Security Act, referred to in subsec. (c), is classified to section 1395y(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-66, §13561(e)(2)(A)(i), which directed insertion of “(including a self-employed person)” after “employer”, was executed by making the insertion after “employer” the first time it appeared, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 103-66, §13561(e)(2)(A)(ii), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘group health plan’ means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer’s

employees, former employees, or the families of such employees or former employees.”

Subsec. (b)(2). Pub. L. 103-66, §13561(d)(2), inserted at end “For purposes of the preceding sentence—” and added subpars. (A) to (C).

Subsec. (c). Pub. L. 103-66, §13561(e)(2)(A)(iii), substituted “of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)” for “of section 1862(b)(1)”.

1989—Pub. L. 101-239, §6202(b)(2)(A), struck out “large” after “Certain” in section catchline.

Subsec. (a). Pub. L. 101-239, §6202(b)(2)(B), substituted “group health plan” for “large group health plan” in two places.

Subsec. (b). Pub. L. 101-239, §6202(b)(2)(C), substituted “Group health plan and large” for “Large” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘large group health plan’ means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.”

Subsec. (c). Pub. L. 101-239, §6202(b)(2)(C), substituted “group” for “large group” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘nonconforming large group health plan’ means a large group health plan that at any time during a calendar year does not comply with the requirements of section 1862(b)(4)(A)(i) of the Social Security Act.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13561(d)(3), Aug. 10, 1993, 107 Stat. 594, provided that: “The amendments made by this subsection [amending this section and section 1395y of Title 42, The Public Health and Welfare] shall take effect 90 days after the date of the enactment of this Act [Aug. 10, 1993].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to items and services furnished after Dec. 19, 1989, see section 6202(b)(5) of Pub. L. 101-239, set out as a note under section 162 of this title.

EFFECTIVE DATE

Section applicable to items and services furnished on or after Jan. 1, 1987, see section 9319(f) of Pub. L. 99-509, set out as an Effective Date of 1986 Amendment note under section 1395y of Title 42, The Public Health and Welfare.

CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE

Sec.

5000A. Requirement to maintain minimum essential coverage.

§ 5000A. Requirement to maintain minimum essential coverage

(a) Requirement to maintain minimum essential coverage

An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.

(b) Shared responsibility payment

(1) In general

If a taxpayer who is an applicable individual, or an applicable individual for whom the tax-

payer is liable under paragraph (3), fails to meet the requirement of subsection (a) for 1 or more months, then, except as provided in subsection (e), there is hereby imposed on the taxpayer a penalty with respect to such failures in the amount determined under subsection (c).

(2) Inclusion with return

Any penalty imposed by this section with respect to any month shall be included with a taxpayer's return under chapter 1 for the taxable year which includes such month.

(3) Payment of penalty

If an individual with respect to whom a penalty is imposed by this section for any month—

(A) is a dependent (as defined in section 152) of another taxpayer for the other taxpayer's taxable year including such month, such other taxpayer shall be liable for such penalty, or

(B) files a joint return for the taxable year including such month, such individual and the spouse of such individual shall be jointly liable for such penalty.

(c)¹ Amount of penalty

(1) In general

The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to failures described in subsection (b)(1) shall be equal to the lesser of—

(A) the sum of the monthly penalty amounts determined under paragraph (2) for months in the taxable year during which 1 or more such failures occurred, or

(B) an amount equal to the national average premium for qualified health plans which have a bronze level of coverage, provide coverage for the applicable family size involved, and are offered through Exchanges for plan years beginning in the calendar year with or within which the taxable year ends.

(2) Monthly penalty amounts

For purposes of paragraph (1)(A), the monthly penalty amount with respect to any taxpayer for any month during which any failure described in subsection (b)(1) occurred is an amount equal to $\frac{1}{12}$ of the greater of the following amounts:

(A) Flat dollar amount

An amount equal to the lesser of—

(i) the sum of the applicable dollar amounts for all individuals with respect to whom such failure occurred during such month, or

(ii) 300 percent of the applicable dollar amount (determined without regard to paragraph (3)(C)) for the calendar year with or within which the taxable year ends.

(B) Percentage of income

An amount equal to the following percentage of the excess of the taxpayer's household income for the taxable year over the amount of gross income specified in section 6012(a)(1)

with respect to the taxpayer for the taxable year:

(i) 1.0 percent for taxable years beginning in 2014.

(ii) 2.0 percent for taxable years beginning in 2015.

(iii) 2.5 percent for taxable years beginning after 2015.

(3) Applicable dollar amount

For purposes of paragraph (1)—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable dollar amount is \$695.

(B) Phase in

The applicable dollar amount is \$95 for 2014 and \$325 for 2015.

(C) Special rule for individuals under age 18

If an applicable individual has not attained the age of 18 as of the beginning of a month, the applicable dollar amount with respect to such individual for the month shall be equal to one-half of the applicable dollar amount for the calendar year in which the month occurs.

(D) Indexing of amount

In the case of any calendar year beginning after 2016, the applicable dollar amount shall be equal to \$695, increased by an amount equal to—

(i) \$695, multiplied by

(ii) 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 the amount of any increase under clause (i) is not a multiple of \$50, such increase shall be rounded to the next lowest multiple of \$50.

(4) Terms relating to income and families

For purposes of this section—

(A) Family size

The family size involved with respect to any taxpayer shall be equal to the number of individuals for whom the taxpayer is allowed a deduction under section 151 (relating to allowance of deduction for personal exemptions) for the taxable year.

(B) Household income

The term "household income" means, with respect to any taxpayer for any taxable year, an amount equal to the sum of—

(i) the modified adjusted gross income of the taxpayer, plus

(ii) the aggregate modified adjusted gross incomes of all other individuals who—

(I) were taken into account in determining the taxpayer's family size under paragraph (1), and

(II) were required to file a return of tax imposed by section 1 for the taxable year.

(C) Modified adjusted gross income

The term "modified adjusted gross income" means adjusted gross income increased by—

¹ See Amendment of Subsection (c) note below.

- (i) any amount excluded from gross income under section 911, and
- (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(d) Applicable individual

For purposes of this section—

(1) In general

The term “applicable individual” means, with respect to any month, an individual other than an individual described in paragraph (2), (3), or (4).

(2) Religious exemptions**(A) Religious conscience exemption**

Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act which certifies that such individual is—

- (i) a member of a recognized religious sect or division thereof which is described in section 1402(g)(1), and
- (ii) an adherent of established tenets or teachings of such sect or division as described in such section.

(B) Health care sharing ministry**(i) In general**

Such term shall not include any individual for any month if such individual is a member of a health care sharing ministry for the month.

(ii) Health care sharing ministry

The term “health care sharing ministry” means an organization—

- (I) which is described in section 501(c)(3) and is exempt from taxation under section 501(a),
- (II) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the State in which a member resides or is employed,
- (III) members of which retain membership even after they develop a medical condition,
- (IV) which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999, and
- (V) which conducts an annual audit which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

(3) Individuals not lawfully present

Such term shall not include an individual for any month if for the month the individual is not a citizen or national of the United States or an alien lawfully present in the United States.

(4) Incarcerated individuals

Such term shall not include an individual for any month if for the month the individual

is incarcerated, other than incarceration pending the disposition of charges.

(e) Exemptions

No penalty shall be imposed under subsection (a) with respect to—

(1) Individuals who cannot afford coverage**(A) In general**

Any applicable individual for any month if the applicable individual's required contribution (determined on an annual basis) for coverage for the month exceeds 8 percent of such individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act. For purposes of applying this subparagraph, the taxpayer's household income shall be increased by any exclusion from gross income for any portion of the required contribution made through a salary reduction arrangement.

(B) Required contribution

For purposes of this paragraph, the term “required contribution” means—

- (i) in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible-employer-sponsored plan, the portion of the annual premium which would be paid by the individual (without regard to whether paid through salary reduction or otherwise) for self-only coverage, or
- (ii) in the case of an individual eligible only to purchase minimum essential coverage described in subsection (f)(1)(C), the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the State in the rating area in which the individual resides (without regard to whether the individual purchased a qualified health plan through the Exchange), reduced by the amount of the credit allowable under section 36B for the taxable year (determined as if the individual was covered by a qualified health plan offered through the Exchange for the entire taxable year).

(C) Special rules for individuals related to employees

For purposes of subparagraph (B)(i), if an applicable individual is eligible for minimum essential coverage through an employer by reason of a relationship to an employee, the determination under subparagraph (A) shall be made by reference to² required contribution of the employee.

(D) Indexing

In the case of plan years beginning in any calendar year after 2014, subparagraph (A) shall be applied by substituting for “8 percent” the percentage the Secretary of Health and Human Services determines reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for such period.

² So in original. Probably should be followed by “the”.

(2) Taxpayers with income below filing threshold

Any applicable individual for any month during a calendar year if the individual's household income for the taxable year described in section 1412(b)(1)(B) of the Patient Protection and Affordable Care Act is less than the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer.

(3) Members of Indian tribes

Any applicable individual for any month during which the individual is a member of an Indian tribe (as defined in section 45A(c)(6)).

(4) Months during short coverage gaps**(A) In general**

Any month the last day of which occurred during a period in which the applicable individual was not covered by minimum essential coverage for a continuous period of less than 3 months.

(B) Special rules

For purposes of applying this paragraph—

(i) the length of a continuous period shall be determined without regard to the calendar years in which months in such period occur,

(ii) if a continuous period is greater than the period allowed under subparagraph (A), no exception shall be provided under this paragraph for any month in the period, and

(iii) if there is more than 1 continuous period described in subparagraph (A) covering months in a calendar year, the exception provided by this paragraph shall only apply to months in the first of such periods.

The Secretary shall prescribe rules for the collection of the penalty imposed by this section in cases where continuous periods include months in more than 1 taxable year.

(5) Hardships

Any applicable individual who for any month is determined by the Secretary of Health and Human Services under section 1311(d)(4)(H) to have suffered a hardship with respect to the capability to obtain coverage under a qualified health plan.

(f) Minimum essential coverage

For purposes of this section—

(1) In general

The term “minimum essential coverage” means any of the following:

(A) Government sponsored programs

Coverage under—

(i) the Medicare program under part A of title XVIII of the Social Security Act,

(ii) the Medicaid program under title XIX of the Social Security Act,

(iii) the CHIP program under title XXI of the Social Security Act,

(iv) medical coverage under chapter 55 of title 10, United States Code, including coverage under the TRICARE program;³

(v) a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary,

(vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers);³ or

(vii) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1587 note).

(B) Employer-sponsored plan

Coverage under an eligible employer-sponsored plan.

(C) Plans in the individual market

Coverage under a health plan offered in the individual market within a State.

(D) Grandfathered health plan

Coverage under a grandfathered health plan.

(E) Other coverage

Such other health benefits coverage, such as a State health benefits risk pool, as the Secretary of Health and Human Services, in coordination with the Secretary, recognizes for purposes of this subsection.

(2) Eligible employer-sponsored plan

The term “eligible employer-sponsored plan” means, with respect to any employee, a group health plan or group health insurance coverage offered by an employer to the employee which is—

(A) a governmental plan (within the meaning of section 2791(d)(8) of the Public Health Service Act), or

(B) any other plan or coverage offered in the small or large group market within a State.

Such term shall include a grandfathered health plan described in paragraph (1)(D) offered in a group market.

(3) Excepted benefits not treated as minimum essential coverage

The term “minimum essential coverage” shall not include health insurance coverage which consists of coverage of excepted benefits—

(A) described in paragraph (1) of subsection (c) of section 2791 of the Public Health Service Act; or

(B) described in paragraph (2), (3), or (4) of such subsection if the benefits are provided under a separate policy, certificate, or contract of insurance.

(4) Individuals residing outside United States or residents of territories

Any applicable individual shall be treated as having minimum essential coverage for any month—

(A) if such month occurs during any period described in subparagraph (A) or (B) of section 911(d)(1) which is applicable to the individual, or

³ So in original. The semicolon probably should be a comma.

(B) if such individual is a bona fide resident of any possession of the United States (as determined under section 937(a)) for such month.

(5) Insurance-related terms

Any term used in this section which is also used in title I of the Patient Protection and Affordable Care Act shall have the same meaning as when used in such title.

(g) Administration and procedure

(1) In general

The penalty provided by this section shall be paid upon notice and demand by the Secretary, and except as provided in paragraph (2), shall be assessed and collected in the same manner as an assessable penalty under subchapter B of chapter 68.

(2) Special rules

Notwithstanding any other provision of law—

(A) Waiver of criminal penalties

In the case of any failure by a taxpayer to timely pay any penalty imposed by this section, such taxpayer shall not be subject to any criminal prosecution or penalty with respect to such failure.

(B) Limitations on liens and levies

The Secretary shall not—

- (i) file notice of lien with respect to any property of a taxpayer by reason of any failure to pay the penalty imposed by this section, or
- (ii) levy on any such property with respect to such failure.

(Added and amended Pub. L. 111-148, title I, §1501(b), title X, §10106(b)-(d), Mar. 23, 2010, 124 Stat. 244, 909, 910; Pub. L. 111-152, title I, §§1002, 1004(a)(1)(C), (2)(B), Mar. 30, 2010, 124 Stat. 1032, 1034; Pub. L. 111-159, §2(a), Apr. 26, 2010, 124 Stat. 1123; Pub. L. 111-173, §1(a), May 27, 2010, 124 Stat. 1215; Pub. L. 115-97, title I, §§11002(d)(1)(GG), 11081(a), Dec. 22, 2017, 131 Stat. 2060, 2092.)

AMENDMENT OF SUBSECTION (c)

Pub. L. 115-97, title I, §11081, Dec. 22, 2017, 131 Stat. 2092, amended subsection (c) of this section, applicable to months beginning after Dec. 31, 2018. After amendment, subsection (c) reads as follows:

(c) Amount of penalty

(1) In general

The amount of the penalty imposed by this section on any taxpayer for any taxable year with respect to failures described in subsection (b)(1) shall be equal to the lesser of—

- (A) the sum of the monthly penalty amounts determined under paragraph (2) for months in the taxable year during which 1 or more such failures occurred, or*
- (B) an amount equal to the national average premium for qualified health plans which have a bronze level of coverage, provide coverage for the applicable family size involved, and are offered through Exchanges for plan years beginning in the calendar year with or within which the taxable year ends.*

(2) Monthly penalty amounts

For purposes of paragraph (1)(A), the monthly penalty amount with respect to any taxpayer for any month during which any failure described in subsection (b)(1) occurred is an amount equal to 1/12 of the greater of the following amounts:

(A) Flat dollar amount

An amount equal to the lesser of—

- (i) the sum of the applicable dollar amounts for all individuals with respect to whom such failure occurred during such month, or*
- (ii) 300 percent of the applicable dollar amount (determined without regard to paragraph (3)(C)) for the calendar year with or within which the taxable year ends.*

(B) Percentage of income

An amount equal to the following percentage of the excess of the taxpayer's household income for the taxable year over the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer for the taxable year:

- (i) 1.0 percent for taxable years beginning in 2014.*
- (ii) 2.0 percent for taxable years beginning in 2015.*
- (iii) Zero percent for taxable years beginning after 2015.*

(3) Applicable dollar amount

For purposes of paragraph (1)—

(A) In general

Except as provided in subparagraphs (B) and (C), the applicable dollar amount is \$0.

(B) Phase in

The applicable dollar amount is \$95 for 2014 and \$325 for 2015.

(C) Special rule for individuals under age 18

If an applicable individual has not attained the age of 18 as of the beginning of a month, the applicable dollar amount with respect to such individual for the month shall be equal to one-half of the applicable dollar amount for the calendar year in which the month occurs.

See 2017 Amendment notes below.

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 Patient Protection and Affordable Care Act, referred to in subsecs. (d)(2)(A), (e)(1)(A), (2), and (f)(5), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. Title I of the Act enacted chapter 157 of Title 42, The Public Health and Welfare, and enacted, amended, and transferred numerous other sections and notes in the Code. Sections 1311(d)(4)(H) and 1412(b)(1)(B) of the Act are classified to sections 18031(d)(4)(H) and 18082(b)(1)(B), respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (f)(1)(A)(i) to (iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title XVIII of the Act is classified generally to part A (§1395c 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. For com-

plete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 2791 of the Public Health Service Act, referred to in subsec. (f)(2)(A), (3), is classified to section 300gg–91 of Title 42, The Public Health and Welfare.

AMENDMENTS

2017—Subsec. (c)(2)(B)(iii). Pub. L. 115–97, §11081(a)(1), substituted “Zero percent” for “2.5 percent”.

Subsec. (c)(3)(A). Pub. L. 115–97, §11081(a)(2)(A), substituted “\$0” for “\$695”.

Subsec. (c)(3)(D). Pub. L. 115–97, §11081(a)(2)(B), struck out subpar. (D). Text read as follows: “In the case of any calendar year beginning after 2016, the applicable dollar amount shall be equal to \$695, increased by an amount equal to—

“(i) \$695, multiplied by

“(ii) 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.”

Subsec. (c)(3)(D)(ii). Pub. L. 115–97, §11002(d)(1)(GG), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2010—Subsec. (b)(1). Pub. L. 111–148, §10106(b)(1), amended par. (1) generally. Prior to amendment, text read as follows: “If an applicable individual fails to meet the requirement of subsection (a) for 1 or more months during any calendar year beginning after 2013, then, except as provided in subsection (d), there is hereby imposed a penalty with respect to the individual in the amount determined under subsection (c).”

Subsec. (c)(1), (2). Pub. L. 111–148, §10106(b)(2), amended pars. (1) and (2) generally. Prior to amendment pars. (1) and (2) related to the amount of and dollar limitations on penalty for failure to maintain minimum essential coverage.

Subsec. (c)(2)(B). Pub. L. 111–152, §1002(a)(1)(A), inserted “the excess of” before “the taxpayer’s household income” and “for the taxable year over the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer” before “for the taxable year” in introductory provisions.

Subsec. (c)(2)(B)(i). Pub. L. 111–152, §1002(a)(1)(B), substituted “1.0” for “0.5”.

Subsec. (c)(2)(B)(ii). Pub. L. 111–152, §1002(a)(1)(C), substituted “2.0” for “1.0”.

Subsec. (c)(2)(B)(iii). Pub. L. 111–152, §1002(a)(1)(D), substituted “2.5” for “2.0”.

Subsec. (c)(3)(A). Pub. L. 111–152, §1002(a)(2)(A), substituted “\$695” for “\$750”.

Subsec. (c)(3)(B). Pub. L. 111–152, §1002(a)(2)(B), substituted “\$325” for “\$495”.

Pub. L. 111–148, §10106(b)(3), substituted “\$495” for “\$350”.

Subsec. (c)(3)(D). Pub. L. 111–152, §1002(a)(2)(C), substituted “\$695” for “\$750” in introductory provisions and cl. (i).

Subsec. (c)(4)(B)(i), (ii). Pub. L. 111–152, §1004(a)(1)(C), substituted “modified adjusted gross” for “modified gross”.

Subsec. (c)(4)(C). Pub. L. 111–152, §1004(a)(2)(B), amended subpar. (C) generally. Prior to amendment, text read as follows: “The term ‘modified gross income’ means gross income—

“(i) decreased by the amount of any deduction allowable under paragraph (1), (3), (4), or (10) of section 62(a),

“(ii) increased by the amount of interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

“(iii) determined without regard to sections 911, 931, and 933.”

Subsec. (c)(4)(D). Pub. L. 111–152, §1002(b)(1), struck out subpar. (D). Text read as follows:

“(i) IN GENERAL.—The term ‘poverty line’ has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

“(ii) POVERTY LINE USED.—In the case of any taxable year ending with or within a calendar year, the poverty

line used shall be the most recently published poverty line as of the 1st day of such calendar year.”

Subsec. (d)(2)(A). Pub. L. 111–148, §10106(c), amended subpar. (A) generally. Prior to amendment, text read as follows: “Such term shall not include any individual for any month if such individual has in effect an exemption under section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act which certifies that such individual is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section.”

Subsec. (e)(1)(C). Pub. L. 111–148, §10106(d), amended subpar. (C) generally. Prior to amendment, text read as follows: “For purposes of subparagraph (B)(i), if an applicable individual is eligible for minimum essential coverage through an employer by reason of a relationship to an employee, the determination shall be made by reference to the affordability of the coverage to the employee.”

Subsec. (e)(2). Pub. L. 111–152, §1002(b)(2), substituted “below filing threshold” for “under 100 percent of poverty line” in heading and “the amount of gross income specified in section 6012(a)(1) with respect to the taxpayer.” for “100 percent of the poverty line for the size of the family involved (determined in the same manner as under subsection (b)(4)).” in text.

Subsec. (f)(1)(A)(iv). Pub. L. 111–159, §2(a)(1), added cl. (iv) and struck out former cl. (iv) which read as follows: “the TRICARE for Life program.”

Subsec. (f)(1)(A)(v). Pub. L. 111–173, §1(a), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “the veteran’s health care program under chapter 17 of title 38, United States Code.”

Subsec. (f)(1)(A)(vii). Pub. L. 111–159, §2(a)(2)–(4), added cl. (vii).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(1)(GG) 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.

Pub. L. 115–97, title I, §11081(b), Dec. 22, 2017, 131 Stat. 2092, provided that: “The amendments made by this section [amending this section] shall apply to months beginning after December 31, 2018.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–173, §1(b), May 27, 2010, 124 Stat. 1215, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in section 1501(b) of the Patient Protection and Affordable Care Act [Pub. L. 111–148].”

Pub. L. 111–159, §2(b), Apr. 26, 2010, 124 Stat. 1123, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 1501(b) of the Patient Protection and Affordable Care Act [Pub. L. 111–148] and shall be executed immediately after the amendments made by such section 1501(b).”

EFFECTIVE DATE

Pub. L. 111–148, title I, §1501(d), Mar. 23, 2010, 124 Stat. 249, provided that: “The amendments made by this section [enacting this section and section 18091 of Title 42, The Public Health and Welfare] shall apply to taxable years ending after December 31, 2013.”

CHAPTER 49—COSMETIC SERVICES

Sec.

5000B. Imposition of tax on indoor tanning services.

PRIOR PROVISIONS

A prior chapter 49, added Pub. L. 111–148, title IX, §9017(a), Mar. 23, 2010, 124 Stat. 872, which related to elective cosmetic medical procedures and consisted of section 5000B, was not set out in the Code in view of Pub. L. 111–148, title X, §10907(a), Mar. 23, 2010, 124 Stat.

1020, which provided that the amendments made by section 9017 of Pub. L. 111-148 were deemed null, void, and of no effect.

§ 5000B. Imposition of tax on indoor tanning services

(a) In general

There is hereby imposed on any indoor tanning service a tax equal to 10 percent of the amount paid for such service (determined without regard to this section), whether paid by insurance or otherwise.

(b) Indoor tanning service

For purposes of this section—

(1) In general

The term “indoor tanning service” means a service employing any electronic product designed to incorporate 1 or more ultraviolet lamps and intended for the irradiation of an individual by ultraviolet radiation, with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

(2) Exclusion of phototherapy services

Such term does not include any phototherapy service performed by a licensed medical professional.

(c) Payment of tax

(1) In general

The tax imposed by this section shall be paid by the individual on whom the service is performed.

(2) Collection

Every person receiving a payment for services on which a tax is imposed under subsection (a) shall collect the amount of the tax from the individual on whom the service is performed and remit such tax quarterly to the Secretary at such time and in such manner as provided by the Secretary.

(3) Secondary liability

Where any tax imposed by subsection (a) is not paid at the time payments for indoor tanning services are made, then to the extent that such tax is not collected, such tax shall be paid by the person who performs the service.

(Added Pub. L. 111-148, title X, § 10907(b), Mar. 23, 2010, 124 Stat. 1020.)

PRIOR PROVISIONS

A prior section 5000B, added Pub. L. 111-148, title IX, § 9017(a), Mar. 23, 2010, 124 Stat. 872, which related to tax on elective cosmetic medical procedures, and section 9017(c) of Pub. L. 111-148, which provided that the amendments made by section 9017 of Pub. L. 111-148 were applicable to procedures performed on or after Jan. 1, 2010, were not set out in the Code in view of Pub. L. 111-148, title X, § 10907(a), Mar. 23, 2010, 124 Stat. 1020, which provided that the provisions of, and amendments made by, section 9017 of Pub. L. 111-148 were deemed null, void, and of no effect.

EFFECTIVE DATE

Pub. L. 111-148, title X, § 10907(d), Mar. 23, 2010, 124 Stat. 1021, provided that: “The amendments made by this section [enacting this section] shall apply to services performed on or after July 1, 2010.”

CHAPTER 50—FOREIGN PROCUREMENT

Sec.

5000C. Imposition of tax on certain foreign procurement.

§ 5000C. Imposition of tax on certain foreign procurement

(a) Imposition of tax

There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

(b) Specified Federal procurement payment

For purposes of this section, the term “specified Federal procurement payment” means any payment made pursuant to a contract with the Government of the United States for—

(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

(c) Foreign person

For purposes of this section, the term “foreign person” means any person other than a United States person.

(d) Administrative provisions

(1) Withholding

The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

(2) Other administrative provisions

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

(Added Pub. L. 111-347, title III, § 301(a)(1), Jan. 2, 2011, 124 Stat. 3666.)

EFFECTIVE DATE

Pub. L. 111-347, title III, § 301(a)(3), Jan. 2, 2011, 124 Stat. 3666, provided that: “The amendments made by this subsection [enacting this section] shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act [Jan. 2, 2011].”

PROHIBITION ON REIMBURSEMENT OF FEES

Pub. L. 111-347, title III, § 301(b), Jan. 2, 2011, 124 Stat. 3666, provided that:

“(1) **IN GENERAL.**—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

“(2) **ANNUAL REVIEW.**—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

“(3) **EXECUTIVE AGENCY.**—For purposes of this subsection, the term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 133].”

APPLICATION

Pub. L. 111-347, title III, § 301(c), Jan. 2, 2011, 124 Stat. 3666, provided that: “This section [enacting this section

and provisions set out as notes under this section] and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.”

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

Chapter		Sec. ¹
51.	Distilled spirits, wines, and beer	5001
52.	Tobacco products and cigarette papers and tubes	5701
53.	Machine guns and certain other firearms ²	5801
54.	Greenmail	5881
55.	Structured settlement factoring transactions	5891

AMENDMENTS

2002—Pub. L. 107-134, title I, § 115(b), Jan. 23, 2002, 115 Stat. 2438, added item relating to chapter 55.

1997—Pub. L. 105-33, title IX, § 9302(g)(3)(D), Aug. 5, 1997, 111 Stat. 673, added item relating to chapter 52 and struck out former item relating to chapter 52 “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes”.

1988—Pub. L. 100-647, title V, § 5061(c)(4), Nov. 10, 1988, 102 Stat. 3680, substituted “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes” for “Tobacco, cigars, cigarettes, smokeless tobacco, and cigarette papers and tubes” in item relating to chapter 52.

Pub. L. 100-647, title I, § 1018(u)(16), Nov. 10, 1988, 102 Stat. 3590, inserted “smokeless tobacco,” after “cigarettes,” in item relating to chapter 52.

1987—Pub. L. 100-203, title X, § 10228(c), Dec. 22, 1987, 101 Stat. 1330-418, added item relating to chapter 54.

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Subchapter		Sec. ¹
A.	Gallonage and occupational taxes	5001
B.	Qualification requirements for distilled spirits plants	5171
C.	Operation of distilled spirits plants	5201
D.	Industrial use of distilled spirits	5271
E.	General provisions relating to distilled spirits	5291
F.	Bonded and taxpaid wine premises	5351
G.	Breweries	5401
H.	Miscellaneous plants and warehouses ...	5501
I.	Miscellaneous general provisions	5551
J.	Penalties, seizures, and forfeitures relating to liquors	5601

PRIOR PROVISIONS

The provisions of a prior chapter 51, Distilled Spirits, Wines, and Beer, were set out as:

Subchapter A, Gallonage and occupational taxes, comprising sections 5001 to 5012, 5021 to 5028, 5041 to 5045, 5051 to 5057, 5061 to 5065, 5081 to 5084, 5091 to 5093, 5101 to 5106, 5111 to 5116, 5121 to 5124, 5131 to 5134, and 5141 to 5149.

Subchapter B, Distilleries, comprising sections 5171 to 5180, 5191 to 5197, and 5211 to 5217.

Subchapter C, Internal Revenue bonded warehouses, comprising sections 5231 to 5233 and 5241 to 5252.

Subchapter D, Rectifying plants, comprising sections 5271 to 5275 and 5281 to 5285.

Subchapter E, Industrial alcohol plants, bonded warehouses, denaturing plants, and denaturation, comprising sections 5301 to 5320 and 5331 to 5334.

Subchapter F, Bonded and taxpaid wine premises, comprising sections 5351 to 5357, 5361 to 5373, 5381 to 5388, 5391, and 5392.

Subchapter G, Breweries, comprising sections 5401 to 5403 and 5411 to 5416.

Subchapter H, Miscellaneous plants and warehouses, comprising sections 5501, 5502, 5511, 5512, and 5521 to 5523.

Subchapter I, Miscellaneous general provisions, comprising sections 5551 to 5557.

Subchapter J, Penalties, seizures, and forfeitures relating to liquors, comprising sections 5601 to 5650, 5661 to 5663, 5671 to 5676, 5681 to 5690, and 5691 to 5693.

Subchapter A—Gallonage and Occupational Taxes

Part	
I.	Gallonage taxes.
II.	Miscellaneous provisions.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(1)(B), Aug. 10, 2005, 119 Stat. 1953, substituted “Miscellaneous provisions” for “Occupational tax” in item for part II.

PART I—GALLONAGE TAXES

Subpart	
A.	Distilled spirits.
[B.]	Repealed.]
C.	Wines.
D.	Beer.
E.	General provisions.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(1), July 26, 1979, 93 Stat. 290, struck out item relating to subpart B “Rectification”.

SUBPART A—DISTILLED SPIRITS

Sec.	
5001.	Imposition, rate, and attachment of tax.
5002.	Definitions.
5003.	Cross references to exemptions, etc.
5004.	Lien for tax.
5005.	Persons liable for tax.
5006.	Determination of tax.
5007.	Collection of tax on distilled spirits.
5008.	Abatement, remission, refund, and allowance for loss or destruction of distilled spirits.
[5009.]	Repealed.]
5010.	Credit for wine content and for flavors content.
5011.	Income tax credit for average cost of carrying excise tax.

PRIOR PROVISIONS

A prior subpart A, comprising sections 5001 to 5012, related to tax on distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859, title II, 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11126(c), Aug. 10, 2005, 119 Stat. 1958, added item 5011.

1980—Pub. L. 96-598, § 6(b), Dec. 24, 1980, 94 Stat. 3489, added item 5010.

1979—Pub. L. 96-39, title VIII, § 807(b)(2), July 26, 1979, 93 Stat. 290, struck out item 5009 “Drawback”.

§ 5001. Imposition, rate, and attachment of tax

(a) Rate of tax

(1) General

There is hereby imposed on all distilled spirits produced in or imported into the United

¹ Section numbers editorially supplied.

² Chapter heading amended by Pub. L. 90-618 without corresponding amendment of analysis.

¹ Section numbers editorially supplied.

States a tax at the rate of \$13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) Products containing distilled spirits

All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

(3) Wines containing more than 24 percent alcohol by volume

Wines containing more than 24 percent of alcohol by volume shall be taxed as distilled spirits.

(4) Distilled spirits withdrawn free of tax

Any person who removes, sells, transports, or uses distilled spirits, withdrawn free of tax under section 5214(a) or section 7510, in violation of laws or regulations now or hereafter in force pertaining thereto, and all such distilled spirits shall be subject to all provisions of law relating to distilled spirits subject to tax, including those requiring payment of the tax thereon; and the person so removing, selling, transporting, or using the distilled spirits shall be required to pay such tax.

(5) Denatured distilled spirits or articles

Any person who produces, withdraws, sells, transports, or uses denatured distilled spirits or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured distilled spirits or articles shall be subject to all provisions of law pertaining to distilled spirits that are not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured distilled spirits or articles shall be required to pay such tax.

(6) Fruit-flavor concentrates

If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

(7) Imported liqueurs and cordials

Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

(8) Imported distilled spirits withdrawn for beverage purposes

There is hereby imposed on all imported distilled spirits withdrawn from customs custody under section 5232 without payment of the internal revenue tax, and thereafter withdrawn

from bonded premises for beverage purposes, an additional tax equal to the duty which would have been paid had such spirits been imported for beverage purposes, less the duty previously paid thereon.

(9) Alcoholic compounds from Puerto Rico

Except as provided in section 5314, upon bay rum, or any article containing distilled spirits, brought from Puerto Rico into the United States for consumption or sale there is hereby imposed a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States.

(b) Time of attachment on distilled spirits

The tax shall attach to distilled spirits as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(c) Reduced rate for 2018 and 2019

(1) In general

In the case of a distilled spirits operation, the otherwise applicable tax rate under subsection (a)(1) shall be—

- (A) \$2.70 per proof gallon on the first 100,000 proof gallons of distilled spirits, and
- (B) \$13.34 per proof gallon on the first 22,130,000 of¹ proof gallons of distilled spirits to which subparagraph (A) does not apply,

which have been distilled or processed by such operation and removed during the calendar year for consumption or sale, or which have been imported by the importer into the United States during the calendar year but only if the importer is an electing importer under paragraph (3) and the proof gallons of distilled spirits have been assigned to the importer pursuant to such paragraph.

(2) Controlled groups

(A) In general

In the case of a controlled group, the proof gallon quantities specified under subparagraphs (A) and (B) of paragraph (1) shall be applied to such group and apportioned among the members of such group in such manner as the Secretary or their delegate shall by regulations prescribe.

(B) Definition

For purposes of subparagraph (A), the term “controlled group” shall have the meaning given such term by subsection (a) of section 1563, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in such subsection.

(C) Rules for non-corporations

Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to a group under common control where one or more of the persons is not a corporation.

(D) Single taxpayer

Pursuant to rules issued by the Secretary, two or more entities (whether or not under

¹ So in original.

common control) that produce distilled spirits marketed under a similar brand, license, franchise, or other arrangement shall be treated as a single taxpayer for purposes of the application of this subsection.

(3) Reduced tax rate for foreign manufacturers and importers

(A) In general

In the case of any proof gallons of distilled spirits which have been produced outside of the United States and imported into the United States, the rate of tax applicable under paragraph (1) (referred to in this paragraph as the “reduced tax rate”) may be assigned by the distilled spirits operation (provided that such operation makes an election described in subparagraph (B)(ii)) to any electing importer of such proof gallons pursuant to the requirements established by the Secretary under subparagraph (B).

(B) Assignment

The Secretary shall, through such rules, regulations, and procedures as are determined appropriate, establish procedures for assignment of the reduced tax rate provided under this paragraph, which shall include—

(i) a limitation to ensure that the number of proof gallons of distilled spirits for which the reduced tax rate has been assigned by a distilled spirits operation—

(I) to any importer does not exceed the number of proof gallons produced by such operation during the calendar year which were imported into the United States by such importer, and

(II) to all importers does not exceed the 22,230,000 proof gallons of distilled spirits to which the reduced tax rate applies,

(ii) procedures that allow the election of a distilled spirits operation to assign and an importer to receive the reduced tax rate provided under this paragraph,

(iii) requirements that the distilled spirits operation provide any information as the Secretary determines necessary and appropriate for purposes of carrying out this paragraph, and

(iv) procedures that allow for revocation of eligibility of the distilled spirits operation and the importer for the reduced tax rate provided under this paragraph in the case of any erroneous or fraudulent information provided under clause (iii) which the Secretary deems to be material to qualifying for such reduced rate.

(C) Controlled group

(i) In general

For purposes of this section, any importer making an election described in subparagraph (B)(ii) shall be deemed to be a member of the controlled group of the distilled spirits operation, as described under paragraph (2).

(ii) Apportionment

For purposes of this paragraph, in the case of a controlled group, rules similar to section 5051(a)(5)(B) shall apply.

(4) Termination

This subsection shall not apply to distilled spirits removed after December 31, 2019.

(d) Cross reference

For provisions relating to the tax on shipments to the United States of taxable articles from Puerto Rico and the Virgin Islands, see section 7652.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1314; amended Pub. L. 86-75, § 3(a)(2), (3), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, § 202(a)(4), (5), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, § 3(a)(4), (5), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, § 3(a)(3), (4), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, § 3(a)(4), (5), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, § 2(a)(4), (5), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, § 501(a), June 21, 1965, 79 Stat. 150; Pub. L. 96-39, title VIII, §§ 802, 805(d), July 26, 1979, 93 Stat. 273, 278; Pub. L. 98-369, div. A, title I, § 27(a)(1), July 18, 1984, 98 Stat. 507; Pub. L. 101-508, title XI, § 11201(a)(1), Nov. 5, 1990, 104 Stat. 1388-415; Pub. L. 103-465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 115-97, title I, § 13807(a), (c), Dec. 22, 2017, 131 Stat. 2176.)

PRIOR PROVISIONS

A prior section 5001, acts Aug. 16, 1954, ch. 736, 68A Stat. 595; Mar. 30, 1955, ch. 18, § 3(a)(4), (5), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(4), (5), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, § 3(a)(2), (3), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, § 3(a)(2), (3), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See section 5061(d) of this title.

AMENDMENTS

2017—Subsec. (c). Pub. L. 115-97, § 13807(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 115-97, § 13807(c)(1), inserted “but only if the importer is an electing importer under paragraph (3) and the proof gallons of distilled spirits have been assigned to the importer pursuant to such paragraph” after “into the United States during the calendar year”.

Subsec. (c)(3), (4). Pub. L. 115-97, § 13807(c)(2), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 115-97, § 13807(a), redesignated subsec. (c) as (d).

1994—Subsec. (a)(3) to (10). Pub. L. 103-465 redesignated pars. (4) to (10) as (3) to (9), respectively, and struck out former par. (3), “Imported perfumes containing distilled spirits”, which read as follows: “There is hereby imposed on all perfumes imported into the United States containing distilled spirits a tax of \$13.50 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.”

1990—Subsec. (a)(1), (3). Pub. L. 101-508 substituted “\$13.50” for “\$12.50”.

1984—Subsec. (a)(1), (3). Pub. L. 98-369 substituted “\$12.50” for “\$10.50”.

1979—Subsec. (a)(1). Pub. L. 96-39, § 802, struck out “in bond or” after “distilled spirits” and “or wine gallon when below proof” after “each proof gallon” and substituted “a tax” for “an internal revenue tax” and “proof gallon” for “such proof or wine gallon”.

Subsec. (a)(2). Pub. L. 96-39, § 805(d), inserted “, and any alcoholic ingredient added to such products” after “has not been paid”.

1965—Subsec. (a)(1). Pub. L. 89-44 struck out last sentence which provided that the rate of tax imposed by par. (1) would be \$9 on and after July 1, 1965.

Subsec. (a)(3). Pub. L. 89-44 struck out last sentence which provided that the rate of tax imposed by par. (3) would be \$9 on and after July 1, 1965.

1964—Subsec. (a)(1). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964”.

Subsec. (a)(3). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964”.

1963—Subsec. (a)(1). Pub. L. 88-52, §3(a)(4), substituted “July 1, 1964” for “July 1, 1963”.

Subsec. (a)(3). Pub. L. 88-52, §3(a)(5), substituted “July 1, 1964” for “July 1, 1963”.

1962—Subsec. (a)(1). Pub. L. 87-508, §3(a)(3), substituted “July 1, 1963” for “July 1, 1962”.

Subsec. (a)(3). Pub. L. 87-508, §3(a)(4), substituted “July 1, 1963” for “July 1, 1962”.

1961—Subsec. (a)(1). Pub. L. 87-72, §3(a)(4), substituted “July 1, 1962” for “July 1, 1961”.

Subsec. (a)(3). Pub. L. 87-72, §3(a)(5), substituted “July 1, 1962” for “July 1, 1961”.

1960—Subsec. (a)(1). Pub. L. 86-564, §202(a)(4), substituted “July 1, 1961” for “July 1, 1960”.

Subsec. (a)(3). Pub. L. 86-564, §202(a)(5), substituted “July 1, 1961” for “July 1, 1960”.

1959—Subsec. (a)(1). Pub. L. 86-75, §3(a)(2), substituted “July 1, 1960” for “July 1, 1959”.

Subsec. (a)(3). Pub. L. 86-75, §3(a)(3), substituted “July 1, 1960” for “July 1, 1959”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13807(d), Dec. 22, 2017, 131 Stat. 2177, provided that: “The amendments made by this section [amending this section and section 7652 of this title] shall apply to distilled spirits removed after December 31, 2017.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title I, §136(d), Dec. 8, 1994, 108 Stat. 4842, provided that: “The amendments made by this section [amending this section and sections 5002, 5005, 5007, 5061, 5131, 5132, 5134, and 7652 of this title] shall take effect on January 1, 1995.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11201(d), Nov. 5, 1990, 104 Stat. 1388-417, provided that: “The amendments made by this section [amending this section and sections 5010, 5041, 5051, and 5061 of this title] shall take effect on January 1, 1991.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §27(d), July 18, 1984, 98 Stat. 509, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 5010 of this title and enacting provisions set out as a note under this section] shall take effect on October 1, 1985.

“(2) ELECTRONIC TRANSFER PROVISIONS.—The amendments made by subsection (c) [amending sections 5061 and 5703 of this title] shall apply to taxes required to be paid on or after September 30, 1984.”

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-39, title VIII, §810, July 26, 1979, 93 Stat. 292, provided that: “The amendments made by this title [amending this section and sections 5002 to 5008, 5043, 5061, 5064, 5066, 5116, 5171 to 5173, 5175 to 5178, 5180, 5181, 5201 to 5205, 5207, 5211 to 5215, 5221 to 5223, 5231, 5232, 5235, 5241, 5273, 5291, 5301, 5352, 5361 to 5363, 5365, 5381, 5391, 5551, 5601, 5604, 5610, 5612, 5615, 5663, 5681, 5682, and 5691 of this title, repealing sections 5009, 5021 to 5026, 5081 to 5084, 5174, 5233, 5234, 5251, 5252, 5364, and 5521 to 5523 of this title, and enacting provisions set out as notes under sections 1, 5061, 5171, and 5173 of this title] shall take effect on January 1, 1980.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

EFFECTIVE DATE

Pub. L. 85-859, title II, §210(a)(1), Sept. 2, 1958, 72 Stat. 1435, provided that: “The amendments made by sections

201 and 205 [amending this chapter and repealing acts Mar. 3, 1877, 114, 19 Stat. 393, and Oct. 18, 1888, ch. 1194, 25 Stat. 560] shall take effect on July 1, 1959, except that any provision having the effect of a provision contained in such amendments may be made effective at an earlier date by the promulgation of regulations by the Secretary or his delegate to effectuate such provision, in which case the effective date shall be that prescribed in such regulations. The amendments made by paragraphs (17) and (18) of section 204 [amending section 7652 of this title] shall take effect on July 1, 1959. Except as provided in section 206(f), all other provisions of this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, and 7655 of this title, and repealing former section 5854 of this title] shall take effect on the day following the date of the enactment of this Act [Sept. 2, 1958].”

SHORT TITLE

Pub. L. 85-859, §1(a), Sept. 2, 1958, 72 Stat. 1275, provided that: “This Act [see Tables for classification] may be cited as the ‘Excise Tax Technical Changes Act of 1958’.”

SAVINGS PROVISION

Pub. L. 85-859, title II, §210(b), Sept. 2, 1958, 72 Stat. 1435, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment of any provision of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, 7652, and 7655 of this title, and enacting provisions set out as notes under this section and sections 5006, 5025, 5064, 5175, 5304, and 5601 of this title] 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 amendment; but all rights and liabilities under such code prior to such amendment shall continue, and may be enforced in the same manner, as if such amendment had not been made.”

REFERENCES TO OTHER PROVISIONS OF LAW

Pub. L. 85-859, title II, §210(d), Sept. 2, 1958, 72 Stat. 1435, provided that: “For the purpose of applying any provision of this title [see Savings Provision note above] to any occurrence on or after the effective date of such provision, any reference in this title to another provision thereof shall also be deemed to be a reference to the corresponding provision of prior law, when consistent with the purpose of the provision to be applied.”

REPEAL OF ACTS MAR. 3, 1877 AND OCT. 18, 1888

Pub. L. 85-859, title II, §205, Sept. 2, 1958, 72 Stat. 1430, repealed acts March 3, 1877, ch. 114, 19 Stat. 393 and Oct. 18, 1888, ch. 1194, 25 Stat. 560, which related to production and warehousing of fruit brandy, and are covered by this chapter. For effective date of repeal, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note above.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Pub. L. 101-508, title XI, §11201(e), Nov. 5, 1990, 104 Stat. 1388-417, provided that:

“(1) IMPOSITION OF TAX.—

“(A) IN GENERAL.—In the case of any tax-increased article—

“(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

“(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

“(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

“(i) \$1 per proof gallon in the case of distilled spirits,

“(ii) \$0.90 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

“(iii) \$9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

“(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term ‘tax-increased article’ means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

“(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—

“(A) In the case of wine held by the producer thereof on January 1, 1991, if a credit would have been allowable under section 5041(c) of such Code (as added by this section) on such wine had the amendments made by subsection (b) [amending sections 5041 and 5061 of this title] applied to all wine removed during 1990 and had the wine so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such wine shall be reduced by the credit which would have been so allowable.

“(B) In the case of beer held by the producer thereof on January 1, 1991, if the rate of the tax imposed by section 5051 of such Code would have been determined under subsection (a)(2) thereof had the beer so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such beer shall not apply.

“(C) For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

“(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

“(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

“(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

“(A) \$240 to the extent such taxes are attributable to distilled spirits,

“(B) \$270 to the extent such taxes are attributable to wine, and

“(C) \$87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

“(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

“(6) CONTROLLED GROUPS.—

“(A) CORPORATIONS.—In the case of a controlled group—

“(i) the 500 wine gallon amount specified in paragraph (3), and

“(ii) the \$240, \$270, and \$87 amounts specified in paragraph (4), shall be apportioned among the dealers who are component members of such group in such manner as the

Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

“(7) OTHER LAWS APPLICABLE.—

“(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

“(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term ‘comparable excise tax’ means—

“(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

“(ii) the tax imposed by section 5041 of such Code in the case of wine, and

“(iii) the tax imposed by section 5051 of such Code in the case of beer.

“(8) DEFINITIONS.—For purposes of this subsection—

“(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

“(B) PERSON.—The term ‘person’ includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.”

FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES

Pub. L. 101-508, title XI, §11218, Nov. 5, 1990, 104 Stat. 1388-438, provided that: “Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part or part I [part I (§§11201-11203) or part II (§§11211-11218) of subtitle B of title XI of Pub. L. 101-508, see Tables for classification] shall be subject to floor stocks taxes imposed by such parts if—

“(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

“(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).”

FLOOR STOCKS TAXES ON DISTILLED SPIRITS

Pub. L. 98-369, div. A, title I, §27(b), July 18, 1984, 98 Stat. 507, as amended by Pub. L. 99-514, §2, title XVIII, §1801(c)(3), Oct. 22, 1986, 100 Stat. 2095, 2786, provided that:

“(1) IMPOSITION OF TAX.—On distilled spirits on which tax was imposed under section 5001 or 7652 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] before October 1, 1985, and which were held on such date for sale by any person, there shall be imposed a tax at the rate of \$2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

“(2) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on distilled spirits held on October 1, 1985, by any dealer if—

“(A) the aggregate liquid volume of distilled spirits held by such dealer on such date does not exceed 500 wine gallons, and

“(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

“(3) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$800. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which the dealer is liable.

“(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding distilled spirits on October 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall by regulations prescribe.

“(C) TIME FOR PAYMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii), the tax imposed by paragraph (1) shall be paid on or before April 1, 1986.

“(ii) INSTALLMENT PAYMENT OF TAX IN CASE OF SMALL OR MIDDLE-SIZED DEALERS.—In the case of any small or middle-sized dealer, the tax imposed by paragraph (1) may be paid in 3 equal installments due as follows:

“(I) The first installment shall be paid on or before April 1, 1986.

“(II) The second installment shall be paid on or before July 1, 1986.

“(III) The third installment shall be paid on or before October 1, 1986.

If the taxpayer does not pay any installment under this clause on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

“(iii) SMALL OR MIDDLE-SIZED DEALER.—For purposes of clause (ii), the term ‘small or middle-sized dealer’ means any dealer if the aggregate gross sales receipts of such dealer for its most recent taxable year ending before October 1, 1985, does not exceed \$500,000.

“(5) CONTROLLED GROUPS.—

“(A) CONTROLLED GROUPS OF CORPORATIONS.—In the case of a controlled group—

“(i) the 500 wine gallon amount specified in paragraph (2),

“(ii) the \$800 amount specified in paragraph (3), and

“(iii) the \$500,000 amount specified in paragraph (4)(C)(iii),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ each place it appears in such subsection.

“(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

“(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5001 of the Internal Revenue Code of 1986 shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply in respect of the taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 5001.

“(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) DEALER.—The term ‘dealer’ means—

“(i) any wholesale dealer in liquors (as defined in section 5112(b) of the Internal Revenue Code of 1986), and

“(ii) any retail dealer in liquors (as defined in section 5122(a) of such Code).

“(B) DISTILLED SPIRITS.—The term ‘distilled spirits’ has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1986.

“(C) PERSON.—The term ‘person’ includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(E) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on October 1, 1985, on the premises of a retail establishment.

“(F) TREATMENT OF DISTILLED SPIRITS IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, distilled spirits which are located in a foreign trade zone on October 1, 1985, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

“(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such distilled spirits before such date pursuant to a request made under the first proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

“(ii) such distilled spirits are held on such date under the supervision of customs pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary, provisions similar to sections 5062 and 5064 of such Code shall apply to distilled spirits with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.”

§ 5002. Definitions

(a) In general

For purposes of this chapter—

(1) Distilled spirits plant

The term “distilled spirits plant” means an establishment which is qualified under subchapter B to perform any distilled spirits operation.

(2) Distilled spirits operation

The term “distilled spirits operation” means any operation for which qualification is required under subchapter B.

(3) Bonded premises

The term “bonded premises”, when used with respect to distilled spirits, means the premises of a distilled spirits plant, or part thereof, on which distilled spirits operations are authorized to be conducted.

(4) Distiller

The term “distiller” includes any person who—

- (A) produces distilled spirits from any source or substance,
- (B) brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than the making or using of mash, wort, or wash in the authorized production of wine or beer, or the production of vinegar by fermentation),
- (C) by any process separates alcoholic spirits from any fermented substance, or
- (D) making or keeping mash, wort, or wash, has a still in his possession or use.

(5) Processor**(A) In general**

The term “processor”, when used with respect to distilled spirits, means any person who—

- (i) manufactures, mixes, or otherwise processes distilled spirits, or
- (ii) manufactures any article.

(B) Rectifier, bottler, etc., included

The term “processor” includes (but is not limited to) a rectifier, bottler, and denaturer.

(6) Certain operations not treated as processing

In applying paragraph (5), there shall not be taken into account—

(A) Operations as distiller

Any process which is the operation of a distiller.

(B) Mixing of taxpaid spirits for immediate consumption

Any mixing (after determination of tax) of distilled spirits for immediate consumption.

(C) Use by apothecaries

Any process performed by an apothecary with respect to distilled spirits which such apothecary uses exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

(7) Warehouseman

The term “warehouseman”, when used with respect to distilled spirits, means any person who stores bulk distilled spirits.

(8) Distilled spirits

The terms “distilled spirits”, “alcoholic spirits”, and “spirits” mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

(9) Bulk distilled spirits

The term “bulk distilled spirits” means distilled spirits in a container having a capacity in excess of 1 wine gallon.

(10) Proof spirits

The term “proof spirits” means that liquid which contains one-half its volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (referring to water at 60 degrees Fahrenheit as unity).

(11) Proof gallon

The term “proof gallon” means a United States gallon of proof spirits, or the alcoholic equivalent thereof.

(12) Container

The term “container”, when used with respect to distilled spirits, means any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring, or conveying distilled spirits.

(13) Approved container

The term “approved container”, when used with respect to distilled spirits, means a container the use of which is authorized by regulations prescribed by the Secretary.

(14) Article

Unless another meaning is distinctly expressed or manifestly intended, the term “article” means any substance in the manufacture of which denatured distilled spirits are used.

(15) Export

The terms “export”, “exported”, and “exportation” include shipments to a possession of the United States.

(b) Cross references

(1) For definition of manufacturer of stills, see section 5102.

(2) For definition of dealer, see section 5121(c)(3).

(3) For definitions of wholesale dealers, see section 5121(c).

(4) For definitions of retail dealers, see section 5122(c).

(5) For definitions of general application to this title, see chapter 79.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1315; amended Pub. L. 89-44, title VIII, § 807(a), June 21, 1965, 79 Stat. 164; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 805(e), July 26, 1979, 93 Stat. 278; Pub. L. 103-465, title I, § 136(c)(1), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 109-59, title XI, § 11125(b)(13), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5002, act Aug. 16, 1954, ch. 736, 68A Stat. 597, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (a)(6), (9), and (11) of this section were contained in prior sections 5213(a)(1) and 5319(1), (2), and (7), act Aug. 16, 1954, ch. 736, 68A Stat. 639, 661, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109-59, § 11125(b)(13)(A), substituted “section 5121(c)(3)” for “section 5112(a)”.

Subsec. (b)(3). Pub. L. 109-59, § 11125(b)(13)(B), substituted “section 5121(c)” for “section 5112”.

Subsec. (b)(4). Pub. L. 109-59, § 11125(b)(13)(C), substituted “section 5122(c)” for “section 5122”.

1994—Subsec. (b)(1) to (6). Pub. L. 103-465 redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which provided a cross reference to section 5041(c) of this title for definition of “wine gallon”.

1979—Subsec. (a)(1). Pub. L. 96-39 substituted “distilled spirits operation” for “operation, or any combi-

nation of operations, for which qualification is required under such subchapter”.

Subsec. (a)(2), (3). Pub. L. 96-39 added par. (2) and redesignated former par. (2) as (3). Former par. (3), defining “bottling premises”, was struck out.

Subsec. (a)(4). Pub. L. 96-39 redesignated par. (5) as (4). Former par. (4), defining “bonded warehouseman”, was struck out.

Subsec. (a)(5) to (7). Pub. L. 96-39 added pars. (5) to (7) and redesignated former pars. (5) to (7) as (4), (8), and (10), respectively.

Subsec. (a)(8). Pub. L. 96-39 redesignated former par. (6) as (8). Former par. (8) redesignated (11).

Subsec. (a)(9). Pub. L. 96-39 added par. (9) and redesignated par. (9) as (12).

Subsec. (a)(10) to (15). Pub. L. 96-39 redesignated former pars. (7) to (12) as (10) to (15), respectively.

Subsec. (b). Pub. L. 95-39 struck out par. (2) which provided for a cross reference to section 5082 for a definition of rectifier and redesignated pars. (3) to (7) as (2) to (6), respectively.

1976—Subsec. (a)(10). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1965—Subsec. (a). Pub. L. 89-44 added par. (12).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, §11125(c), Aug. 10, 2005, 119 Stat. 1957, provided that: “The amendments made by this section [see Tables for classification] shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date.”

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 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §807(c), June 21, 1965, 79 Stat. 164, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 5053 of this title] shall take effect on July 1, 1965.”

§ 5003. Cross references to exemptions, etc.

(1) For provisions authorizing the withdrawal of distilled spirits free of tax for use by Federal or State agencies, see sections 5214(a)(2) and 5313.

(2) For provisions authorizing the withdrawal of distilled spirits free of tax by nonprofit educational organizations, scientific universities or colleges of learning, laboratories, hospitals, blood banks, sanitariums, and charitable clinics, see section 5214(a)(3).

(3) For provisions authorizing the withdrawal of certain imported distilled spirits from customs custody without payment of tax, see section 5232.

(4) For provisions authorizing the withdrawal of denatured distilled spirits free of tax, see section 5214(a)(1).

(5) For provisions exempting from tax distilled spirits for use in production of vinegar by the vaporizing process, see section 5505(j).

(6) For provisions relating to the withdrawal of wine spirits without payment of tax for use in the production of wine, see section 5373.

(7) For provisions exempting from tax volatile fruit-flavor concentrates, see section 5511.

(8) For provisions authorizing the withdrawal of distilled spirits from bonded premises without payment of tax for export, see section 5214(a)(4).

(9) For provisions authorizing withdrawal of distilled spirits without payment of tax to customs bonded warehouses for export, see section 5214(a)(9).

(10) For provisions relating to withdrawal of distilled spirits without payment of tax as supplies for certain vessels and aircraft, see 19 U.S.C. 1309.

(11) For provisions authorizing regulations for withdrawal of distilled spirits for use of United States free of tax, see section 7510.

(12) For provisions relating to withdrawal of distilled spirits without payment of tax to foreign-trade zones, see 19 U.S.C. 81c.

(13) For provisions relating to exemption from tax of taxable articles going into the possessions of the United States, see section 7653(b).

(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10).

(15) For provisions authorizing the withdrawal of distilled spirits without payment of tax for transfer to manufacturing bonded warehouses for manufacturing for export, see section 5214(a)(6).

(16) For provisions authorizing the withdrawal of articles from the bonded premises of a distilled spirits plant free of tax when contained in an article, see section 5214(a)(11).

(17) For provisions relating to allowance for certain losses in bond, see section 5008(a).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1316; amended Pub. L. 95-176, §§3(c), 4(f), Nov. 14, 1977, 91 Stat. 1365, 1366; Pub. L. 96-39, title VIII, §807(a)(1), July 26, 1979, 93 Stat. 280.)

PRIOR PROVISIONS

A prior section 5003, act Aug. 16, 1954, ch. 736, 68A Stat. 597, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Par. (9). Pub. L. 96-39, §807(a)(1)(A), struck out “section 5522(a) and” before “section 5214(a)(9)”.

Pars. (15) to (17). Pub. L. 96-39, §807(a)(1)(B), added pars. (15) and (16) and redesignated former par. (15) as (17).

1977—Par. (9). Pub. L. 95-176, §3(c), struck out “manufacturing” after “customs” and inserted reference to section 5214(a)(9).

Par. (14). Pub. L. 95-176, §4(f), substituted “withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)” for “removal of samples free of tax for making tests or laboratory analyses, see section 5214(a)(9)”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-176, §7, Nov. 14, 1977, 91 Stat. 1367, provided that: “The amendments made by this Act [amending this section and sections 5004, 5005, 5008, 5025, 5062, 5066, 5175, 5178, 5205, 5207, 5214, 5215, and 5234 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Nov. 14, 1977].”

§ 5004. Lien for tax

(a) Distilled spirits subject to lien

(1) General

The tax imposed by section 5001(a)(1) shall be a first lien on the distilled spirits from the time the spirits are in existence as such until the tax is paid.

(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior

provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

(A) withdrawn from bonded premises on determination of tax; or

(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), (3), (11), or (12), or section 7510; or

(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development, or testing, as provided by law.

(b) Cross reference

For provisions relating to extinguishing of lien in case of redistillation, see section 5223(e).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1317; amended Pub. L. 89-44, title VIII, §805(f)(1), June 21, 1965, 79 Stat. 161; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, §4(c), Nov. 14, 1977, 91 Stat. 1366; Pub. L. 96-39, title VIII, §807(a)(2), July 26, 1979, 93 Stat. 280; Pub. L. 96-223, title II, §232(e)(2)(C), Apr. 2, 1980, 94 Stat. 280.)

PRIOR PROVISIONS

A prior section 5004, act Aug. 16, 1954, ch. 736, 68A Stat. 598, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (b)(1) of this section were contained in prior section 5007(e)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 600, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1980—Subsec. (a)(2)(B). Pub. L. 96-223 substituted “(11), or (12),” for “or (11),”.

1979—Subsec. (a)(2)(B). Pub. L. 96-39, §807(a)(2)(C), substituted “(3), or (11)” for “or (3)”.

Subsecs. (b), (c). Pub. L. 96-39, §807(a)(2)(A), (B), redesignated subsec. (c) as (b). Former subsec. (b), relating to other property subject to lien, was repealed.

1977—Subsec. (a)(2). Pub. L. 95-176 struck out reference to par. (9) of section 5214(a) in subpar. (B), and in subpar. (C) substituted “a customs bonded warehouse” for “customs manufacturing bonded warehouses” and provided for termination of the lien for tax when the distilled spirits are used in certain research, development, or testing.

1976—Subsec. (b)(3)(B), (4). Pub. L. 94-455 struck out “or his delegate” after “Secretary”, wherever appearing.

1965—Subsec. (c). Pub. L. 89-44 substituted “5223(e)” for “5223(d)”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on the first day of the first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after

Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §805(g)(2), June 21, 1965, 79 Stat. 162, provided that: “The amendments made by subsections (b), (d), and (f) (other than paragraph (6)) [amending this section and sections 5025, 5083, 5223, and 5234 of this title], shall take effect on October 1, 1965.”

§ 5005. Persons liable for tax

(a) General

The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

(b) Domestic distilled spirits

(1) Liability of persons interested in distilling

Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(2) Exception

A person owning or having the right of control of not more than 10 percent of any class of stock of a corporate proprietor of a distilled spirits plant shall not be deemed to be a person liable for the tax for which such proprietor is liable under the provisions of paragraph (1). This exception shall not apply to an officer or director of such corporate proprietor.

(c) Proprietors of distilled spirits plants

(1) Bonded storage

Every person operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax on all distilled spirits while the distilled spirits are stored on such premises, and on all distilled spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).

(2) Transfers in bond

When distilled spirits are transferred in bond in accordance with the provisions of section 5212, persons liable for the tax on such spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability, if proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so transferred. Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), (3), (11), or (12), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax**(1) Liability for tax**

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), (10), or (13), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, used in the production of nonbeverage wine or wine products, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f) Cross references

(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

(2) For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5223.

(3) For liability for tax on denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(5) and (6).

(4) For liability for tax on distilled spirits withdrawn free of tax, see section 5001(a)(4).

(5) For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5391.

(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1318; amended Pub. L. 94-455, title XIX, §1905(a)(1), Oct. 4, 1976, 90 Stat. 1818; Pub. L. 95-176, §4(b), (d), Nov. 14, 1977, 91 Stat. 1366; Pub.

L. 96-39, title VIII, §807(a)(3), July 26, 1979, 93 Stat. 280; Pub. L. 96-223, title II, §232(e)(2)(D), Apr. 2, 1980, 94 Stat. 280; Pub. L. 98-369, div. A, title IV, §455(b), July 18, 1984, 98 Stat. 823; Pub. L. 103-465, title I, §136(c)(2), Dec. 8, 1994, 108 Stat. 4841.)

PRIOR PROVISIONS

A prior section 5005, acts Aug. 16, 1954, ch. 736, 68A Stat. 599; Sept. 2, 1958, Pub. L. 85-859, title II, §206(d), 72 Stat. 1431, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (c)(1), (2) of this section were contained in prior sections 5194(f), 5217(a), and 5232(a), act Aug. 16, 1954, ch. 736, 68A Stat. 634, 641, 643, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1994—Subsec. (f)(3). Pub. L. 103-465, §136(c)(2)(A), substituted “section 5001(a)(5) and (6)” for “section 5001(a)(6) and (7)”.

Subsec. (f)(4). Pub. L. 103-465, §136(c)(2)(B), substituted “section 5001(a)(4)” for “section 5001(a)(5)”.

1984—Subsec. (e)(1). Pub. L. 98-369, §455(b)(1), substituted “(10), or (13)” for “or (10)”.

Subsec. (e)(2). Pub. L. 98-369, §455(b)(2), inserted “used in the production of nonbeverage wine or wine products.”

1980—Subsec. (d). Pub. L. 96-223 substituted “(11), or (12),” for “or (11),”.

1979—Subsec. (c)(3). Pub. L. 96-39, §807(a)(3)(A), struck out par. (3) which related to liability for taxes with regard to withdrawals of distilled spirits from the bonded premises of a distilled spirits plant.

Subsec. (d). Pub. L. 96-39, §807(a)(3)(B), substituted “(3), or (11)” for “or (3)”.

Subsec. (f)(1). Pub. L. 96-39, §807(a)(3)(C), substituted “requiring bond covering operations at, and withdrawals from, distilled spirits plants” for “conditioning warehousing bonds on the payment of the tax” and “5173” for “5173(c)”.

Subsec. (f)(6). Pub. L. 96-39, §807(a)(3)(D), added par. (6).

1977—Subsec. (d). Pub. L. 95-176, §4(d)(1), struck out reference to par. (9) of section 5214(a).

Subsec. (e)(1). Pub. L. 95-176, §4(d)(2), inserted reference to pars. (9) and (10) of section 5214(a).

Subsec. (e)(2). Pub. L. 95-176, §4(b), substituted “customs bonded warehouses” for “customs manufacturing bonded warehouses” and provided for relief from liability for tax on distilled spirits used in certain research, development, or testing.

1976—Subsec. (c)(2). Pub. L. 94-455 substituted “Such relief from liability shall be effective from the time of removal from the transferor’s bonded premises, or from the time of divestment of interest, whichever is later.” for “Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).”.

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 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, see section 456(c) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on first day of first calendar month beginning more than 60 days after

Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1905(d), Oct. 4, 1976, 90 Stat. 1824, provided that: "The amendments made by this section [amending this section and sections 5007 to 5009, 5025, 5026, 5043, 5054, 5061, 5105, 5111, 5113, 5114, 5117, 5121, 5122, 5131, 5142, 5148, 5171, 5174, 5177, 5179, 5214, 5222, 5232 to 5234, 5272, 5314, 5362, 5368, 5392, 5505, 5551, 5601, 5662, 5685, 5701, 5703, 5704, 5712, 5723, 5751, 5752, 5762, and 5763 of this title and repealing sections 5104, 5144, 5315, 5676, and 5689 of this title] 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]."

§ 5006. Determination of tax

(a) Requirements

(1) In general

Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to tanks and pipelines) as the Secretary may require. The tax on distilled spirits withdrawn from the bonded premises of a distilled spirits plant shall be determined upon completion of the gauge for determination of tax and before withdrawal from bonded premises, under such regulations as the Secretary shall prescribe.

(2) Distilled spirits not accounted for

If the Secretary finds that the distiller has not accounted for all the distilled spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of distilled spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced at the rate of tax imposed by law for every proof gallon.

(b) Taxable loss

(1) On original quantity

Where there is evidence satisfactory to the Secretary that there has been any loss of distilled spirits from any cask or other package deposited on bonded premises, other than a loss which by reason of section 5008(a) is not taxable, the Secretary may require the withdrawal from bonded premises of such distilled spirits, and direct the officer designated by him to collect the tax accrued on the original quantity of distilled spirits entered for deposit on bonded premises in such cask or package; except that, under regulations prescribed by the Secretary, when the extent of any loss

from causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the Secretary an allowance of the tax on the loss so established may be credited against the tax on the original quantity. If such tax is not paid on demand it shall be assessed and collected as other taxes are assessed and collected.

(2) Alternative method

Where there is evidence satisfactory to the Secretary that there has been access, other than is authorized by law, to the contents of casks or packages stored on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the Secretary (in lieu of requiring the casks or packages to which such access has been had to be withdrawn and tax paid on the original quantity of distilled spirits entered for deposit on bonded premises in such casks or packages as provided in paragraph (1)) may assess an amount equal to the tax on 5 proof gallons of distilled spirits at the prevailing rate on each of the total number of such casks or packages as determined by him.

(3) Application of subsection

The provisions of this subsection shall apply to distilled spirits which are filled into casks or packages, as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from storage tanks, consolidation of packages, or otherwise; and the quantity filled into such casks or packages shall be deemed to be the original quantity for the purpose of this subsection, in the case of loss from such casks or packages.

(c) Distilled spirits not bonded

(1) General

The tax on any distilled spirits, removed from the place where they were distilled and (except as otherwise provided by law) not deposited in storage on bonded premises of a distilled spirits plant, shall, at any time within the period of limitation provided in section 6501, when knowledge of such fact is obtained by the Secretary, be assessed on the distiller of such distilled spirits (or other person liable for the tax) and payment of such tax immediately demanded and, on the neglect or refusal of payment, the Secretary shall proceed to collect the same by distraint. This paragraph shall not exclude any other remedy or proceeding provided by law.

(2) Production at other than qualified plants

Except as otherwise provided by law, the tax on any distilled spirits produced in the United States at any place other than a qualified distilled spirits plant shall be due and payable immediately upon production.

(d) Unlawfully imported distilled spirits

Distilled spirits smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

(e) Cross reference

For provisions relating to removal of distilled spirits from bonded premises on determination of tax, see section 5213.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1320; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §§804(a), 807(a)(4), July 26, 1979, 93 Stat. 274, 280.)

PRIOR PROVISIONS

A prior section 5006, acts Aug. 16, 1954, ch. 736, 68A Stat. 599; Sept. 2, 1958, Pub. L. 85-859, title II, §206(a), 72 Stat. 1431, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsecs. (a)(2)(A), (3) of this section were contained in prior sections 5007(e)(1) and 5232(a), act Aug. 16, 1954, ch. 736, 68A Stat. 600, 643, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, §804(a), struck out “internal revenue” after “provided in this section, the” and “storage, gauging, and bottling” after “but not limited to”.

Subsec. (a)(2), (3). Pub. L. 96-39, §804(a), redesignated par. (3) as (2). Former par. (2), relating to distilled spirits entered for storage, was struck out.

Subsec. (b)(1). Pub. L. 96-39, §807(a)(4)(A), (B), substituted “on bonded premises” for “in storage in internal revenue bond” in two places and “; except” for “, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered in storage in such cask or package has not expired, except”.

Subsec. (b)(2), (3). Pub. L. 96-39, §807(a)(4)(B), substituted “on bonded premises” for “in storage in internal revenue bond”.

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

APPLICATION OF 1972 AMENDMENTS TO PRIOR SECTIONS

Pub. L. 85-859, title II, §206(f), Sept. 2, 1958, 72 Stat. 1431, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided:

“(1) The amendments made by this section [amending this section and sections 5005, 5232, 5242, and 5243 of this title] shall apply with respect to:

“(A) distilled spirits which on the date of the enactment of this Act [Sept. 2, 1958] are in internal revenue bonded warehouses or are in transit to or between such warehouses, and in respect of which the 8-year bonding period has not expired before the date of enactment of this Act; and

“(B) distilled spirits which after the date of the enactment of this Act [Sept. 2, 1958] are entered for deposit in an internal revenue bonded warehouse.

“(2) If the 8 years from the date of original entry of any distilled spirits for deposit in internal revenue bonded warehouses expires at any time during the 10-day period which begins on the date of the enactment of this Act [Sept. 2, 1958], the amendments made by this section shall apply with respect to such spirits if (and only if) before the close of such 10-day period there is filed with the Secretary of the Treasury or his delegate either—

“(A) a consent of surety which changes (for periods on and after the date of the enactment of this Act) the condition based on the withdrawal of spirits from the internal revenue bonded warehouse within 8 years from the date of original entry for deposit to a condi-

tion based on the withdrawal of spirits from the internal revenue bonded warehouse within 20 years from the date of original entry for deposit, or

“(B) a bond which applies to periods on and after the date of the enactment of this Act and which satisfies the requirements of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this section, and is conditioned on the withdrawal of spirits from the internal revenue bonded warehouse within 20 years from the date of original entry for deposit.”

§ 5007. Collection of tax on distilled spirits**(a) Tax on distilled spirits removed from bonded premises**

The tax on domestic distilled spirits and on distilled spirits removed from customs custody under section 5232 shall be paid in accordance with section 5061.

(b) Collection of tax on imported distilled spirits

The internal revenue tax imposed by section 5001(a)(1) and (2) upon imported distilled spirits shall be collected by the Secretary and deposited as internal revenue collections, under such regulations as the Secretary may prescribe. Section 5688 shall be applicable to the disposition of imported spirits.

(c) Cross references

(1) For authority of the Secretary to make determinations and assessments of internal revenue taxes and penalties, see section 6201(a).

(2) For authority to assess tax on distilled spirits not bonded, see section 5006(c).

(3) For provisions relating to payment of tax, under certain conditions, on distilled spirits withdrawn free of tax, denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(4), (5), and (6).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1322; amended Pub. L. 94-455, title XIX, §§1905(b)(2)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834; Pub. L. 96-39, title VIII, §807(a)(5), July 26, 1979, 93 Stat. 280; Pub. L. 103-465, title I, §136(c)(3), (4), Dec. 8, 1994, 108 Stat. 4841, 4842.)

PRIOR PROVISIONS

A prior section 5007, act Aug. 16, 1954, ch. 736, 68A Stat. 600, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5007(c) related to “payment of tax on alcoholic compounds from Puerto Rico and Virgin Islands”. See section 7652 of this title.

Prior section 5007(e)(1) related to “assessment for deficiencies in production and excess of materials used” and “requirement”. See sections 5004(b)(1) and 5006(a)(3) of this title.

Prior section 5007(e)(2) related to “relief from assessment for deficiencies in production and excess of materials used” and is obsolete.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-465, §136(c)(3), amended subsec. (b) generally, striking out provisions relating to collection and deposit as internal revenue collections of taxes on imported perfumes containing distilled spirits.

Subsec. (c)(3). Pub. L. 103-465, §136(c)(4), substituted “section 5001(a)(4), (5), and (6)” for “section 5001(a)(5), (6), and (7)”.

1979—Subsec. (a). Pub. L. 96-39 struck out “(1) General” before “The tax on domestic” and par. (2) which related to distilled spirits withdrawn to bottling premises under withdrawal bond.

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

Subsec. (b)(1). Pub. L. 94-455, §§1905(b)(2)(A), 1906(b)(13)(A), struck out second sentence “Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1930 (46 Stat. 590; 19 U.S.C., chapter 4), or any subsequent act.” and “or his delegate” after “Secretary” wherever appearing.

Subsecs. (b)(2), (c)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

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 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(2)(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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits

(a) Distilled spirits lost or destroyed in bond

(1) Extent of loss allowance

No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(A) Theft

In the case of loss by theft, unless the Secretary finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(B) Voluntary destruction

In the case of voluntary destruction, unless such destruction is carried out as provided in subsection (b); and

(C) Unexplained shortage

In the case of an unexplained shortage of bottled distilled spirits.

(2) Proof of loss

In any case in which distilled spirits are lost or destroyed, whether by theft or otherwise, the Secretary may require the proprietor of the distilled spirits plant or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the proprietor of the distilled spirits plant or other person responsible for the distilled spirits tax to establish to the satisfaction of the Secretary that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(3) Refund of tax

In any case where the tax would not be collectible by virtue of paragraph (1), but such

tax has been paid, the Secretary shall refund such tax.

(4) Limitations

Except as provided in paragraph (5), no tax shall be abated, remitted, credited, or refunded under this subsection where the loss occurred after the tax was determined (as provided in section 5006(a)). The abatement, remission, credit, or refund of taxes provided for by paragraphs (1) and (3) in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(5) Applicability

The provisions of this subsection shall extend to and apply in respect of distilled spirits lost after the tax was determined and before completion of the physical removal of the distilled spirits from the bonded premises.

(b) Voluntary destruction

The proprietor of the distilled spirits plant or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any distilled spirits in bond may voluntarily destroy such spirits, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

(c) Distilled spirits returned to bonded premises

(1) In general

Whenever any distilled spirits on which tax has been determined or paid are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

(2) Claim must be filed within 6 months of return of spirits

No allowance under paragraph (1) may be made unless claim therefor is filed within 6 months of the date of the return of the spirits. Such claim may be filed only by the proprietor of the distilled spirits plant to which the spirits were returned, and shall be filed in such form as the Secretary may by regulations prescribe.

(d) Distilled spirits withdrawn without payment of tax

The provisions of subsection (a) shall be applicable to loss of distilled spirits occurring during transportation from bonded premises of a distilled spirits plant to—

(1) the port of export, in case of withdrawal under section 5214(a)(4);

(2) the customs manufacturing bonded warehouse, in case of withdrawal under section 5214(a)(6);

(3) the vessel or aircraft, in case of withdrawal under section 5214(a)(7);

(4) the foreign-trade zone, in case of withdrawal under section 5214(a)(8); and

(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from

bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of the internal revenue tax on distilled spirits, shall, insofar as applicable and not inconsistent with subsection (c), be applicable to the credits or refunds provided for under such subsection to the same extent as if such credits or refunds constituted credits or refunds of such tax.

(f) Cross reference

For provisions relating to allowance for loss in case of wine spirits withdrawn for use in wine production, see section 5373(b)(3).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1323; amended Pub. L. 89-44, title VIII, §805(a), June 21, 1965, 79 Stat. 160; Pub. L. 90-630, §1, Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91-659, §§1, 2(a), (b), Jan. 8, 1971, 84 Stat. 1964; Pub. L. 94-273, §47, Apr. 21, 1976, 90 Stat. 382; Pub. L. 94-455, title XIX, §§1905(a)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95-176, §§2(f), 4(e), Nov. 14, 1977, 91 Stat. 1364, 1366; Pub. L. 96-39, title VIII, §807(a)(6), July 26, 1979, 93 Stat. 281; Pub. L. 105-34, title XIV, §1411(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

A prior section 5008, act Aug. 16, 1954, ch. 736, 68A Stat. 602, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5205(a), (g) and 5604(a)(1) of this title.

Provisions similar to those comprising subsecs. (a)(1) to (4) and (f)(1), (2) of this section were contained in prior sections 5011(a)(1) to (4), 5023, 5247(e) and 5522(b), act Aug. 16, 1954, ch. 736, 68A Stat. 604, 606, 648, 679, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105-34 substituted “on which tax has been determined or paid” for “withdrawn from bonded premises on payment or determination of tax”.

1979—Subsec. (a)(1)(C). Pub. L. 96-39, §807(a)(6)(A), added subpar. (C).

Subsec. (a)(5). Pub. L. 96-39, §807(a)(6)(B), substituted “before” for “prior to the completion” and struck out provisions relating to the applicability of this subsection where the loss occurred after the time prescribed for the withdrawal of the distilled spirits from the bonded premises under section 5006(a)(2) and relating to the applicability of this paragraph to any loss of distilled spirits for which abatement, remission, credit, or refund of tax is allowed under subsec. (c).

Subsec. (b). Pub. L. 96-39, §807(a)(6)(C), struck out “(1) Distilled spirits in bond” before “The proprietor of” and provisions relating to distilled spirits withdrawn for rectification or bottling.

Subsec. (c). Pub. L. 96-39, §807(a)(6)(C), added subsec. (c). Former subsec. (c), which related to loss of distilled spirits withdrawn from bond for rectification or bottling, was struck out.

Subsec. (d). Pub. L. 96-39, §807(a)(6)(D), redesignated subsec. (f) as (d). Former subsec. (d), which related to distilled spirits returned to bonded premises, was struck out.

Subsec. (e). Pub. L. 96-39, §807(a)(6)(D), (E), redesignated subsec. (g) as (e) and substituted “subsection (c)” for “subsections (b)(2), (c), and (d)” and “under such subsection” for “under such subsections”. Former sub-

sec. (e), which related to samples of distilled spirits used for analysis or testing by United States, was struck out.

Subsec. (f). Pub. L. 96-39, §807(a)(6)(D), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsecs. (g), (h). Pub. L. 96-39, §807(a)(6)(D), redesignated subsecs. (g) and (h) as (e) and (f), respectively.

1977—Subsec. (d). Pub. L. 95-176, §2(f), reenacted par. (1) and substituted heading “General” for “Allowance of tax” and “(or the tax equal to such tax imposed under section 7652)” for “or under section 7652”; added pars. (2) and (3); and redesignated as par. (4) provisions of former par. (2) and inserted reference to allowance of claims under par. (2) or (3).

Subsec. (f)(5). Pub. L. 95-176, §4(e), added par. (5).

1976—Subsec. (b)(1). Pub. L. 94-455, §§1905(a)(2)(A), 1906(b)(13)(A), inserted “or by section 7652” after “tax imposed by this chapter” and struck out “or his delegate” after “Secretary”.

Subsec. (b)(2). Pub. L. 94-455, §§1905(a)(2)(B), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” and inserted “, or under section 7652” after “under subpart B of this part”.

Subsec. (c)(1). Pub. L. 94-455, §§1905(a)(2)(C), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing and inserted “or under section 7652” after “under section 5001(a)(1)”.

Subsec. (c)(2), (3). Pub. L. 94-273 substituted “computation year” for “fiscal year” wherever appearing.

Subsec. (c)(5). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1). Pub. L. 94-455, §§1905(a)(2)(C), (D), 1906(b)(13)(A), struck out “on or after July 1, 1959,” after “from bonded premises,” and “or his delegate” after “Secretary” and inserted “or under section 7652” after “under section 5001(a)(1)”.

1971—Subsec. (b)(2). Pub. L. 91-659, §2(a), struck out condition that the distilled spirits can be destroyed only before bottling and permitted destruction after completion of bottling so long as the distilled spirits are on the bottling premises and added taxes imposed under subpart B of this Part as additional taxes which can be claimed for abatement, remission, credit or refund.

Subsec. (c)(1)(A). Pub. L. 91-659, §1, added cl. (iii).

Subsec. (c)(5). Pub. L. 91-659, §2(b), permits distilled spirits returned to bottling premises to be treated for purposes of the various loss provisions as though they had not been removed from the bottling premises.

1968—Subsec. (c)(1). Pub. L. 90-630 inserted provisions allowing abatement, remission, and refund if the casualty loss occurs after completion of the packaging but before the spirits have been removed from the premises of the distilled spirits plant to which the spirits were removed from bond.

1965—Subsec. (d)(2). Pub. L. 89-44 struck out final clause prohibiting the allowance of a claim in respect to any distilled spirits withdrawn from bonded premises of a distilled spirits plant more than 6 months prior to the date of such return.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1411(b), Aug. 5, 1997, 111 Stat. 1046, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(2) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91-659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-630, § 4, Oct. 22, 1968, 82 Stat. 1329, provided that:

“(a) For purposes of subsection (b), the effective date of this Act is the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 22, 1968].

“(b) The amendments made by the first section of this Act [amending this section] shall apply only to losses sustained on or after such effective date. The amendments made by section 2 [amending section 5062 of this title and section 1313 of Title 19, Customs Duties] shall apply only to articles exported on or after such effective date. The amendments made by section 3 [amending section 5232 of this title] shall apply only to withdrawals from customs custody on or after such effective date.”

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, § 805(g)(1), June 21, 1965, 79 Stat. 162, provided that: “The amendments made by subsections (a), (c), (e), and (f)(6) [amending this section and sections 5062, 5215, and 5608 of this title] shall take effect on July 1, 1965.”

DISTILLED SPIRITS RETURNED TO BONDED PREMISES OF DISTILLED SPIRITS PLANT DURING 1980

Subsec. (c)(1) of this section to be treated as including a reference to section 5041 of this title with respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, see section 808(d) of Pub. L. 96-39, set out as a note under section 5061 of this title.

[§ 5009. Repealed. Pub. L. 96-39, title VIII, § 807(a)(7), July 26, 1979, 93 Stat. 281]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1327; amended Pub. L. 94-455, title XIX, §§ 1905(a)(3), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834, related to drawback on exportation of distilled spirits in casks or packages.

A prior section 5009, act Aug. 16, 1954, ch. 736, 68A Stat. 603, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5205(c)(1), (f), (i)(4) and 5206(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5010. Credit for wine content and for flavors content**(a) Allowance of credit****(1) Wine content**

On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

(A) \$13.50, over

(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

(2) Flavors content

On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to \$13.50.

(3) Fractional part of proof gallon

In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

(b) Time for determining and allowing credit**(1) In general**

The credit allowable by subsection (a)—

(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

(2) Determination of content in the case of imports

For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

(c) Definitions

For purposes of this section—

(1) Wine content**(A) In general**

The term “wine content” means alcohol derived from wine.

(B) Wine

The term “wine”—

(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

(2) Flavors content**(A) In general**

Except as provided in subparagraph (B), the term “flavors content” means alcohol derived from flavors of a type for which drawback is allowable under section 5114.

(B) Exceptions

The term “flavors content” does not include—

(i) alcohol derived from flavors made at a distilled spirits plant,

(ii) alcohol derived from flavors distilled at a distilled spirits plant, and

(iii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof

gallon basis) 2½ percent of the finished product.

(Added Pub. L. 96-598, §6(a), Dec. 24, 1980, 94 Stat. 3488; amended Pub. L. 98-369, div. A, title I, §27(a)(2), July 18, 1984, 98 Stat. 507; Pub. L. 100-647, title V, §5063(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 101-508, title XI, §11201(a)(2), Nov. 5, 1990, 104 Stat. 1388-415; Pub. L. 109-59, title XI, §11125(b)(14), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5010, act Aug. 16, 1954, ch. 736, 68A Stat. 603, related to miscellaneous stamp provisions, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (c)(2)(A). Pub. L. 109-59 substituted “section 5114” for “section 5134”.

1990—Subsec. (a)(1), (2). Pub. L. 101-508 substituted “\$13.50” for “\$12.50”.

1988—Subsec. (c)(2)(B). Pub. L. 100-647 added cl. (ii) and redesignated former cl. (ii) as (iii).

1984—Subsec. (a)(1), (2). Pub. L. 98-369 substituted “\$12.50” for “\$10.50”.

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 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5063(b), Nov. 10, 1988, 102 Stat. 3681, provided that: “The amendments made by this section [amending this section] shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1985, see section 27(d)(1) of Pub. L. 98-369, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Pub. L. 96-598, §6(c), Dec. 24, 1980, 94 Stat. 3489, provided that: “The amendments made by subsections (a) and (b) [enacting this section] shall take effect on January 1, 1980.”

§ 5011. Income tax credit for average cost of carrying excise tax

(a) In general

For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

(1) in the case of—

(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

(i) which were bottled in the United States, and

(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated

by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

(b) Eligible wholesaler

For purposes of this section, the term “eligible wholesaler” means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

(c) Average tax-financing cost

(1) In general

For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

(2) Deemed financing rate

For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

(3) Deemed Federal excise tax per case

For purposes of paragraph (1), the deemed Federal excise tax per case is \$25.68.

(d) Other definitions and special rules

For purposes of this section—

(1) Case

The term “case” means 12 80-proof 750-milliliter bottles.

(2) Number of cases in lot

The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.

(Added Pub. L. 109-59, title XI, §11126(a), Aug. 10, 2005, 119 Stat. 1957.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (b), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5011, act Aug. 16, 1954, ch. 736, 68A Stat. 604, related to abatement, remission, refund and allowance for loss or destruction of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5012, act Aug. 16, 1954, ch. 736, 68A Stat. 605, related to drawback on exportation of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section applicable to taxable years beginning after Sept. 30, 2005, see section 11126(d) of Pub. L. 109-59, set out as an Effective Date of 2005 Amendments note under section 38 of this title.

[SUBPART B—REPEALED]

[§§ 5021 to 5026. Repealed. Pub. L. 96-39, title VIII, § 803(a), July 26, 1979, 93 Stat. 274]

Section 5021, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, provided for imposition of a tax on rectified distilled spirits or wines.

A prior section 5021, act Aug. 16, 1954, ch. 736, 68A Stat. 606, related to imposition and rate of tax, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5022, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328; amended Pub. L. 86-75, § 3(a)(4), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, § 202(a)(6), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, § 3(a)(6), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, § 3(a)(5), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, § 3(a)(6), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, § 2(a)(6), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, § 501(b), June 21, 1965, 79 Stat. 150, imposed a tax on cordials and liqueurs containing wine.

A prior section 5022, acts Aug. 16, 1954, ch. 736, 68A Stat. 606; Mar. 30, 1955, ch. 18, § 3(a)(6), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(6), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, § 3(a)(4), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, § 3(a)(4), 72 Stat. 259, imposed a tax on cordials and liqueurs containing wine, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5023, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, imposed a tax on the blending of beverage rums and brandies.

A prior section 5023, act Aug. 16, 1954, ch. 736, 68A Stat. 606, imposed a tax on blending of beverage brandies, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5024, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, indicated the sources for the definitions of “rectifier”, “products of rectification”, and “distilled spirits” and referred to other definitions relating to distilled spirits as well as other definitions of general application to this title.

A prior section 5024, act Aug. 16, 1954, ch. 736, 68A Stat. 607, defined “rectifier” and “products of rectification”, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5025, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328; amended Pub. L. 89-44, title VIII, § 805(b), (f)(2)-(5), June 21, 1965, 79 Stat. 161; Pub. L. 94-455, title XIX, §§ 1905(a)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95-176, §§ 5(b), 6, Nov. 14, 1977, 91 Stat. 1366, 1367, enumerated 12 exemptions from the rectification tax.

A prior section 5025, act Aug. 16, 1954, ch. 736, 68A Stat. 607, related to exemption from rectification tax, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising section 5025(e)(1), (2), (4) of this title were contained in former sections 5023, 5217(a), and 5306 of this title, act Aug. 16, 1954, ch. 736, 68A Stat. 606, 641, 657, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5026, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1330; Pub. L. 94-455, title XIX, §§ 1905(b)(2)(B), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834, related to the determination and collection of the rectification tax.

A prior section 5026, act Aug. 16, 1954, ch. 736, 68A Stat. 608, related to determination and collection of rectification tax, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5027, act Aug. 16, 1954, ch. 736, 68A Stat. 609, related to stamp provisions applicable to rectifiers, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5028, act Aug. 16, 1954, ch. 736, 68A Stat. 609, related to cross references for penalty provisions, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

SUBPART C—WINES

Sec.	
5041.	Imposition and rate of tax.
5042.	Exemption from tax.
5043.	Collection of taxes on wines.
5044.	Refund of tax on wine.
5045.	Cross references.

PRIOR PROVISIONS

A prior subpart C, comprising sections 5041 to 5045, related to wines, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, § 1416(b)(3), Aug. 5, 1997, 111 Stat. 1048, struck out “unmerchtable” before “wine” in item 5044.

§ 5041. Imposition and rate of tax**(a) Imposition**

There is hereby imposed on all wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in bond in, produced in, or imported into, the United States, taxes at the rates shown in subsection (b), such taxes to be determined as of the time of removal for consumption or sale. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and taxed accordingly. Subject to subsection (h), still wines shall include those wines containing not more than 0.392 gram of carbon dioxide per hundred milliliters of wine; except that the Secretary may by regulations prescribe such tolerances to this maximum limitation as may be reasonably necessary in good commercial practice.

(b) Rates of tax

(1) On still wines containing not more than 14 percent (16 percent in the case of wine removed after December 31, 2017, and before January 1, 2020¹ of alcohol by volume, \$1.07 per wine gallon;

(2) On still wines containing more than 14 percent (16 percent in the case of wine removed after December 31, 2017, and before January 1, 2020¹ and not exceeding 21 percent of alcohol by volume, \$1.57 per wine gallon;

(3) On still wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, \$3.15 per wine gallon;

(4) On champagne and other sparkling wines, \$3.40 per wine gallon;

(5) On artificially carbonated wines, \$3.30 per wine gallon; and

(6) On hard cider, 22.6 cents per wine gallon.

(c) Credit for small domestic producers**(1) Allowance of credit**

Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the cal-

¹ So in original. Probably should be followed by a closing parenthesis.

endar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States. In the case of wine described in subsection (b)(6), the preceding sentence shall be applied by substituting “5.6 cents” for “90 cents”.

(2) Reduction in credit

The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

(3) Time for determining and allowing credit

The credit allowable by paragraph (1)—

(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

(4) Controlled groups

Rules similar to rules of section 5051(a)(5) shall apply for purposes of this subsection.

(5) Denial of deduction

Any deduction under subtitle A with respect to any tax against which a credit is allowed under this subsection shall only be for the amount of such tax as reduced by such credit.

(6) Credit for transferee in bond

If—

(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the “transferee”) to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee’s credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

(7) Regulations

The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.

(8) Special rule for 2018 and 2019

(A) In general

In the case of wine removed after December 31, 2017, and before January 1, 2020, paragraphs (1) and (2) shall not apply and there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) an amount equal to the sum of—

(i) \$1 per wine gallon on the first 30,000 wine gallons of wine, plus

(ii) 90 cents per wine gallon on the first 100,000 wine gallons of wine to which clause (i) does not apply, plus

(iii) 53.5 cents per wine gallon on the first 620,000 wine gallons of wine to which clauses (i) and (ii) do not apply,

which are produced by the producer and removed during the calendar year for consumption or sale, or which are imported by the importer into the United States during the calendar year but only if the importer is an electing importer under paragraph (9) and the wine gallons of wine have been assigned to the importer pursuant to such paragraph.

(B) Adjustment of credit for hard cider

In the case of wine described in subsection (b)(6), subparagraph (A) of this paragraph shall be applied—

(i) in clause (i) of such subparagraph, by substituting “6.2 cents” for “\$1”,

(ii) in clause (ii) of such subparagraph, by substituting “5.6 cents” for “90 cents”, and

(iii) in clause (iii) of such subparagraph, by substituting “3.3 cents” for “53.5 cents”.

(9) Allowance of credit for foreign manufacturers and importers

(A) In general

In the case of any wine gallons of wine which have been produced outside of the United States and imported into the United States, the credit allowable under paragraph (8) (referred to in this paragraph as the “tax credit”) may be assigned by the person who produced such wine (referred to in this paragraph as the “foreign producer”), provided that such person makes an election described in subparagraph (B)(ii), to any electing importer of such wine gallons pursuant to the requirements established by the Secretary under subparagraph (B).

(B) Assignment

The Secretary shall, through such rules, regulations, and procedures as are determined appropriate, establish procedures for assignment of the tax credit provided under this paragraph, which shall include—

(i) a limitation to ensure that the number of wine gallons of wine for which the tax credit has been assigned by a foreign producer—

(I) to any importer does not exceed the number of wine gallons of wine produced

by such foreign producer during the calendar year which were imported into the United States by such importer, and

(II) to all importers does not exceed the 750,000 wine gallons of wine to which the tax credit applies,

(ii) procedures that allow the election of a foreign producer to assign and an importer to receive the tax credit provided under this paragraph,

(iii) requirements that the foreign producer provide any information as the Secretary determines necessary and appropriate for purposes of carrying out this paragraph, and

(iv) procedures that allow for revocation of eligibility of the foreign producer and the importer for the tax credit provided under this paragraph in the case of any erroneous or fraudulent information provided under clause (iii) which the Secretary deems to be material to qualifying for such credit.

(C) Controlled group

For purposes of this section, any importer making an election described in subparagraph (B)(ii) shall be deemed to be a member of the controlled group of the foreign producer, as described under paragraph (4).

(d) Wine gallon

For the purpose of this chapter, the term “wine gallon” means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches. On lesser quantities the tax shall be paid proportionately (fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon being converted to the next full one-tenth gallon).

(e) Tolerances

Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than $\frac{1}{2}$ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed.

(f) Illegally produced wine

Notwithstanding subsection (a), any wine produced in the United States at any place other than the bonded premises provided for in this chapter shall (except as provided in section 5042 in the case of tax-free production) be subject to tax at the rate prescribed in subsection (b) at the time of production and whether or not removed for consumption or sale.

(g) Hard cider

For purposes of subsection (b)(6), the term “hard cider” means a wine—

(1) containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary may by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice,

(2) which is derived primarily—

(A) from apples or pears, or

(B) from—

(i) apple juice concentrate or pear juice concentrate, and

(ii) water,

(3) which contains no fruit product or fruit flavoring other than apple or pear, and

(4) which contains at least one-half of 1 percent and less than 8.5 percent alcohol by volume.

(h) Mead and low alcohol by volume wine

(1) In general

For purposes of subsections (a) and (b)(1), mead and low alcohol by volume wine shall be deemed to be still wines containing not more than 16 percent of alcohol by volume.

(2) Definitions

(A) Mead

For purposes of this section, the term “mead” means a wine—

(i) containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary shall by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice,

(ii) which is derived solely from honey and water,

(iii) which contains no fruit product or fruit flavoring, and

(iv) which contains less than 8.5 percent alcohol by volume.

(B) Low alcohol by volume wine

For purposes of this section, the term “low alcohol by volume wine” means a wine—

(i) containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary shall by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice,

(ii) which is derived—

(I) primarily from grapes, or

(II) from grape juice concentrate and water,

(iii) which contains no fruit product or fruit flavoring other than grape, and

(iv) which contains less than 8.5 percent alcohol by volume.

(3) Termination

This subsection shall not apply to wine removed after December 31, 2019.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1331; amended Pub. L. 86-75, §3(a)(5), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, §202(a)(7), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, §3(a)(7), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, §3(a)(6), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, §3(a)(7), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(a)(7), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, §501(c), title VIII, §806(a), June 21, 1965, 79 Stat. 150, 162; Pub. L. 93-490, §6(a), Oct. 26, 1974, 88 Stat. 1468; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title VI, §6101(a), Nov. 10, 1988, 102 Stat.

3710; Pub. L. 101-508, title XI, §11201(b)(1), (2), Nov. 5, 1990, 104 Stat. 1388-415, 1388-416; Pub. L. 104-188, title I, §1702(b)(5), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title IX, §908(a), (b), Aug. 5, 1997, 111 Stat. 876; Pub. L. 105-206, title VI, §6009(a), July 22, 1998, 112 Stat. 812; Pub. L. 114-113, div. Q, title III, §335(a), Dec. 18, 2015, 129 Stat. 3109; Pub. L. 115-97, title I, §§13804(a)-(c), 13805(a), 13806(a), Dec. 22, 2017, 131 Stat. 2173-2175.)

PRIOR PROVISIONS

A prior section 5041, acts Aug. 16, 1954, ch. 736, 68A Stat. 609; Mar. 30, 1955, ch. 18, §3(a)(7), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(7), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, §3(a)(5), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, §3(a)(5), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-97, §13806(a)(1), substituted “Subject to subsection (h), still wines” for “Still wines”.

Subsec. (b)(1), (2). Pub. L. 115-97, §13805(a), inserted “(16 percent in the case of wine removed after December 31, 2017, and before January 1, 2020” after “14 percent”.

Subsec. (c)(4). Pub. L. 115-97, §13804(b), substituted “section 5051(a)(5)” for “section 5051(a)(2)(B)”.

Subsec. (c)(8). Pub. L. 115-97, §13804(a), added par. (8). Subsec. (c)(8)(A). Pub. L. 115-97, §13804(c)(1), inserted “but only if the importer is an electing importer under paragraph (9) and the wine gallons of wine have been assigned to the importer pursuant to such paragraph” after “into the United States during the calendar year” in concluding provisions.

Subsec. (c)(9). Pub. L. 115-97, §13804(c)(2), added par. (9).

Subsec. (h). Pub. L. 115-97, §13806(a)(2), added subsec. (h).

2015—Subsec. (b)(6). Pub. L. 114-113, §335(a)(1), struck out “which is a still wine derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and less than 7 percent alcohol by volume” after “hard cider”.

Subsec. (g). Pub. L. 114-113, §335(a)(2), added subsec. (g).

1998—Subsec. (b)(6). Pub. L. 105-206 inserted “which is a still wine” after “hard cider”.

1997—Subsec. (b)(6). Pub. L. 105-34, §908(a), added par. (6).

Subsec. (c)(1). Pub. L. 105-34, §908(b), inserted at end “In the case of wine described in subsection (b)(6), the preceding sentence shall be applied by substituting ‘5.6 cents’ for ‘90 cents’.”

1996—Subsec. (c)(6), (7). Pub. L. 104-188 added pars. (6) and (7) and struck out former par. (6) which read as follows:

“(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year and to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.”

1990—Subsec. (b)(1). Pub. L. 101-508, §11201(b)(1)(A), substituted “\$1.07” for “17 cents”.

Subsec. (b)(2). Pub. L. 101-508, §11201(b)(1)(B), substituted “\$1.57” for “67 cents”.

Subsec. (b)(3). Pub. L. 101-508, §11201(b)(1)(C), substituted “\$3.15” for “\$2.25”.

Subsec. (b)(5). Pub. L. 101-508, §11201(b)(1)(D), substituted “\$3.30” for “\$2.40”.

Subsecs. (c) to (f). Pub. L. 101-508, §11201(b)(2), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1988—Subsecs. (d), (e). Pub. L. 100-647 added subsec. (d) and redesignated former subsec. (d) as (e).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1974—Subsec. (a). Pub. L. 93-490 substituted “0.392” for “0.277”.

1965—Subsec. (a). Pub. L. 89-44, §806(a), substituted “0.277” for “0.256”.

Subsec. (b). Pub. L. 89-44, §501(c)(1)-(5), struck out provisions at end of each par. setting out a specified reduced rate to be applied on and after July 1, 1965.

1964—Subsec. (b). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964” in five places.

1963—Subsec. (b). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963” in five places.

1962—Subsec. (b). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962” in five places.

1961—Subsec. (b). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961” in five places.

1960—Subsec. (b). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960” in five places.

1959—Subsec. (b). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959” in five places.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13804(d), Dec. 22, 2017, 131 Stat. 2175, provided that: “The amendments made by this section [amending this section] shall apply to wine removed after December 31, 2017.”

Pub. L. 115-97, title I, §13805(b), Dec. 22, 2017, 131 Stat. 2175, provided that: “The amendments made by this section [amending this section] shall apply to wine removed after December 31, 2017.”

Pub. L. 115-97, title I, §13806(b), Dec. 22, 2017, 131 Stat. 2175, provided that: “The amendments made by this section [amending this section] shall apply to wine removed after December 31, 2017.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, §335(b), Dec. 18, 2015, 129 Stat. 3109, provided that: “The amendments made by this section [amending this section] shall apply to hard cider removed during calendar years beginning after December 31, 2016.”

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

Pub. L. 105-34, title IX, §908(c), Aug. 5, 1997, 111 Stat. 876, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1997.”

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 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6101(b), Nov. 10, 1988, 102 Stat. 3710, provided that: “The amendment made by subsection (a) [amending this section] shall apply to wine removed after December 31, 1988.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-490, §6(b), Oct. 26, 1974, 88 Stat. 1468, provided that: “The amendment made by this section

[amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act [Oct. 26, 1974].”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501(c) of Pub. L. 89-44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

Pub. L. 89-44, title VIII, §806(d)(1), June 21, 1965, 79 Stat. 164, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1965.”

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Imposition of tax on wine, exception for small domestic producers, exception for certain small wholesale or retail dealers, credit against tax, liability for tax and method of payment, controlled groups, other laws applicable, and definitions, see section 11201(e) of Pub. L. 101-508, set out as a note under section 5001 of this title.

§ 5042. Exemption from tax

(a) Tax-free production

(1) Cider

Subject to regulations prescribed by the Secretary, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

(2) Wine for personal or family use

Subject to regulations prescribed by the Secretary—

(A) Exemption

Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(B) Limitation

The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

- (i) 200 gallons per calendar year if there are 2 or more adults in such household, or
- (ii) 100 gallons per calendar year if there is only 1 adult in such household.

(C) Adults

For purposes of this paragraph, the term “adult” means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.

(3) Experimental wine

Subject to regulations prescribed by the Secretary, any scientific university, college of learning, or institution of scientific research

may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, and may receive such wine spirits without payment of tax as may be necessary for such production.

(b) Cross references

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine free of tax or without payment of tax, see section 5362.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1331; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-458, §2(a), Oct. 14, 1978, 92 Stat. 1255.)

PRIOR PROVISIONS

A prior section 5042, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-458 substituted in heading “Wine for personal or family use” for “Family wine” and in text provision permitting an adult to produce 200 gallons of wine per calendar year if there are 2 or more adults in the household or 100 gallons of wine per calendar year if there is one adult in the household for provision which permitted the duly registered head of any family to produce an amount of wine not exceeding 200 gallons of wine per annum.

1976—Subsec. (a)(1) to (3). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-458, §2(c), Oct. 14, 1978, 92 Stat. 1257, provided that: “The amendments made by this section [amending this section and sections 5051, 5053, 5054, 5092, 5222, and 5674 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].”

§ 5043. Collection of taxes on wines

(a) Persons liable for payment

The taxes on wine provided for in this subpart shall be paid—

(1) Bonded wine cellars

In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor's premises, and the transferor shall thereupon be relieved of such liability; and

(B) in the case of any wine withdrawn by a person other than such proprietor without payment of tax as authorized under the provisions of section 5362(c), the liability for payment of the tax shall become the liability of such person from the time of the re-

removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

(2) Foreign wine

In the case of foreign wines which are not transferred to a bonded wine cellar free of tax under section 5364, by the importer thereof.

(3) Other wines

Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person producing, importing, receiving, removing, or possessing such wine; and all such persons shall be jointly and severally liable for such tax with each other as well as with any proprietor, transferee, or importer who may be liable for the tax under this subsection.

(b) Payment of tax

The taxes on wines shall be paid in accordance with section 5061.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1905(b)(2)(C), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 96-39, title VIII, §807(a)(8), July 26, 1979, 93 Stat. 281; Pub. L. 105-206, title VI, §6014(b)(1), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5043, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-206 inserted “which are not transferred to a bonded wine cellar free of tax under section 5364” after “foreign wines”.

1979—Subsec. (a)(1)(A). Pub. L. 96-39 struck out “between bonded wine cellars” after “transfer of wine in bond”.

1976—Subsec. (b). Pub. L. 94-455 substituted “The taxes” for “Except as provided in subsection (a)(3), the taxes”.

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 1422(c) of Pub. L. 105-34 set out as an Effective Date note under section 5364 of this title), see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5044. Refund of tax on wine

(a) General

In the case of any wine removed from a bonded wine cellar and returned to bond under section 5361—

(1) any tax imposed by section 5041 shall, if paid, be refunded or credited, without interest,

to the proprietor of the bonded wine cellar to which such wine is delivered; or

(2) if any tax so imposed has not been paid, the person liable for the tax may be relieved of liability therefor,

under such regulations as the Secretary may prescribe. Such regulations may provide that claim for refund or credit under paragraph (1), or relief from liability under paragraph (2), may be made only with respect to minimum quantities specified in such regulations. The burden of proof in all such cases shall be on the applicant.

(b) Date of filing

No claim under subsection (a) shall be allowed unless filed within 6 months after the date of the return of the wine to bond.

(c) Status of wine returned to bond

All provisions of this chapter applicable to wine in bond on the premises of a bonded wine cellar and to removals thereof shall be applicable to wine returned to bond under the provisions of this section.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1416(a), (b)(2), Aug. 5, 1997, 111 Stat. 1048; Pub. L. 105-206, title VI, §6014(b)(2), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5044, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206 substituted “removed from a bonded wine cellar” for “produced in the United States” in introductory provisions.

1997—Pub. L. 105-34, §1416(b)(2), struck out “unmerchutable” after “tax on” in section catchline.

Subsec. (a). Pub. L. 105-34, §1416(a), struck out “as unmerchutable” after “to bond” in introductory provisions.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

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

Pub. L. 105-34, title XIV, §1416(c), Aug. 5, 1997, 111 Stat. 1048, provided that: “The amendments made by this section [amending this section and section 5361 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

§ 5045. Cross references

For provisions relating to the establishment and operation of wineries, see subchapter F, and for penalties pertaining to wine, see subchapter J.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333.)

PRIOR PROVISIONS

A prior section 5045, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 85-859.

SUBPART D—BEER

Sec.	
5051.	Imposition and rate of tax.
5052.	Definitions.
5053.	Exemptions.
5054.	Determination and collection of tax on beer.
5055.	Drawback of tax.
5056.	Refund and credit of tax, or relief from liability.

PRIOR PROVISIONS

A prior subpart D, comprising sections 5051 to 5057 of this title, related to beer, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5051. Imposition and rate of tax

(a) Rate of tax

(1) In general

(A) Imposition of tax

A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be the amount determined under this paragraph.

(B) Rate

Except as provided in subparagraph (C), the rate of tax shall be \$18 for per¹ barrel.

(C) Special rule

In the case of beer removed after December 31, 2017, and before January 1, 2020, the rate of tax shall be—

(i) \$16 on the first 6,000,000 barrels of beer—

(I) brewed by the brewer and removed during the calendar year for consumption or sale, or

(II) imported by the importer into the United States during the calendar year but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph, and

(ii) \$18 on any barrels of beer to which clause (i) does not apply.

(D) Barrel

For purposes of this section, a barrel shall contain not more than 31 gallons of beer, and any tax imposed under this section shall be applied at a like rate for any other quantity or for fractional parts of a barrel.

(2) Reduced rate for certain domestic production

(A) rate²

In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 (\$3.50 in the case of beer removed after December 31,

2017, and before January 1, 2020) on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) Regulations

The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year.

(3) Tolerances

Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

(4) Reduced tax rate for foreign manufacturers and importers

(A) In general

In the case of any barrels of beer which have been brewed or produced outside of the United States and imported into the United States, the rate of tax applicable under clause (i) of paragraph (1)(C) (referred to in this paragraph as the “reduced tax rate”) may be assigned by the brewer (provided that the brewer makes an election described in subparagraph (B)(ii)) to any electing importer of such barrels pursuant to the requirements established by the Secretary under subparagraph (B).

(B) Assignment

The Secretary shall, through such rules, regulations, and procedures as are determined appropriate, establish procedures for assignment of the reduced tax rate provided under this paragraph, which shall include—

(i) a limitation to ensure that the number of barrels of beer for which the reduced tax rate has been assigned by a brewer—

(I) to any importer does not exceed the number of barrels of beer brewed or produced by such brewer during the calendar year which were imported into the United States by such importer, and

(II) to all importers does not exceed the 6,000,000 barrels to which the reduced tax rate applies,

(ii) procedures that allow the election of a brewer to assign and an importer to receive the reduced tax rate provided under this paragraph,

(iii) requirements that the brewer provide any information as the Secretary determines necessary and appropriate for purposes of carrying out this paragraph, and

(iv) procedures that allow for revocation of eligibility of the brewer and the importer for the reduced tax rate provided

¹ So in original.

² So in original. Probably should be “Rate”.

under this paragraph in the case of any erroneous or fraudulent information provided under clause (iii) which the Secretary deems to be material to qualifying for such reduced rate.

(C) Controlled group

For purposes of this section, any importer making an election described in subparagraph (B)(ii) shall be deemed to be a member of the controlled group of the brewer, as described under paragraph (5).

(5) Controlled group and single taxpayer rules

(A) In general

Except as provided in subparagraph (B), in the case of a controlled group, the 6,000,000 barrel quantity specified in paragraph (1)(C)(i) and the 2,000,000 barrel quantity specified in paragraph (2)(A) shall be applied to the controlled group, and the 6,000,000 barrel quantity specified in paragraph (1)(C)(i) and the 60,000 barrel quantity specified in paragraph (2)(A) shall be apportioned among the brewers who are members of such group in such manner as the Secretary or their delegate shall by regulations prescribe. For purposes of the preceding sentence, the term “controlled group” has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” in each place it appears in such subsection. Under regulations prescribed by the Secretary, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

(B) Foreign manufacturers and importers

For purposes of paragraph (4), in the case of a controlled group, the 6,000,000 barrel quantity specified in paragraph (1)(C)(i) shall be applied to the controlled group and apportioned among the members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term “controlled group” has the meaning given such term under subparagraph (A). Under regulations prescribed by the Secretary, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

(C) Single taxpayer

Pursuant to rules issued by the Secretary, two or more entities (whether or not under common control) that produce beer marketed under a similar brand, license, franchise, or other arrangement shall be treated as a single taxpayer for purposes of the application of this subsection.

(b) Assessment on materials used in production in case of fraud

Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in

producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

(c) Illegally produced beer

The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333; amended Pub. L. 86-75, §3(a)(6), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, §202(a)(8), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, §3(a)(8), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, §3(a)(7), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, §3(a)(8), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(a)(8), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, §501(d), June 21, 1965, 79 Stat. 150; Pub. L. 94-529, §1, Oct. 17, 1976, 90 Stat. 2485; Pub. L. 95-458, §2(b)(2)(A), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 101-508, title XI, §11201(c), Nov. 5, 1990, 104 Stat. 1388-416; Pub. L. 115-97, title I, §13802(a)-(d), Dec. 22, 2017, 131 Stat. 2170, 2171.)

PRIOR PROVISIONS

A prior section 5051, act Aug. 16, 1954, ch. 736, 68A Stat. 611, as amended by acts Mar. 30, 1955, ch. 18, §3(a)(8), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(8), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, §3(a)(6), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, §3(a)(6), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-97, §13802(a), amended par. (1) generally. Prior to amendment, text read as follows: “A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be \$18 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.”

Subsec. (a)(1)(C)(i)(II). Pub. L. 115-97, §13802(c)(1), inserted “but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph” after “during the calendar year”.

Subsec. (a)(2)(A). Pub. L. 115-97, §13802(b), in heading, struck out “\$7 a barrel” before “rate” and in text, inserted “(\$3.50 in the case of beer removed after December 31, 2017, and before January 1, 2020)” after “\$7”.

Subsec. (a)(2)(B), (C). Pub. L. 115-97, §13802(d)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to application of barrel quantity to controlled groups.

Subsec. (a)(4). Pub. L. 115-97, §13802(c)(2), added par. (4).

Subsec. (a)(5). Pub. L. 115-97, §13802(d)(2), added par. (5).

1990—Subsec. (a)(1). Pub. L. 101-508, §11201(c)(1), substituted “\$18” for “\$9”.

Subsec. (a)(2)(C). Pub. L. 101-508, §11201(c)(2), added subpar. (C).

1978—Subsec. (c). Pub. L. 95-458 added subsec. (c).

1976—Subsec. (a). Pub. L. 94-529 reduced the excise tax on beer for small brewers to \$7 per barrel on the first 60,000 barrels produced in the United States and removed for sale or consumption or sale during the calendar year, the reduced rate to be applicable only to brewers producing no more than 2 million barrels of beer in a calendar year, and inserted provision that if several brewers are members of a controlled group, the 2-million barrel limit is to be applied to the controlled group and the 60,000-barrel limit is to be apportioned among the members of the controlled group in accordance with Treasury Department regulations promulgated by the Secretary or his delegate.

1965—Subsec. (a). Pub. L. 89-44 struck out sentence providing for the imposition on and after July 1, 1965, of a tax of \$8 in lieu of the tax imposed by the section.

1964—Subsec. (a). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964”.

1963—Subsec. (a). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963”.

1962—Subsec. (a). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962”.

1961—Subsec. (a). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961”.

1960—Subsec. (a). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960”.

1959—Subsec. (a). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13802(e), Dec. 22, 2017, 131 Stat. 2172, provided that: “The amendments made by this section [amending this section] shall apply to beer removed after December 31, 2017.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-529, §2, Oct. 17, 1976, 90 Stat. 2486, provided that: “The amendment made by the first section of this Act [amending this section] shall take effect on the first day of the first calendar year which begins after the date of the enactment of this Act [Oct. 17, 1976].”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Imposition of tax on beer, exception for small domestic producers, exception for certain small wholesale or retail dealers, credit against tax, liability for tax and method of payment, controlled groups, other laws applicable, and definitions, see section 11201(e) of Pub. L. 101-508, set out as a note under section 5001 of this title.

§ 5052. Definitions

(a) Beer

For purposes of this chapter (except when used with reference to distilling or distilling mate-

rial) the term beer means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(b) Gallon

For purposes of this subpart, the term gallon means the liquid measure containing 231 cubic inches.

(c) Removed for consumption of sale

Except as provided for in the case of removal of beer without payment of tax, the term “removed for consumption or sale”, for the purposes of this subpart means—

(1) Sale of beer

The sale and transfer of possession of beer for consumption at the brewery; or

(2) Removals

Any removal of beer from the brewery.

(d) Brewer

For purposes of this chapter, the term “brewer” means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333; amended Pub. L. 91-673, §1(b), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 109-59, title XI, §11125(b)(15), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5052, act Aug. 16, 1954, ch. 736, 68A Stat. 612, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (d). Pub. L. 109-59 amended subsec. (d) generally. Prior to amendment, text read as follows: “For definition of brewer, see section 5092.”

1971—Subsec. (c)(2). Pub. L. 91-673 struck out proviso that removal of beer shall not include beer returned to the brewery on the same day such beer is removed from the brewery.

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 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5053. Exemptions

(a) Removals for export

Beer may be removed from the brewery, without payment of tax, for export, in such containers and under such regulations, and on the giving of such notices, entries, and bonds and other security, as the Secretary may by regulations prescribe.

(b) Removals when unfit for beverage use

When beer has become sour or damaged, so as to be incapable of use as such, a brewer may re-

move the same from his brewery without payment of tax, for manufacturing purposes, under such regulations as the Secretary may prescribe.

(c) Removals for laboratory analysis

Beer may be removed from the brewery, without payment of tax, for laboratory analysis, subject to such limitations and under such regulations as the Secretary may prescribe.

(d) Removals for research, development, or testing

Under such conditions and regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations.

(e) Beer for personal or family use

Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

- (1) 200 gallons per calendar year if there are 2 or more adults in such household, or
- (2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term “adult” means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.

(f) Removal for use as distilling material

Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.

(g) Removals for use of foreign embassies, legations, etc.

(1) In general

Subject to such regulations as the Secretary may prescribe—

(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

(2) Other rules to apply

Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.

(h) Removals for destruction

Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.

(i) Removal as supplies for certain vessels and aircraft

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 89-44, title VIII, §807(b), June 21, 1965, 79 Stat. 164; Pub. L. 91-673, §2, Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-458, §2(b)(1), Oct. 14, 1978, 92 Stat. 1255; Pub. L. 105-34, title XIV, §§1414(b), 1418(a), 1419(a), Aug. 5, 1997, 111 Stat. 1047-1049.)

PRIOR PROVISIONS

A prior section 5053, act Aug. 16, 1954, ch. 736, 68A Stat. 612, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Subsec. (f). Pub. L. 105-34, §1414(b), added subsec. (f). Former subsec. (f) redesignated (i).

Subsec. (g). Pub. L. 105-34, §1418(a), added subsec. (g).

Subsec. (h). Pub. L. 105-34, §1419(a), added subsec. (h).

Subsec. (i). Pub. L. 105-34, §1414(b), redesignated subsec. (f) as (i).

1978—Subsecs. (e), (f). Pub. L. 95-458 added subsec. (e) and redesignated former subsec. (e) as (f).

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsecs. (d), (e). Pub. L. 91-673 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (a). Pub. L. 89-44 struck out “to a foreign country” after “export”.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1414(d), Aug. 5, 1997, 111 Stat. 1047, provided that: “The amendments made by this section [amending this section and sections 5056 and 5222 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, §1418(b), Aug. 5, 1997, 111 Stat. 1049, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, §1419(b), Aug. 5, 1997, 111 Stat. 1049, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days

after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 807(c) of Pub. L. 89-44, set out as a note under section 5002 of this title.

§ 5054. Determination and collection of tax on beer

(a) Time of determination

(1) Beer produced in the United States; certain imported beer

Except as provided in paragraph (3), the tax imposed by section 5051 on beer produced in the United States, or imported into the United States and transferred to a brewery free of tax under section 5418, shall be determined at the time it is removed for consumption or sale, and shall be paid by the brewer thereof in accordance with section 5061.

(2) Beer imported into the United States

Except as provided in paragraph (4), the tax imposed by section 5051 on beer imported into the United States and not transferred to a brewery free of tax under section 5418 shall be determined at the time of the importation thereof, or, if entered for warehousing, at the time of removal from the 1st such warehouse.

(3) Illegally produced beer

The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections¹ 5053(e) (relating to beer for personal or family use).

(4) Unlawfully imported beer

Beer smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

(b) Tax on returned beer

Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

(c) Applicability of other provisions of law

All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 94-455, title XIX, §§1905(a)(5), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat.

1818, 1834; Pub. L. 95-458, §2(b)(2)(B), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 99-509, title VIII, §8011(b)(2), Oct. 21, 1986, 100 Stat. 1953; Pub. L. 100-647, title I, §1018(u)(19), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 105-206, title VI, §6014(a)(1), (2), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5054, act Aug. 16, 1954, ch. 736, 68A Stat. 613, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsecs. (a)(1), (2) and (b) to (d) of this section were contained in prior sections 5055 and 5057(a), act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-206, §6014(a)(1), in heading inserted “; certain imported beer” after “United States” and in text inserted “, or imported into the United States and transferred to a brewery free of tax under section 5418,” after “United States”.

Subsec. (a)(2). Pub. L. 105-206, §6014(a)(2), inserted “and not transferred to a brewery free of tax under section 5418” after “United States”.

1988—Subsec. (a)(2). Pub. L. 100-647 added period at end.

1986—Subsec. (a)(2). Pub. L. 99-509 substituted “if entered for warehousing, at the time of removal from the 1st such warehouse” for “if entered into customs custody, at the time of removal from such custody, and shall be paid under such regulations as the Secretary shall prescribe.”.

1978—Subsec. (a)(3). Pub. L. 95-458 inserted provision excluding from tax the beer exempt from tax under section 5053(e).

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

Subsecs. (c), (d). Pub. L. 94-455, §1905(a)(5), redesignated subsec. (d) as (c) and struck out former subsec. (c) respecting stamps or other devices as evidence of payment of tax.

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 1421(c) of Pub. L. 105-34 set out as an Effective Date note under section 5418 of this title), see section 6024 of Pub. L. 105-206, 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 OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(5) of Pub. L. 94-455 effective on first day of first month which begins more

¹ So in original. Probably should be “section”.

than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5055. Drawback of tax

On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax paid on such beer if there is such proof of exportation as the Secretary may by regulations require. For the purpose of this section, exportation shall include delivery for use as supplies on the vessels and aircraft described in section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1420(a), Aug. 5, 1997, 111 Stat. 1049.)

PRIOR PROVISIONS

A prior section 5055, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to “determination and collection of tax on beer”, prior to the general revision of this chapter by Pub. L. 85-859. See section 5054(a)(1), (2), (c), (d) of this title.

Provisions similar to those comprising this section were contained in prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Pub. L. 105-34 substituted “paid on such beer if there is such proof of exportation as the Secretary may by regulations require.” for “found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regulations prescribe.”

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

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1420(b), Aug. 5, 1997, 111 Stat. 1049, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

§ 5056. Refund and credit of tax, or relief from liability

(a) Beer returned or voluntarily destroyed

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under such regulations as the Secretary may prescribe, if such beer is returned to any brewery of the brewer or is destroyed under the supervision required by such regulations. In determining the amount of tax due on beer removed on any day, the quantity of beer returned to the same brewery from which removed shall be allowed, under such regulations as the Secretary may prescribe, as an offset against or deduction from the total quantity of beer removed from that brewery on the day of such return.

(b) Beer lost by fire, theft, casualty, or act of God

Subject to regulations prescribed by the Secretary, the tax paid by any brewer on beer re-

moved for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, if such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God before the transfer of title thereto to any other person. In any case in which beer is lost or destroyed, whether by theft or otherwise, the Secretary may require the brewer to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the first sentence shall not apply unless the brewer establishes to the satisfaction of the Secretary that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(c) Beer received at a distilled spirits plant

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.

(d) Limitations

No claim under this section shall be allowed (1) unless filed within 6 months after the date of the return, loss, destruction, rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant or (2) if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 91-673, §1(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1414(c), Aug. 5, 1997, 111 Stat. 1047; Pub. L. 105-206, title VI, §6014(a)(3), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to “drawback of tax” prior to the general revision of this chapter by Pub. L. 85-859. See section 5055 of this title.

A prior section 5057, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to refund and credit of tax or relief from liability, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsecs. (a) to (c). Pub. L. 105-206 substituted “removed for consumption or sale” for “produced in the United States”.

1997—Subsec. (c). Pub. L. 105-34, §1414(c)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-34 redesignated subsec. (c) as (d) and substituted “rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant” for “or rendering unmerchantable”.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (a). Pub. L. 91-673 inserted provision permitting credit or refund of tax if the beer is re-

turned to any brewery of the brewer who paid the tax, and provided for offset or deduction against amount of beer removed from the brewery on the day of return if the beer is returned to the same brewery from which it was withdrawn.

Subsec. (b). Pub. L. 91-673 inserted provisions for credit or refund or relief from liability of tax when the beer is lost by theft or otherwise or rendered unmerchantable by fire, casualty or act of God, before the transfer of title to any other party, and required the brewer to file claim for relief from the tax and submit proof of the cause of the loss, and in the case of theft, to further prove that such theft occurred before removal from the brewery and without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

Subsec. (c). Pub. L. 91-673 substantially reenacted subsec. (c) to reflect changes in subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105-34, set out as a note under section 5053 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 91-673, § 5, Jan. 12, 1971, 84 Stat. 2058, provided that: "The amendments made by the first four sections of this Act [enacting section 5417 of this title and amending this section and sections 5052, 5053, 5401, 5402, 5411, 5412, and 5416 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Jan. 12, 1971]."

SUBPART E—GENERAL PROVISIONS

Sec.	
5061.	Method of collecting tax.
5062.	Refund and drawback in case of exportation.
[5063.]	Repealed.]
5064.	Losses resulting from disaster, vandalism, or malicious mischief.
5065.	Territorial extent of law.
5066.	Distilled spirits for use of foreign embassies, legations, etc.
5067.	Cross reference.

PRIOR PROVISIONS

A prior subpart E, comprising sections 5061 to 5065, related to general provisions, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1978—Pub. L. 95-423, § 1(b), Oct. 6, 1978, 92 Stat. 936, substituted "Losses resulting from disaster, vandalism, or malicious mischief" for "Losses caused by disaster" in item 5064.

1971—Pub. L. 91-659, § 3(b), Jan. 8, 1971, 84 Stat. 1966, added item 5066 and redesignated former item 5066 as 5067.

1965—Pub. L. 89-44, title V, § 501(e), June 21, 1965, 79 Stat. 150, struck out item 5063 "Floor stocks tax refunds on distilled spirits, wines, cordials, and beer".

§ 5061. Method of collecting tax

(a) Collection by return

The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The

Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.

(b) Exceptions

Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, and beer under—

- (1) section 5001(a)(4), (5), or (6),
- (2) section 5006(c) or (d),
- (3) section 5041(f),
- (4) section 5043(a)(3),
- (5) section 5054(a)(3) or (4), or
- (6) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.

(c) Import duties

The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax.

(d) Time for collecting tax on distilled spirits, wines, and beer

(1) In general

Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semi-monthly period during which the withdrawal occurs.

(2) Imported articles

In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers)—

(A) In general

The last day for payment of tax shall be the 14th day after the last day of the semi-monthly period during which the article is entered into the customs territory of the United States.

(B) Special rule for entry for warehousing

Except as provided in subparagraph (D), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semi-monthly period during which the article is removed from the 1st such warehouse.

(C) Foreign trade zones

Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(D) Exception for articles destined for export

Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(3) Distilled spirits, wines, and beer brought into the United States from Puerto Rico

In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semi-monthly period during which the article is brought into the United States.

(4) Taxpayers liable for taxes of not more than \$50,000**(A) In general****(i) More than \$1,000 and not more than \$50,000 in taxes**

Except as provided in clause (ii), in the case of any taxpayer who reasonably expects to be liable for not more than \$50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

(ii) Not more than \$1,000 in taxes

In the case of any taxpayer who reasonably expects to be liable for not more than \$1,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than \$1,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) shall be the 14th day after the last day of the calendar year.

(B) No application after limit exceeded**(i) Exceeds \$50,000 limit**

Subparagraph (A)(i) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds \$50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semi-monthly period in which such date occurs.

(ii) Exceeds \$1,000 limit

Subparagraph (A)(ii) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due

under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds \$1,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the calendar quarter in which such date occurs.

(C) Calendar quarter

For purposes of this paragraph, the term “calendar quarter” means the three-month period ending on March 31, June 30, September 30, or December 31.

(5) Special rule for tax due in September**(A) In general**

Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(B) Safe harbor

The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{11}{15}$ of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

(C) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting “September 25” for “September 26”, “September 28” for “September 29”, and “ $\frac{2}{3}$ ” for “ $\frac{11}{15}$ ”.

(6) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in paragraph (5) falls on a Sunday).

(e) Payment by electronic fund transfer**(1) In general**

Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

(2) Electronic fund transfer

The term “electronic fund transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) Controlled groups**(A) In general**

In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term “controlled group of corporations” has the meaning given to such term by subsection (a) of section 1563, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in such subsection.

(B) Controlled groups which include non-incorporated persons

Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, §§ 1905(a)(6), (b)(2)(E)(iii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1819, 1822, 1834; Pub. L. 96-39, title VIII, §§ 804(b), 807(a)(9), July 26, 1979, 93 Stat. 274, 281; Pub. L. 98-369, div. A, title I, § 27(c)(1), July 18, 1984, 98 Stat. 509; Pub. L. 99-509, title VIII, § 8011(b)(1), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 99-514, title XVIII, § 1801(c)(1), Oct. 22, 1986, 100 Stat. 2786; Pub. L. 100-647, title II, § 2003(b)(1)(A), (B), Nov. 10, 1988, 102 Stat. 3598; Pub. L. 101-508, title XI, §§ 11201(b)(3), 11704(a)(21), Nov. 5, 1990, 104 Stat. 1388-416, 1388-519; Pub. L. 103-465, title I, § 136(c)(5), title VII, § 712(b), Dec. 8, 1994, 108 Stat. 4842, 5000; Pub. L. 104-188, title I, § 1702(b)(6), Aug. 20, 1996, 110 Stat. 1869; Pub. L. 109-59, title XI, § 11127(a), (b), Aug. 10, 2005, 119 Stat. 1958, 1959; Pub. L. 114-113, div. Q, title III, § 332(a), Dec. 18, 2015, 129 Stat. 3104.)

PRIOR PROVISIONS

A prior section 5061, act Aug. 16, 1954, ch. 736, 68A Stat. 614, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (d) of this section were contained in former section 5001(c), act Aug. 16, 1954, ch. 736, 68A Stat. 597, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Subsec. (d)(4)(A). Pub. L. 114-113, § 332(a)(1), designated existing provisions as cl. (i), inserted heading, substituted “Except as provided in clause (ii), in the case of” for “In the case of”, struck out “under bond for deferred payment” before “shall be the 14th day”, and added cl. (ii).

Subsec. (d)(4)(B). Pub. L. 114-113, § 332(a)(2), designated existing provisions as cl. (i), inserted heading, substituted “Subparagraph (A)(i)” for “Subparagraph (A)”, and added cl. (ii).

2005—Subsec. (d)(4) to (6). Pub. L. 109-59 added par. (4), redesignated former pars. (4) and (5) as (5) and (6), respectively, and in par. (6) substituted “paragraph (5)” for “paragraph (4)”.

1996—Subsec. (b)(3). Pub. L. 104-188 substituted “section 5041(f),” for “section 5041(e),”.

1994—Subsec. (b)(1). Pub. L. 103-465, § 136(c)(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “section 5001(a)(5), (6), or (7),”.

Subsec. (d)(4). Pub. L. 103-465, § 712(b)(1), added par. (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 103-465, § 712(b), redesignated par. (4) as (5), substituted “due date” for “14th day” in

heading, and inserted “(or the immediately following day where the due date described in paragraph (4) falls on a Sunday)” before period at end.

1990—Subsec. (b)(3). Pub. L. 101-508, §§ 11201(b)(3), 11704(a)(21), amended par. (3) identically, substituting “section 5041(e)” for “section 5041(d)”.

1988—Subsec. (d)(2)(A), (B), (3). Pub. L. 100-647 substituted “last day of the semimonthly period during” for “date on”.

1986—Subsec. (d). Pub. L. 99-509 amended subsec. (d) generally, substituting provisions relating to time for collecting tax on distilled spirits, wines, and beer, for provisions relating to extension of time for collecting tax on distilled spirits.

Subsec. (e)(3). Pub. L. 99-514 added par. (3).

1984—Subsec. (e). Pub. L. 98-369 added subsec. (e).

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(9)(A), struck out “rectified distilled spirits and wines,” after “distilled spirits, wines,”.

Subsec. (b). Pub. L. 96-39, § 807(a)(9)(B), in provisions preceding par. (1) struck out “rectified distilled spirits and wines” after “spirits, wines,” and redesignated pars. (4) to (7) as (3) to (6), respectively. Former par. (3), which made reference to section 5026(a)(2), was struck out.

Subsec. (d). Pub. L. 96-39, § 804(b), added subsec. (d).

1976—Subsec. (a). Pub. L. 94-455, §§ 1905(a)(6)(A), 1906(b)(13)(A), struck out last sentence providing for continued payment of taxes by stamp until the Secretary shall by regulation provide for collection of the taxes on the basis of a return and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, § 1905(a)(6)(B), substituted the exceptions provisions for discretion method of collection providing that “Whether or not the method of collecting any tax imposed by this part is specifically provided in this part, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by stamp, coupon, serially-numbered ticket, or the use of tax-stamp machines, or by such other reasonable device or method as may be necessary or helpful in securing collection of the tax.”

Subsec. (c). Pub. L. 94-455, § 1905(a)(6)(C), substituted the import duties provision for provision respecting applicability of other provisions of law and reading “All administrative and penalty provisions of this title, insofar as applicable, shall apply to the collection of any tax which the Secretary or his delegate determines or prescribes shall be collected in any manner provided in this section.”

Subsec. (d). Pub. L. 94-455, § 1905(b)(2)(E)(iii), struck out subsec. (d) which provided cross reference to section 5689 for penalty and forfeiture for tampering with a stamp machine.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, § 332(c), Dec. 18, 2015, 129 Stat. 3106, provided that: “The amendments made by this section [amending this section and sections 5173, 5351, 5401, and 5551 of this title] shall apply to any calendar quarters beginning more than 1 year after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, § 11127(c), Aug. 10, 2005, 119 Stat. 1959, provided that: “The amendments made by this section [amending this section] shall apply with respect to quarterly periods beginning on and after January 1, 2006.”

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

Amendment by section 136(c)(5) of 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.

Pub. L. 103-465, title VII, §712(e), Dec. 8, 1994, 108 Stat. 5001, provided that: "The amendments made by this section [amending this section and sections 5703 and 6302 of this title] shall take effect on January 1, 1995."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11201(b)(3) of Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title II, §2003(b)(2), Nov. 10, 1988, 102 Stat. 3598, provided that: "The amendments made by paragraph (1) [amending this section and section 5703 of this title] shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509]."

EFFECTIVE DATE OF 1986 AMENDMENTS

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.

Pub. L. 99-509, title VIII, §8011(c), Oct. 21, 1986, 100 Stat. 1953, 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 [amending this section and sections 5054, 5703, and 5704 of this title] shall apply to removals during semimonthly periods ending on or after December 31, 1986.

"(2) IMPORTED ARTICLES, ETC.—Subparagraphs (B) and (C) of section 5703(b)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this section), paragraphs (2) and (3) of section 5061(d) of such Code (as amended by this section), and the amendments made by subsections (a)(2) and (b)(2) [amending sections 5054 and 5704 of this title] shall apply to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after December 15, 1986.

"(3) SPECIAL RULE FOR DISTILLED SPIRITS AND TOBACCO FOR SEMIMONTHLY PERIOD ENDING DECEMBER 15, 1986.—With respect to remittances of—

"(A) taxes imposed on distilled spirits by section 5001 or 7652 of such Code, and

"(B) taxes imposed on tobacco products and cigarette papers and tubes by section 5701 or 7652 of such Code,

for the semimonthly period ending December 15, 1986, the last day for payment of such remittances shall be January 14, 1987.

"(4) TREATMENT OF SMOKELESS TOBACCO IN INVENTORY ON JUNE 30, 1986.—The tax imposed by section 5701(e) of the Internal Revenue Code of 1986 shall not apply to any smokeless tobacco which—

"(A) on June 30, 1986, was in the inventory of the manufacturer or importer, and

"(B) on such date was in a form ready for sale."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxes required to be paid on or after Sept. 30, 1984, see section 27(d)(2) of Pub. L. 98-369, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(6), (b)(2)(E)(iii) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 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.

TRANSITIONAL RULES RELATING TO DETERMINATION AND PAYMENT OF TAX

Pub. L. 96-39, title VIII, §808, July 26, 1979, 93 Stat. 291, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(a) LIABILITY FOR PAYMENT OF TAX.—Except as otherwise provided in this section, the tax on all distilled spirits which have been withdrawn from bond on determination of tax and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable in accordance with section 5061 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

"(b) TREATMENT OF CONTROLLED STOCK AND BULK WINE.—

"(1) ELECTION WITH RESPECT TO CONTROLLED STOCK.—The proprietor of a distilled spirits plant may elect to convert any distilled spirits or wine which on January 1, 1980, is controlled stock.

"(2) ELECTION WITH RESPECT TO WINE.—The proprietor of a distilled spirits plant may elect to convert any bulk wine which on January 1, 1980, is on the premises of a distilled spirits plant.

"(3) EFFECT OF ELECTION.—If an election under paragraph (1) or (2) is in effect with respect to any controlled stock or wine—

"(A) any distilled spirits, wine, or rectification tax previously paid or determined on such controlled stock or wine shall be abated or (without interest) credited or refunded under such regulations as the Secretary shall prescribe, and

"(B) such controlled stock or wine shall be treated as distilled spirits or wine on which tax has not been paid or determined.

"(4) MAKING OF ELECTIONS.—The elections under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(c) TAXPAID STOCK.—

"(1) TAXPAID STOCK MAY REMAIN ON BONDED PREMISES DURING 1980.—Section 5612(a) of the Internal Revenue Code of 1986 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) shall not apply during 1980.

"(2) SEPARATION OF TAXPAID STOCK.—All distilled spirits and wine on which tax has been paid and which are on the bonded premises of a distilled spirits plant shall be physically separated from other distilled spirits and wine. Such separation shall be by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods as the Secretary finds will distinguish such distilled spirits and wine from other distilled spirits and wine on the bonded premises of the distilled spirits plant.

"(d) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING TAXPAID WINE.—With respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, section 5008(c)(1) of the Internal Revenue Code of 1986 (relating to refunds for distilled spirits returned to bonded premises) shall be treated as including a reference to section 5041 of such Code.

"(e) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING OTHER ALCOHOLIC INGREDIENTS.—With respect to

distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, section 5215(a) of the Internal Revenue Code of 1986 shall apply only if such spirits are returned to the distilled spirits plant from which withdrawn.

“(f) SECRETARY DEFINED.—For purposes of this section, the term ‘Secretary’ means the Secretary of the Treasury or his delegate.”

§ 5062. Refund and drawback in case of exportation

(a) Refund

Under such regulations as the Secretary may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

(b) Drawback

On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary.

(c) Exportation of imported liquors

(1) Allowance of tax

Upon the exportation of imported distilled spirits, wines, and beer upon which the duties and internal revenue taxes have been paid or determined incident to their importation into the United States, and which have been found after entry to be unmerchable or not to conform to sample or specifications, and which have been returned to customs custody, the Secretary shall, under such regulations as he shall prescribe, refund, remit, abate, or credit, without interest, to the importer thereof, the full amount of the internal revenue taxes paid or determined with respect to such distilled spirits, wines, or beer.

(2) Destruction in lieu of exportation

At the option of the importer, such imported distilled spirits, wines, and beer, after return to customs custody, may be destroyed under customs supervision and the importer thereof granted relief in the same manner and to the same extent as provided in this subsection upon exportation.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1336; amended Pub. L. 88-539, §1, Aug. 31, 1964, 78 Stat. 746; Pub. L. 89-44, title VIII, §805(f)(6), June 21, 1965, 79 Stat. 161; Pub. L. 90-630, §2(a), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, §1, Nov. 14, 1977, 91 Stat. 1363; Pub. L. 98-369, div. A, title IV, §454(c)(1), July 18, 1984, 98 Stat. 820.)

PRIOR PROVISIONS

A prior section 5062, act Aug. 16, 1954, ch. 736, 68A Stat. 614, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369 substituted “have been marked” for “have been stamped or restamped, and marked”.

1977—Subsec. (b). Pub. L. 95-176 substituted in first sentence “manufactured, produced, bottled, or packaged in casks or other bulk containers” and “other bulk container” for “manufactured or produced” and “package” and in last sentence “spirits and wines eligible for drawback under this subsection, including the requirements” for “domestic distilled spirits and wines, including the requirement”.

1976—Subsecs. (a), (b), (c)(1). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1968—Subsec. (b). Pub. L. 90-630 permitted, under Treasury regulations, drawback of the tax where the stamping, restamping, or marking is done after the spirits have been removed from the original bottling plant.

1965—Subsec. (c)(1). Pub. L. 89-44 struck out “within six months of their release therefrom” after “customs custody”.

1964—Subsec. (c). Pub. L. 88-539 added subsec. (c).

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.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-630 applicable only to articles exported on or after first day of first calendar month which begins more than 90 days after Oct. 22, 1968, see section 4 of Pub. L. 90-630, set out as a note under section 5008 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89-44, set out as a note under section 5008 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-539, §2, Aug. 31, 1964, 78 Stat. 746, provided that: “The amendment made by the first section of this Act [amending this section] shall apply with respect to articles exported or destroyed after the date of the enactment of this Act [Aug. 31, 1964].”

[§ 5063. Repealed. Pub. L. 89-44, title V, §501(e), June 21, 1965, 79 Stat. 150]

Section, Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1336; Pub. L. 86-75, §3(b)(1), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, §202(b)(1), June 30, 1960, 74

Stat. 290; Pub. L. 87-72, §3(b)(1), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, §3(b)(1), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, §3(b)(1)(A), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(b)(1)(A), June 30, 1964, 78 Stat. 237, made provision for floor stocks refunds on distilled spirits, wines, cordials, and beer and set out limitations on the eligibility for such refunds or credits.

A prior section 5063, act Aug. 16, 1954, ch. 736, 68A Stat. 615, consisted of provisions similar to those comprising section 5063, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 5701 of this title.

§ 5064. Losses resulting from disaster, vandalism, or malicious mischief

(a) Payments

The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

- (1) fire, flood, casualty, or other disaster, or
- (2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, or beer for sale at the time of such disaster or other damage.

(b) Claims

(1) Period for making claim; proof

No claim shall be allowed under this section unless—

(A) filed within 6 months after the date on which such distilled spirits, wines, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

- (i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer covered by the claim; and
- (ii) is entitled to payment under this section.

(2) Minimum claim

Except as provided in paragraph (3)(A), no claim of less than \$250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

(3) Special rules for major disasters

If the President has determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act that a “major disaster” (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such

part of the United States by reason of such major disaster, then—

(A) paragraph (2) shall not apply, and

(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

(4) Regulations

Claims under this section shall be filed under such regulations as the Secretary shall prescribe.

(c) Destruction of distilled spirits, wines, or beer

When the Secretary has made payment under this section in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer condemned by a duly authorized official or rendered unmarketable, such distilled spirits, wines, or beer shall be destroyed under such supervision as the Secretary may prescribe, unless such distilled spirits, wines, or beer were previously destroyed under supervision satisfactory to the Secretary.

(d) Products of Puerto Rico

The provisions of this section shall not be applicable in respect of distilled spirits, wines, and beer of Puerto Rican manufacture brought into the United States and so lost or rendered unmarketable or condemned.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on distilled spirits, wines, and beer shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1337; amended Pub. L. 91-606, title III, §301(i), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93-288, title VII, §702(i), formerly title VI, §602(i), May 22, 1974, 88 Stat. 164, renumbered title VII, §702(i), Pub. L. 103-337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-423, §1(a), Oct. 6, 1978, 92 Stat. 935; Pub. L. 96-39, title VIII, §807(a)(10), July 26, 1979, 93 Stat. 282; Pub. L. 100-707, title I, §109(D), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 108-311, title IV, §408(a)(7)(D), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(3), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 5064, act Aug. 16, 1954, ch. 736, 68A Stat. 615, related to “territorial extent of law”, prior to the general revision of this chapter by Pub. L. 85-859. See section 5065 of this title.

AMENDMENTS

2004—Subsec. (b)(3). Pub. L. 108-311 inserted “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act” in introductory provisions.

1988—Subsec. (b)(3). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1979—Pub. L. 96-39 struck out “rectified products,” after “distilled spirits, wines,” wherever appearing.

1978—Pub. L. 95-423 substituted “Losses resulting from disaster, vandalism, or malicious mischief” for “Losses caused by disaster” in section catchline.

Subsec. (a). Pub. L. 95-423 substituted provisions authorizing the Secretary, under such regulations as he may prescribe, to pay the prescribed amount on distilled spirits, etc., lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty or other disaster, breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief, for provisions authorizing such payment where the President has determined under the Disaster Relief Act of 1974 that a “major disaster” has occurred, and that distilled spirits, etc., were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring after June 30, 1959.

Subsec. (b). Pub. L. 95-423 redesignated par. (1) as (1)(A), substituted provisions disallowing a claim unless filed within 6 months after such distilled spirits, etc., were lost, rendered unmarketable or condemned, for provisions disallowing a claim unless filed within 6 months after the President determined that such disaster occurred, and added par. (1)(B); in par. (2) substituted provisions limiting claims to no less than \$250, except as provided in par. (3)(A), for provisions demanding proof that claimant was not indemnified by any valid claim of insurance and that he is entitled to payment under this section; and added pars. (3) and (4).

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1974—Subsec. (a). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Relief Act of 1970”.

1970—Subsec. (a). Pub. L. 91-606 substituted “Disaster Relief Act of 1970” for “Act of September 30, 1950 (42 U.S.C. 1855)”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-423, §1(c), Oct. 6, 1978, 92 Stat. 936, provided that: “The amendments made by this section [amending this section] shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 6, 1978].”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

EXCEPTION TO EFFECTIVE DATE

Pub. L. 85-859, title II, §210(a)(3), Sept. 2, 1958, 72 Stat. 1435, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Provisions having the effect

of section 5064 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as such section is included in chapter 51 of such Code as amended by section 201 of this Act) shall be deemed to be included in the Internal Revenue Code of 1986, effective on the day following the date of the enactment of this Act [Sept. 2, 1958], and shall apply with respect to disasters occurring after such date of enactment, and not later than June 30, 1959.”

BEER LOST BY REASON OF FLOODS OF 1951 OR HURRICANES OF 1954

Pub. L. 85-859, title II, §207, Sept. 2, 1958, 72 Stat. 1432, provided for payment of an amount equal to the amount of taxes paid under section 3150(a) of the Internal Revenue Code of 1939 on fermented malt liquor which was lost, rendered unmarketable, or condemned by reason of the floods of 1951 or the hurricanes of 1954, under certain conditions and under regulations to be prescribed.

LOSSES OF ALCOHOLIC LIQUORS CAUSED BY DISASTER

Pub. L. 85-859, title II, §208, Sept. 2, 1958, 72 Stat. 1432, provided for payment of an amount equal to the amount of taxes and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by reason of a major disaster occurring after Dec. 31, 1954, and not later than Sept. 2, 1958, under certain conditions and under regulations to be prescribed.

§ 5065. Territorial extent of law

The provisions of this part imposing taxes on distilled spirits, wines, and beer shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within an internal revenue district or not.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1337.)

PRIOR PROVISIONS

A prior section 5065, act Aug. 16, 1954, ch. 736, 68A Stat. 615, made a cross reference to general administrative provisions applicable to assessment, collection, refund, etc., of taxes, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in former section 5064, act Aug. 16, 1954, ch. 736, 68A Stat. 615, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5066. Distilled spirits for use of foreign embassies, legations, etc.

(a) Entry into customs bonded warehouses

(1) Bottled distilled spirits withdrawn from bonded premises

Under such regulations as the Secretary may prescribe, bottled distilled spirits may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b). For the purposes of this chapter, the withdrawal of distilled spirits from bonded premises under the provisions of this paragraph shall be treated as a withdrawal for exportation and all provisions of law applicable to distilled spirits withdrawn for exportation under the provisions of section 5214(a)(4) shall apply with respect to spirits withdrawn under this paragraph.

(2) Bottled distilled spirits eligible for export with benefit of drawback

Under such regulations as the Secretary may prescribe, distilled spirits marked especially for export under the provisions of section 5062(b) may be shipped to a customs bonded warehouse in which imported distilled spirits are permitted to be stored, and entered in such warehouses pending withdrawal therefrom as provided in subsection (b), and the provisions of this chapter shall apply in respect of such distilled spirits as if such spirits were for exportation.

(3) Time deemed exported

For the purposes of this chapter, distilled spirits entered into a customs bonded warehouse as provided in this subsection shall be deemed exported at the time so entered.

(b) Withdrawal from customs bonded warehouses

Notwithstanding any other provisions of law, distilled spirits entered into customs bonded warehouses under the provisions of subsection (a) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Distilled spirits transferred to customs bonded warehouses under the provisions of this section shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported distilled spirits.

(c) Withdrawal for domestic use

Distilled spirits entered into customs bonded warehouses as authorized by this section may be withdrawn therefrom for domestic use, in which event they shall be treated as American goods exported and returned.

(d) Sale or unauthorized use prohibited

No distilled spirits withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of such foreign governments, organizations, or individuals as are authorized to obtain distilled spirits free of tax shall be sold, or shall be disposed of or possessed for any use other than an authorized use. The provisions of section 5001(a)(5)¹ are hereby extended and made applicable to any person selling, disposing of, or possessing any distilled spirits in violation of the preceding sentence, and to the distilled spirits involved in any such violation.

(Added Pub. L. 91-659, §3(a), Jan. 8, 1971, 84 Stat. 1965; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, §2(d), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §807(a)(11), July 26, 1979, 93 Stat. 282; Pub. L. 98-369, div. A, title IV, §454(c)(2), July 18, 1984, 98 Stat. 820.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 5001(a)(5), referred to in subsec. (d), was redesignated section 5001(a)(4) by Pub. L. 103-465, title I, §136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5066 was renumbered 5067 of this title.

AMENDMENTS

1984—Subsec. (a)(2). Pub. L. 98-369 substituted “marked” for “stamped or restamped, and marked.”.

1979—Subsec. (a)(1). Pub. L. 96-39, §807(a)(11)(A), substituted “bottled distilled spirits” for “distilled spirits bottled in bond for export under the provisions of section 5233, or bottled distilled spirits returned to bonded premises under section 5215(b).”.

Subsec. (b). Pub. L. 96-39, §807(a)(11)(B), struck out “or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2)” after “the provisions of subsection (a).”.

1977—Subsec. (a)(1). Pub. L. 95-176 substituted par. (1) heading “Bottled distilled spirits withdrawn from bonded premises” for “Distilled spirits bottled in bond for export” and authorized withdrawal of bottled distilled spirits returned to bonded premises under section 5215(b) as provided in section 5214(a)(4).

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE

Pub. L. 91-659, §6, Jan. 8, 1971, 84 Stat. 1966, provided that: “This Act [enacting this section and amending sections 5008, 5173, 5178, 5215, and 5232 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Jan. 8, 1971].”

§ 5067. Cross reference

For general administrative provisions applicable to the assessment, collection, refund, etc., of taxes, see subtitle F.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1338, §5066; renumbered §5067, Pub. L. 91-659, §3(a), Jan. 8, 1971, 84 Stat. 1965.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5065, act Aug. 16, 1954, ch. 736, 68A Stat. 615, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5081, added Pub. L. 100-203, title X, §10512(a)(1)(A), Dec. 22, 1987, 101 Stat. 1330-447; amended Pub. L. 100-647, title VI, §6106(a), (b), Nov. 10, 1988, 102 Stat. 3712, related to tax on proprietors of distilled spirits plants, bonded wine cellars, etc., prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(A), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5081, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1338, imposed a tax on rec-

tifiers of distilled spirits or wines, prior to repeal by Pub. L. 96-39, title VIII, §§803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5081, act Aug. 16, 1954, ch. 736, 68A Stat. 615, imposed a tax on rectifiers of distilled spirits or wines, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5082, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1338, defined “rectifier”, prior to repeal by Pub. L. 96-39, title VIII, §§803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5082, act Aug. 16, 1954, ch. 736, 68A Stat. 616, defined “rectifier”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5083, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1338; amended Pub. L. 89-44, title VIII, §805(f)(7), June 21, 1965, 79 Stat. 161, enumerated source authority for certain exemptions from tax under sections 5021 and 5081 of this title, prior to repeal by Pub. L. 96-39, title VIII, §§803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5083, act Aug. 16, 1954, ch. 736, 68A Stat. 616, enumerated source authority for certain exemptions from tax under sections 5021 and 5081 of this title, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5084, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1339, made cross references to other provisions relating to rectification, prior to repeal by Pub. L. 96-39, title VIII, §§803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5084, act Aug. 16, 1954, ch. 736, 68A Stat. 616, made cross references to other provisions relating to rectification, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5091, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 100-203, title X, §10512(a)(2), Dec. 22, 1987, 101 Stat. 1330-448, related to imposition of tax on brewers, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5091, act Aug. 16, 1954, ch. 736, 68A Stat. 616, related to imposition of tax on brewers, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5092, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 95-458, §2(b)(3), Oct. 14, 1978, 92 Stat. 1256, defined “brewer”, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5092, act Aug. 16, 1954, ch. 736, 68A Stat. 617, defined “brewer”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5093, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1339, set out cross references, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5093, act Aug. 16, 1954, ch. 736, 68A Stat. 617, set out cross references, prior to the general revision of this chapter by Pub. L. 85-859.

PART II—MISCELLANEOUS PROVISIONS

Subpart

- A. Manufacturers of stills.
- B. Nonbeverage domestic drawback claimants.
- C. Recordkeeping by dealers.¹
- D. Other provisions.

PRIOR PROVISIONS

A prior part II, consisting of subparts A to G, related to occupational tax, prior to the general revision of

this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(1)(A), Aug. 10, 2005, 119 Stat. 1953, amended part heading and table of subparts generally, substituting “MISCELLANEOUS PROVISIONS” for “OCCUPATIONAL TAX” in part heading, “Manufacturers of stills” for “Proprietors of distilled spirits plants, bonded wine cellars, etc.” in item for subpart A, “Nonbeverage domestic drawback claimants” for “Brewer” in item for subpart B, “Recordkeeping by dealers” for “Manufacturers of stills” in item for subpart C, and “Other provisions” for “Wholesale dealers” in item for subpart D and striking out items for subparts E “Retail dealers”, F “Nonbeverage domestic drawback claimants”, and G “General provisions”.

1987—Pub. L. 100-203, title X, §10512(a)(1)(C), Dec. 22, 1987, 101 Stat. 1330-448, added item for subpart A.

1979—Pub. L. 96-39, title VIII, §807(b)(3), July 26, 1979, 93 Stat. 290, struck out item for subpart A “Rectifier” in table of subparts comprising part II.

SUBPART A—MANUFACTURERS OF STILLS

Sec.

- 5101. Notice of manufacture of still; notice of set up of still.
- 5102. Definition of manufacturer of stills.

PRIOR PROVISIONS

A prior subpart A, consisting of section 5081 of this title, related to proprietors of distilled spirits plants, bonded wine cellars, etc., prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(A), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart A, consisting of sections 5081 to 5084 of this title, related to rectifiers of distilled spirits or wines, prior to repeal by Pub. L. 96-39, title VIII, §§803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(2), Aug. 10, 2005, 119 Stat. 1953, redesignated subpart C of this part as this subpart.

§ 5101. Notice of manufacture of still; notice of set up of still

(a) Notice requirements

(1) Notice of manufacture of still

The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

(2) Notice of set up of still

The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

(b) Penalties, etc.

(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

¹ So in original. Does not conform to subpart heading.

(Added Pub. L. 98-369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 818.)

PRIOR PROVISIONS

A prior section 5101, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, contained provisions relating to imposition and rate of tax, prior to the general revision of this subpart by Pub. L. 98-369.

Another prior section 5101, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to special tax on manufacturers of stills, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title IV, § 456, July 18, 1984, 98 Stat. 823, as amended by Pub. L. 99-514, title XVIII, § 1845, Oct. 22, 1986, 100 Stat. 2856, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section the amendments made by this part [part II (§§ 451-456) of subtitle D of title IV of div. A of Pub. L. 98-369, enacting this section and section 5102 of this title, amending sections 5005, 5062, 5066, 5116, 5134, 5179, 5204, 5206, 5207, 5214, 5215, 5235, 5301, 5354, 5555, 5604, 5613, 5615, 5691, 6103, 6801, and 7213 of this title, repealing section 5205 of this title, and omitting sections 5103, 5105, and 5106 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [July 18, 1984].

“(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 454 [amending sections 5062, 5066, 5116, 5204, 5206, 5207, 5215, 5235, 5301, 5555, 5604, 5613, and 6801 of this title and repealing section 5205 of this title] shall take effect on July 1, 1985.

“(c) FORTIFICATION OF COOKING WINE.—The amendments made by section 455 [amending sections 5005, 5214, and 5354 of this title] shall take effect on the date of the enactment of this Act [July 18, 1984].

“(d) SECTION 452.—The amendment made by section 452 [amending section 5134 of this title] shall apply to products manufactured or produced after October 31, 1984.”

§ 5102. Definition of manufacturer of stills

Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills.

(Added Pub. L. 98-369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5102, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, defined manufacturer of stills, prior to the general revision of this subpart by Pub. L. 98-369.

Another prior section 5102, act Aug. 16, 1954, ch. 736, 68A Stat. 617, defined manufacturer of stills, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5103, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, related to exemptions from the taxes imposed by section 5101 of this title, prior to the general revision of this subpart by Pub. L. 98-369.

Another prior section 5103, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to exemptions from taxes imposed by section 5101 of this title, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5104, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, provided that the tax imposed on stills or condensers by section 5101 be paid by stamp, denoting the tax, under regulations prescribed by Secretary or his delegate, prior to repeal by Pub. L. 94-455, title XIX, § 1905(b)(3)(A)(i), Oct. 4, 1976, 90 Stat. 1822, effective on first day of first month which began more than 90 days after Oct. 4, 1976.

Another prior section 5104, act Aug. 16, 1954, ch. 736, 68A Stat. 617, required taxes to be paid by stamps, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5105, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 94-455, title XIX, §§ 1905(b)(6)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834, related to notice of manufacturer of and permit to set up still, prior to the general revision of this subpart by Pub. L. 98-369. See section 5101 of this title.

Another prior section 5105, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to notice of manufacture of and permit to set up still, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5106, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to export without payment of tax and export with the privilege of drawback, prior to the general revision of this subpart by Pub. L. 98-369.

Another prior section 5106, act Aug. 16, 1954, ch. 736, 68A Stat. 618, related to payment of tax and drawback on exports, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as a note under section 5101 of this title.

SUBPART B—NONBEVERAGE DOMESTIC DRAWBACK CLAIMANTS

Sec.	
5111.	Eligibility.
5112.	Registration and regulation.
5113.	Investigation of claims.
5114.	Drawback.

PRIOR PROVISIONS

A prior subpart B, consisting of sections 5091 to 5093, related to brewers, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart B, consisting of sections 5091 to 5093, related to brewers, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(3)(A), (B), Aug. 10, 2005, 119 Stat. 1953, redesignated subpart F of this part as this subpart, renumbered items 5131 to 5134 as 5111 to 5114, respectively, and struck out “and rate of tax” after “Eligibility” in item 5111.

1997—Pub. L. 105-34, title XIV, § 1415(b)(3), Aug. 5, 1997, 111 Stat. 1047, struck out item 5115 “Sign required on premises”.

§ 5111. Eligibility

Any person using distilled spirits on which the tax has been determined, in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are unfit for beverage purposes shall be eligible for drawback at the time when such distilled spirits are used in the manufacture of such products as provided for in this subpart.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, § 5131; amended Pub. L. 94-455, title XIX, § 1905(a)(11), Oct. 4, 1976, 90 Stat. 1819; Pub. L. 100-203, title X, § 10512(d), Dec. 22, 1987, 101 Stat. 1330-448; Pub. L. 103-465, title I, § 136(b), Dec. 8, 1994, 108 Stat. 4841; renumbered § 5111 and amended Pub. L. 109-59, title XI, § 11125(a)(2), (b)(3)(A), (C), Aug. 10, 2005, 119 Stat. 1953, 1954.)

PRIOR PROVISIONS

A prior section 5111, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 94-455, title XIX, §1905(b)(3)(B), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 100-203, title X, §10512(b), Dec. 22, 1987, 101 Stat. 1330-448, related to tax on wholesale dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5111, act Aug. 16, 1954, ch. 736, 68A Stat. 618, related to tax on wholesale and retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(3)(C), struck out “and rate of tax” after “Eligibility” in section catchline, struck out “(a) Eligibility for drawback” before “Any person”, and struck out subsec. (b). Text read as follows: “The special tax imposed by subsection (a) shall be \$500 per year.”

Pub. L. 109-59, §11125(b)(3)(A), renumbered section 5131 of this title as this section.

Subsec. (a). Pub. L. 109-59, §11125(a)(2), struck out “, on payment of a special tax per annum,” after “beverage purposes”.

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

1987—Subsec. (b). Pub. L. 100-203 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The special tax imposed by subsection (a) shall be graduated in amount as follows: (1) for total annual use not exceeding 25 proof gallons, \$25 a year; (2) for total annual use not exceeding 50 proof gallons, \$50 a year; (3) for total annual use of more than 50 proof gallons, \$100 a year.”

1976—Subsec. (a). Pub. L. 94-455 struck out “produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,” after “Any person using distilled spirits”.

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 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 1987 AMENDMENT

Pub. L. 100-203, title X, §10512(h), Dec. 22, 1987, 101 Stat. 1330-450, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting sections 5081, 5276, and 5731 of this title and amending this section and sections 5091, 5121, 5131, 5691, and 5801 of this title] shall take effect on January 1, 1988.

“(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JANUARY 1, 1988.—

“(A) IN GENERAL.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such trade or business on such date.

“(B) LIMITATION ON AMOUNT OF TAX.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to $\frac{1}{2}$ the excess (if any) of—

“(i) the rate of such tax as in effect on January 1, 1988, over

“(ii) the rate of such tax as in effect on December 31, 1987.

“(C) OCCUPATIONAL TAX.—For purposes of this paragraph, the term ‘occupational tax’ means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

“(D) DUE DATE OF TAX.—The amount of any tax required to be paid by reason of this paragraph shall be due on April 1, 1988.”

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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5112. Registration and regulation

Every person claiming drawback under this subpart shall register annually with the Secretary; keep such books and records as may be necessary to establish the fact that distilled spirits received by him and on which the tax has been determined were used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for use for beverage purposes; and be subject to such rules and regulations in relation thereto as the Secretary shall prescribe to secure the Treasury against frauds.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1345, §5132; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103-465, title I, §136(b), Dec. 8, 1994, 108 Stat. 4841; renumbered §5112, Pub. L. 109-59, title XI, §11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5112, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1340, defined “dealer”, “wholesale dealer in liquors”, and “wholesale dealer in beer”, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5112, act Aug. 16, 1954, ch. 736, 68A Stat. 618, contained definitions of wholesale dealers, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5132 of this title as this section.

1994—Pub. L. 103-465 substituted “flavoring extracts, or perfume” for “or flavoring extracts”.

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

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.

§ 5113. Investigation of claims

For the purpose of ascertaining the correctness of any claim filed under this subpart, the

Secretary is authorized to examine any books, papers, records, or memoranda bearing upon the matters required to be alleged in the claim, to require the attendance of the person filing the claim or of any officer or employee of such person or the attendance of any other person having knowledge in the premises, to take testimony with reference to any matter covered by the claim, and to administer oaths to any person giving such testimony.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1346, §5133; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5113, Pub. L. 109-59, title XI, §11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5113, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 87-863, §4(b), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 94-455, title XIX, §§1905(a)(7), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1819, 1834; Pub. L. 100-647, title II, §2004(t)(2), (4), Nov. 10, 1988, 102 Stat. 3609, 3610, related to exemptions from tax, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5113, act Aug. 16, 1954, ch. 736, 68A Stat. 619, related to exemptions from tax, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5133 of this title as this section.

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

§ 5114. Drawback

(a) Rate of drawback

In the case of distilled spirits on which the tax has been paid or determined, and which have been used as provided in this subpart, a drawback shall be allowed on each proof gallon at a rate of \$1 less than the rate at which the distilled spirits tax has been paid or determined.

(b) Claims

Such drawback shall be due and payable quarterly upon filing of a proper claim with the Secretary; except that, where any person entitled to such drawback shall elect in writing to file monthly claims therefor, such drawback shall be due and payable monthly upon filing of a proper claim with the Secretary. The Secretary may require persons electing to file monthly drawback claims to file with him a bond or other security in such amount and with such conditions as he shall by regulations prescribe. Any such election may be revoked on filing of notice thereof with the Secretary. No claim under this subpart shall be allowed unless filed with the Secretary within the 6 months next succeeding the quarter in which the distilled spirits covered by the claim were used as provided in this subpart.

(c) Allowance of drawback even where certain requirements not met

(1) In general

No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this

subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for beverage purposes.

(2) Penalty

(A) In general

In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of \$1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

(B) Penalty may not exceed amount of claim

The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

(3) Penalty treated as tax

The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1346, §5134; amended Pub. L. 90-615, §2(a), Oct. 21, 1968, 82 Stat. 1210; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, §452, July 18, 1984, 98 Stat. 819; Pub. L. 103-465, title I, §136(b), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 104-188, title I, §1704(t)(12), Aug. 20, 1996, 110 Stat. 1888; renumbered §5114, Pub. L. 109-59, title XI, §11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5114 was renumbered section 5432 of this title.

Another prior section 5114, act Aug. 16, 1954, ch. 736, 68A Stat. 619, related to recordkeeping by wholesale dealers, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5115, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1342; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to requirement that a sign be posted on premises where liquor is sold and penalty for noncompliance, prior to repeal by Pub. L. 105-34, title XIV, §1415(a), Aug. 5, 1997, 111 Stat. 1047.

Another prior section 5115, act Aug. 16, 1954, ch. 736, 68A Stat. 620, related to making and stamping packages filled on premises of wholesale dealers, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5116 was renumbered section 5131 of this title.

Another prior section 5116, act Aug. 16, 1954, ch. 736, 68A Stat. 620, related to packaging of distilled spirits for industrial uses, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5117, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94-455, title XIX, §1905(a)(8), Oct. 4, 1976, 90 Stat. 1819; Pub. L. 108-357, title II, §246(b), Oct. 22, 2004, 118 Stat. 1448, related to prohibited purchases by wholesale dealers in liquors, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5134 of this title as this section.

1996—Subsec. (c)(3). Pub. L. 104-188 substituted “section 6665(a)” for “section 6662(a)”.

1994—Subsec. (c)(1). Pub. L. 103-465 substituted “flavoring extracts, or perfume” for “or flavoring extracts”.

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

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

1968—Subsec. (b). Pub. L. 90-615 substituted “6 months” for “3 months” in last sentence.

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 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to products manufactured or produced after Oct. 31, 1984, see section 456(d) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-615, §2(b), Oct. 21, 1968, 82 Stat. 1210, provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims filed on or after the date of the enactment of this Act [Oct. 21, 1968].”

SUBPART C—RECORDKEEPING AND REGISTRATION
BY DEALERS

Sec.

- 5121. Recordkeeping by wholesale dealers.
- 5122. Recordkeeping by retail dealers.
- 5123. Preservation and inspection of records, and entry of premises for inspection.
- 5124. Registration by dealers.

PRIOR PROVISIONS

A prior subpart C was redesignated subpart A of this part.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this subpart by Pub. L. 98-369, div. A, title IV, §451(a), July 18, 1984, 98 Stat. 818.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(4), Aug. 10, 2005, 119 Stat. 1954, added subpart heading and items 5121 to 5124.

§ 5121. Recordkeeping by wholesale dealers**(a) Requirements****(1) Distilled spirits**

Every wholesale dealer in liquors who sells distilled spirits to other dealers shall keep daily a record of distilled spirits received and disposed of by him, in such form and at such place and containing such information, and shall submit correct summaries of such records to the Secretary at such time and in such form and manner, as the Secretary shall by regulations prescribe. Such dealer shall also submit correct extracts from or copies of such records, at such time and in such form and manner as the Secretary may by regulations prescribe; however, the Secretary may

on application by such dealer, in accordance with such regulations, relieve him from this requirement until further notice, whenever the Secretary deems that the submission of such extracts or copies serves no useful purpose in law enforcement or in protection of the revenue.

(2) Wines and beer

Every wholesale dealer in liquors and every wholesale dealer in beer shall provide and keep, at such place as the Secretary shall by regulations prescribe, a record in book form of all wines and beer received, showing the quantities thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all wines and beer received.

(b) Exemption of States, political subdivisions, etc.

The provision of subsection (a) shall not apply to a State, to a political subdivision of a State, to the District of Columbia, or to liquor stores operated by any of them, if they maintain and make available for inspection by internal revenue officers such records as will enable such officers to trace all distilled spirits, wines, and beer received, and all distilled spirits disposed of by them. Such States, subdivisions, District, or liquor stores shall, upon the request of the Secretary, furnish him such transcripts, summaries and copies of their records with respect to distilled spirits as he shall require.

(c) Wholesale dealers

For purposes of this part—

(1) Wholesale dealer in liquors

The term “wholesale dealer in liquors” means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

(2) Wholesale dealer in beer

The term “wholesale dealer in beer” means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

(3) Dealer

The term “dealer” means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

(4) Presumption in case of sale of 20 wine gallons or more

The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.

(d) Cross references

(1) For provisions requiring proprietors of distilled spirits plants to keep records and submit reports of receipts and dispositions of distilled spirits, see section 5207.

(2) For penalty for violation of subsection (a), see section 5603.

(3) For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1342, §5114; amended Pub. L. 94-455, title XIX, §§1905(c)(1), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; renumbered §5121 and amended Pub. L. 109-59, title XI, §11125(b)(5), Aug. 10, 2005, 119 Stat. 1954; Pub. L. 110-172, §11(a)(31), Dec. 29, 2007, 121 Stat. 2487.)

PRIOR PROVISIONS

A prior section 5121, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94-455, title XIX, §1905(a)(9), (b)(3)(C), Oct. 4, 1976, 90 Stat. 1819, 1822; Pub. L. 100-203, title X, §10512(c), Dec. 22, 1987, 101 Stat. 1330-448, related to special tax on retail dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5121, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to tax on retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2007—Pub. L. 110-172, which directed amendment of this title by redesignating section 5432 as section 5121, was executed by making correction to amendment by Pub. L. 109-59, §11125(b)(5)(B)(i). See 2005 Amendment note below.

2005—Pub. L. 109-59, §11125(b)(5)(B)(i), which directed amendment of section 5114 of this title by substituting “§5432. Recordkeeping by wholesale dealers” for “§5114. Records” in section catchline, was executed by substituting “§5121. Recordkeeping by wholesale dealers” for “§5114. Records”, to reflect the probable intent of Congress and the subsequent amendment by Pub. L. 110-172. See 2007 Amendment note above.

Pub. L. 109-59, §11125(b)(5)(A), transferred section 5114 of this title to this subpart so as to appear after subpart analysis.

Subsecs. (c), (d). Pub. L. 109-59, §11125(b)(5)(B)(ii), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(3). Pub. L. 109-59, §11125(b)(5)(C), substituted “section 5123” for “section 5146”.

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

Subsec. (b). Pub. L. 94-455, §§1905(c)(1), 1906(b)(13)(A), struck out “or Territory” after “a State”, “Territories” after “States,”, and “or his delegate” after “Secretary”.

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 1976 AMENDMENT

Amendment by section 1905(c)(1) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5122. Recordkeeping by retail dealers

(a) Receipts

Every retail dealer in liquors and every retail dealer in beer shall provide and keep in his place of business a record in book form of all distilled spirits, wines, and beer received, showing the quantity thereof and from whom and the dates

received, or shall keep all invoices of, and bills for, all distilled spirits, wines, and beer received.

(b) Dispositions

When he deems it necessary for law enforcement purposes or the protection of the revenue, the Secretary may by regulations require retail dealers in liquors and retail dealers in beer to keep records of the disposition of distilled spirits, wines, or beer, in such form or manner and of such quantities as the Secretary may prescribe.

(c) Retail dealers

For purposes of this section—

(1) Retail dealer in liquors

The term “retail dealer in liquors” means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

(2) Retail dealer in beer

The term “retail dealer in beer” means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

(3) Limited retail dealer

The term “limited retail dealer” means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen’s organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

(4) Dealer

The term “dealer” has the meaning given such term by section 5121(c)(3).

(d) Cross references

For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1345, §5124; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5122 and amended Pub. L. 109-59, title XI, §11125(b)(6), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5122, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 94-455, title XIX, §1905(a)(10), Oct. 4, 1976, 90 Stat. 1819, defined “retail dealer in liquors”, “retail dealer in beer”, and “limited retail dealer”, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5122, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to definition of retail dealers in liquors and beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(6)(A), (B)(i), renumbered section 5124 of this title as this section, trans-

ferred section to this subpart so as to appear after section 5121, and substituted “Recordkeeping by retail dealers” for “Records” in section catchline.

Subsec. (c). Pub. L. 109-59, § 11125(b)(6)(B)(iii), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 109-59, § 11125(b)(6)(B)(ii), substituted “section 5123” for “section 5146”.

Subsec. (d). Pub. L. 109-59, § 11125(b)(6)(B)(iii), redesignated subsec. (c) as (d).

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” in two places.

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.

§ 5123. Preservation and inspection of records, and entry of premises for inspection

(a) Preservation and inspection of records

Any records or other documents required to be kept under this part or regulations issued pursuant thereto shall be preserved by the person required to keep such records or documents, as the Secretary may by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Entry of premises for inspection

The Secretary may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this chapter or regulations issued pursuant thereto and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, § 5146; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered § 5123, Pub. L. 109-59, title XI, § 11125(b)(7), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5123, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 87-863, § 4(a), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title II, § 2004(t)(3), Nov. 10, 1988, 102 Stat. 3610, related to exemptions from special tax on certain wholesale and retail dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5123, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to exemptions from tax on retail dealers of liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5146 of this title as this section and transferred section to this subpart so as to appear after section 5122.

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

§ 5124. Registration by dealers

Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business

is to be carried on. In the case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(Added Pub. L. 109-59, title XI, § 11125(b)(8), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5124 was renumbered section 5122 of this title.

Another prior section 5124, act Aug. 16, 1954, ch. 736, 68A Stat. 622, related to recordkeeping requirements of retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5125, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, set out cross references, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 5002 of this title.

SUBPART D—OTHER PROVISIONS

Sec.

5131. Packaging distilled spirits for industrial uses.
5132. Prohibited purchases by dealers.

PRIOR PROVISIONS

A prior subpart D, consisting of sections 5111 to 5117, related to wholesale dealers in liquors or beer, prior to repeal, except for sections 5114 and 5116, by Pub. L. 109-59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart D, consisting of sections 5111 to 5116, related to wholesale dealers, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart E, consisting of sections 5121 to 5125, related to retail dealers, prior to repeal, except for section 5124, by Pub. L. 109-59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart E, consisting of sections 5121 to 5124, related to retail dealers, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart F was redesignated subpart B of this part.

Another prior subpart F, consisting of sections 5131 to 5134, related to nonbeverage domestic drawback claimants, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart G, consisting of sections 5141 to 5149, related to general provisions, prior to repeal, except for sections 5142, 5143, 5145, and 5146, by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart G, consisting of sections 5141 to 5149, related to general provisions, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(10), Aug. 10, 2005, 119 Stat. 1955, added subpart heading and items 5131 and 5132.

§ 5131. Packaging distilled spirits for industrial uses

(a) General

The Secretary may, at his discretion and under such regulations as he may prescribe, authorize a dealer (as defined in section 5121(c)) engaging in the business of supplying distilled spirits for industrial uses to package distilled spirits, on which the tax has been paid or determined, for such uses in containers of a capacity in excess of 1 wine gallon and not more than 5 wine gallons.

(b) Cross reference

For provisions relating to containers of distilled spirits, see section 5206.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1343, §5116; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(12), July 26, 1979, 93 Stat. 282; Pub. L. 98-369, div. A, title IV, §454(c)(3), July 18, 1984, 98 Stat. 821; renumbered §5131 and amended Pub. L. 109-59, title XI, §11125(b)(11), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5131 was renumbered section 5111 of this title.

Another prior section 5131, act Aug. 16, 1954, ch. 736, 68A Stat. 622, related to eligibility for drawback and rate of tax, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(11), renumbered section 5116 of this title as this section and transferred section to this subpart so as to appear after subpart analysis.

Subsec. (a). Pub. L. 109-59, §11125(b)(11), inserted “(as defined in section 5121(c))” after “dealer”.

1984—Subsec. (b). Pub. L. 98-369 substituted “reference” for “references” in heading, struck out former par. (1) which provided a cross reference to section 5205(a)(1) of this title regarding stamps for immediate containers, and struck out designation “(2)” preceding provisions relating to containers of distilled spirits.

1979—Subsec. (b)(1). Pub. L. 96-39 substituted “section 5205(a)(1)” for “section 5205(a)(2)”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

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 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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5132. Prohibited purchases by dealers

(a) In general

Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

(b) Limited retail dealers

A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

(c) Penalty and forfeiture

For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.

(Added Pub. L. 109-59, title XI, §11125(b)(12), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5132 was renumbered section 5112 of this title.

Another prior section 5132, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to registration and regulation of persons claiming drawback, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5133 was renumbered section 5113 of this title.

Another prior section 5133, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to investigation of claims, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5134 was renumbered section 5114 of this title.

Another prior section 5134, acts Aug. 16, 1954, ch. 736, 68A Stat. 623; Mar. 30, 1955, ch. 18, §3(b)(2), 69 Stat. 15; Mar. 29, 1956, ch. 115, §3(b)(2), 70 Stat. 67; Mar. 29, 1957, Pub. L. 85-12, §3(b)(2), 71 Stat. 10; June 30, 1958, Pub. L. 85-475, §3(b)(2), 72 Stat. 259, related to drawbacks, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5141, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1346, related to registration, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5141, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to registration, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5142 was renumbered section 5732 of this title.

Another prior section 5142, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to payment of tax, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5143 was renumbered section 5733 of this title.

Another prior section 5143, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to time for filing returns and cross-referred to penalty provisions for failure to file returns or for making false or fraudulent returns, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5144, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1348, authorized and directed Secretary or his delegate to procure the necessary stamps for payment of special taxes and to make needful regulations relative thereto, prior to repeal by Pub. L. 94-455, title XIX, §1905(b)(3)(D)(i), Oct. 4, 1976, 90 Stat. 1822.

Another prior section 5144, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to liability for occupational taxes, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5145 was renumbered section 5734 of this title.

Another prior section 5145, act Aug. 16, 1954, ch. 736, 68A Stat. 625, related to “supply of stamps”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5146 was renumbered section 5123 of this title.

Another prior section 5146, act Aug. 16, 1954, ch. 736, 68A Stat. 625, contained cross references to provisions respecting posting stamp in place of business, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5147, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1348, related to application of former subpart G, prior to repeal by Pub. L. 109-59,

title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5147, act Aug. 16, 1954, ch. 736, 68A Stat. 626, made a cross reference to provision respecting keeping of list of special taxpayers for public inspection, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5148, added Pub. L. 108-357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, related to suspension of occupational tax, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5148 was renumbered section 5149 of this title, prior to repeal by Pub. L. 109-59.

Another prior section 5148, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to “Application of State laws”, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5149, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, § 5148; amended Pub. L. 94-455, title XIX, § 1905(b)(3)(E), Oct. 4, 1976, 90 Stat. 1822; renumbered § 5149, Pub. L. 108-357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, contained cross references to provisions imposing penalties, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5149, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to “Application of subpart”, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section 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 an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter B—Qualification Requirements for Distilled Spirits Plants

Sec.	
5171.	Establishment.
5172.	Application.
5173.	Bonds.
[5174.]	Repealed.]
5175.	Export bonds.
5176.	New or renewed bonds.
5177.	Other provisions relating to bonds.
5178.	Distilled spirits plants. ¹
5179.	Registration of stills.
5180.	Signs.
5181.	Distilled spirits for fuel use.
5182.	Cross references.

PRIOR PROVISIONS

A prior subchapter B, Distilleries, consisted of part I, Establishment, part II, Operation, and part III, General Provisions Relating to Distilleries and Distilled Spirits, and consisted of sections 5171 to 5180, 5191 to 5197, and 5211 to 5217, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1980—Pub. L. 96-223, title II, § 232(e)(2)(F), Apr. 2, 1980, 94 Stat. 280, added item 5181 and redesignated former item 5181 as 5182.

1979—Pub. L. 96-39, title VIII, § 807(b)(4), July 26, 1979, 93 Stat. 290, substituted “Bonds” for “Qualification bonds” in item 5173, struck out item 5174 “Withdrawal bonds”, and substituted “Distilled spirits plants” for “Premises of distilled spirits plants” in item 5178.

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

§ 5171. Establishment

(a) Certain operations may be conducted only on bonded premises

Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

(b) Establishment of distilled spirits plant

A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) Registration

(1) In general

Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

(2) Application required where new operations are added

No operation in addition to those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

(3) Secretary may establish minimum capacity and level of activity requirements

The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

(4) Applicant must comply with law and regulations

No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency,

and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94-455, title XIX, §§1905(a)(13), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §805(a), July 26, 1979, 93 Stat. 274.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (d)(1), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. The basic permit is covered by sections 203 and 204 of Title 27. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5171, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to "premises prohibited for distilling", prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(1)(B), (b), (c)(2), and 5505(b) of this title.

Provisions similar to those comprising subsecs. (a), (b)(1) and (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5172, 5175(a), 5177(a), 5178, 5231, 5243(a), 5271(a), 5301-5303, 5305, 5331(a)(1).
(b)(1)	5301-5303, 5304(a)(1).
(c)	5175(b), 5271(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627 to 631, 643, 645, 650, 654, 655.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96-39 added subsecs. (a) and (b) and redesignated former subsecs. (a) and (b) as (c) and (d), respectively.

Subsec. (c). Pub. L. 96-39 redesignated former subsec. (a) as (c) and inserted provisions relating to an application requirement where new operations are added and permitting the Secretary to establish minimum capacity and level of activity requirements. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 96-39 redesignated former subsec. (b) as (d) and substituted reference to subsection (c) for reference to subsection (a) and struck out reference to section 5274.

Subsec. (e). Pub. L. 96-39 redesignated former subsec. (c) as (e) and substituted reference to processor for reference to rectifier and reference to warehouseman for reference to bonded warehouseman and struck out reference to bottler.

1976—Subsec. (b)(1). Pub. L. 94-455, §§1905(a)(13)(A), 1906(b)(13)(A), struck out "49 Stat. 978;" before "27 U.S.C. 203, 204" in parenthetical provisions after "Federal Alcohol Administration Act" and struck out "or his delegate" after "Secretary".

Subsec. (b)(3). Pub. L. 94-455, §1905(a)(13)(B), struck out par. (3) under which persons who were qualified on June 30, 1959, to perform operations for which a permit was required covering operations not required to be covered by a basic permit under the Federal Alcohol Administration Act had been allowed to continue operations pending a reasonable opportunity to make application for a permit.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(13) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Pub. L. 96-39, title VIII, §809(a), (b), July 26, 1979, 93 Stat. 292, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(a) NEW APPLICATION REQUIRED.—

"(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

"(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registration of any person under section 5171 of the Internal Revenue Code of 1986 which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

"(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the Internal Revenue Code of 1986, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

"(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

"(2) such premises meet the minimum capacity and level of activity requirements for that type of operation."

§ 5172. Application

The application for registration required by section 5171(c) shall, in such manner and form as the Secretary may by regulations prescribe, identify the applicant and persons interested in the business (or businesses) covered by the application, show the nature, location and extent of the premises, show the specific type or types of operations to be conducted on such premises, and show any other information which the Secretary may by regulations require for the purpose of carrying out the provisions of this chapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(13), July 26, 1979, 93 Stat. 282.)

PRIOR PROVISIONS

A prior section 5172, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to "conditions precedent to carrying on business of distilling", prior to the general revision

of this chapter by Pub. L. 85-859 and is covered in part by this section. See also sections 5171(a), 5173(a), 5178(a)(1)(A), and 5601(a)(2), (4) of this title.

Provisions similar to those comprising this section were contained in prior sections 5175(a), 5178, 5231, 5243(a), 5271, 5301 to 5303, 5305, and 5331(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 628, 631, 643, 645, 650, 654, 655, 657, 661, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “section 5171(c)” for “section 5171(a)”.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5173. Bonds

(a) Operations at, and withdrawals from, distilled spirits plant must be covered by bond

(1) Operations

Except as provided under section 5551(d), no person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

(2) Withdrawals

Except as provided under section 5551(d), no distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

(b) Operations bonds

The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

(1) One plant bond

The bond covers operations at a single distilled spirits plant.

(2) Adjacent wine cellar bond

The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

(3) Area bond

The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(c) Withdrawal bonds

The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

(d) Unit bonds

Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of

subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

(e) Terms and conditions

(1) In general

Any bond furnished under this section shall be conditioned that the person furnishing the bond—

(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

(B) will pay—

(i) all taxes imposed by this chapter, and

(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

(2) Other terms and conditions

Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

(f) Amount

(1) In general

The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

(2) Maximum and minimum amount

The Secretary shall by regulations prescribe a minimum amount and a maximum amount for each type of bond which may be furnished under this section.

(g) Total amount available

The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

(h) Special rules

For purposes of this section—

(1) Withdrawal bonds

In the case of any bond furnished under this section which covers withdrawals but not operations—

(A) such bond shall be in addition to the operations bond, and

(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

(2) Adjacent wine cellars

(A) Requirements

No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(B) Bond in lieu of wine cellar bond

In the case of any adjacent wine cellar, a bond furnished under this section which cov-

ers operations at such wine cellar shall be in lieu of any bond which would otherwise be required under section 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of section 5354).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 91-659, §4, Jan. 8, 1971, 84 Stat. 1966; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §805(c), July 26, 1979, 93 Stat. 276; Pub. L. 114-113, div. Q, title III, §332(b)(2)(A), Dec. 18, 2015, 129 Stat. 3105.)

PRIOR PROVISIONS

A prior section 5173, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to “distillery fixtures and equipment”, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(1)(A), (2)(B)(C), (c)(1) and 5202(b) of this title.

Provisions similar to those comprising subsecs. (a), (b), (b)(1), (b)(1)(A) to (C), (b)(3), (c), (c)(1), (d) and (e)(1) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5172, 5176(a), 5231, 5232(a), 5272(a), 5301-5303, 5304(a)(5), 5305, 5311(a)(3).
(b)	5176 (a), (d).
(b)(1)	5176(a), 5177(c).
(b)(1)(A)-(C)	5177(b)(1)-(3).
(b)(3)	5177(b)(4).
(c)	5232(a), 5302, 5303, 5306, 5331(a)(3).
(c)(1)	5232(a).
(d)	5272(a).
(e)(1)	5304(a)(5).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 629 to 631, 643, 650, 654, 655, 657, 662.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-113, §332(b)(2)(A)(i), substituted “Except as provided under section 5551(d), no person” for “No person”.

Subsec. (a)(2). Pub. L. 114-113, §332(b)(2)(A)(ii), substituted “Except as provided under section 5551(d), no distilled spirits” for “No distilled spirits”.

1979—Pub. L. 96-39, among other changes, struck out provisions relating to liens on distillery property and the furnishing of indemnity bonds as methods of securing tax payments and inserted provisions relating to the one plant operations bond, which will cover the operations at a bonded wine cellar which is adjacent to the distilled spirits plant and operated by the same person.

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

1971—Subsec. (b)(1). Pub. L. 91-659, §4(b), extended exception clause in parenthetical by making reference to cl. (4) of this subsection.

Subsec. (b)(2). Pub. L. 91-659, §4(c), inserted reference to par. (4).

Subsec. (b)(4). Pub. L. 91-659, §4(a), added par. (4).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to any calendar quarters beginning more than 1 year after Dec. 18, 2015, see section 332(c) of Pub. L. 114-113, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-659 effective on first day of first calendar month which begins more than 90 days

after Jan. 8, 1971, see section 6 of Pub. L. 91-659, set out as an Effective Date note under section 5066 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Pub. L. 96-39, title VIII, §809(c), July 26, 1979, 93 Stat. 292, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of section 5173 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to bonds), each person who intends to continue operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.”

§ 5174. Repealed. Pub. L. 96-39, title VIII, § 807(a)(14), July 26, 1979, 93 Stat. 282]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1352; amended Pub. L. 94-455, title XIX, §§1905(a)(14), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to withdrawal bonds.

A prior section 5174, act Aug. 16, 1954, ch. 736, 68A Stat. 630, related to “registry of stills”, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5179 and 5505(d) of this title.

Provisions similar to those comprising subsec. (a)(1) of section 5174, added by Pub. L. 85-859, title I, §201, Sept. 2, 1958, 725 Stat. 1352, relating to the withdrawal from bonded premises of distilled spirits on the furnishing of a bond by the proprietor of the bonded premises to secure payment of the tax on such spirits, were contained in prior sections 5176(b) and 5232(b), act Aug. 16, 1954, ch. 736, 68A Stat. 629, 643, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5175. Export bonds

(a) Requirements

No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe.

(b) Exception where proprietor withdraws spirits for exportation

In the case of distilled spirits withdrawn from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply.

(c) Cancellation or credit of export bonds

The bonds given under subsection (a) shall be cancelled or credited and the bonds liable under subsection (b) credited if there is such proof of exportation as the Secretary may by regulations require.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1352; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, §3(b), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96-39, title VIII, §807(a)(15), July 26, 1979, 93 Stat. 282; Pub. L. 105-34, title XIV, §1412(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

A prior section 5175, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to “notice of business of distiller”, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (c) and 5172 of this title.

Provisions similar to those comprising this section were contained in a prior section 5247(a), act Aug. 16, 1954, ch. 736, 68A Stat. 647, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34 substituted “if there is such proof of exportation as the Secretary may by regulations require.” for “on the submission of such evidence, records, and certification indicating exportation as the Secretary may by regulations prescribe.”

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(15)(A), struck out “for storage therein pending exportation” after “customs bonded warehouse”.

Subsec. (b). Pub. L. 96-39, § 807(a)(15)(B), substituted “from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply” for “for exportation without payment of tax on application of the proprietor of bonded premises, the bond of such proprietor covering such bonded premises shall cover such exportation and subsection (a) shall not be applicable”.

1977—Subsec. (a). Pub. L. 95-176 required export bonds for withdrawals from bonded premises, without payment of tax, for transfer to a customs bonded warehouse for storage therein pending exportation.

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

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, § 1412(b), Aug. 5, 1997, 111 Stat. 1046, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

CONTINUATION OF DISTILLER'S NOTICE AND BOND

Pub. L. 85-859, title II, § 210(f), Sept. 2, 1958, 72 Stat. 1436, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Notwithstanding any provision of section 5175 or 5176(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the Secretary of the Treasury or his delegate may waive, as to registered distillers or registered fruit distillers qualified to operate under bond on April 30, 1959, requirements for filing notice and executing new bond on May 1, 1959, if the distiller and the surety have executed consent to continuation of the terms of the existing bond to cover operations from May 1, 1959, to June 30, 1959, both dates inclusive. Nothing in this subsection shall be construed as limiting the authority of the Secretary of the Treasury or his delegate under section 5176(b) or (c) of the Internal Revenue Code of 1986.”

§ 5176. New or renewed bonds

(a) General

New bonds shall be required under sections 5173 and 5175 in case of insolvency or removal of

any surety, and may, at the discretion of the Secretary, be required in any other contingency affecting the validity or impairing the efficiency of such bond.

(b) Bonds

If the proprietor of a distilled spirits plant fails or refuses to furnish a bond required under paragraph (1) of section 5173(a) or to renew the same, and neglects to immediately withdraw the spirits and pay the tax thereon, the Secretary shall proceed to collect the tax.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 807(a)(16), July 26, 1979, 93 Stat. 282.)

PRIOR PROVISIONS

A prior section 5176(c), act Aug. 16, 1954, ch. 736, 68A Stat. 629, consisted of provisions similar to those comprising subsec. (a) of this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5176(a), (b), (d), (e), related to distiller's bond: form and approval; additional bond; exemption from survey requirements; and cross references, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5173(a), (b), 5174(a)(1) and 5177 of this title.

Provisions similar to those comprising this section were contained in prior section 5232(c), act Aug. 16, 1954, ch. 736, 68A Stat. 643, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(16)(A), struck out “, 5174,” after “sections 5173”.

Subsec. (b). Pub. L. 96-39, § 807(a)(16)(A), substituted reference to paragraph (1) of section 5173(a) for reference to section 5173(c) and struck out provisions relating to failure or refusal of the proprietor of a distilled spirits plant to withdraw any spirits from storage on bonded premises before the expiration of the time limited on the bond and pay the tax thereon.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

CONTINUATION OF DISTILLER'S NOTICE AND BOND

Authority to waive requirements for filing notice and executing new bond on May 1, 1959, if distiller and surety have executed consent to continuation of the terms of existing bond to cover operations from May 1, 1959 to June 30, 1959, see section 210(f) of Pub. L. 85-859, set out as a note under section 5175 of this title.

§ 5177. Other provisions relating to bonds

(a) General provisions relating to bonds

The provisions of section 5551 shall be applicable to the bonds required by or given under sections 5173 and 5175.

(b) Cross references

(1) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(2) For penalty and forfeiture for failure or refusal to give bond, or for giving false, forged, or fraudulent bond, or carrying on the business of a distiller without giving bond, see sections 5601(a)(4), 5601(a)(5), 5601(b), and 5615(3).

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 94-455, title XIX,

§ 1905(b)(6)(B), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 96-39, title VIII, § 807(a)(17), July 26, 1979, 93 Stat. 282; Pub. L. 97-258, § 3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5177, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to “conditions of approval of distiller’s bond”, prior to the general revision of this chapter by Pub. L. 85-859. See section 5173(b)(1) of this title.

Prior section 5177(a) was a general provision. See section 5171(a) of this title.

Prior section 5177(b)(1) to (3) related to ownership, consent of owner, or indemnity bond. See section 5173(b)(1)(A) to (C) of this title.

Prior section 5177(b)(4) related to judicial sale. See section 5173(b)(3) of this title.

Prior section 5177(c) related to situation of distillery. See sections 5173(b)(1) and 5551(c) of this title.

Prior section 5177(d) was a cross reference to penalty for improper approval of distiller’s bond, and to general provisions relating to approval, disapproval and appeal on bonds. See subsec. (a) of this section and section 5551 of this title.

Provisions similar to those comprising subsec. (b) of this section were contained in prior sections 5176(e) and 5232(d), act Aug. 16, 1954, ch. 736, 68A Stat. 630, 644, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”.

1979—Subsec. (a). Pub. L. 96-39 struck out “, 5174,” after “sections 5173”.

1976—Subsec. (b)(2). Pub. L. 94-455 substituted “5601(b)” for “5601(b)(2)”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5178. Premises of distilled spirits plants

(a) Location, construction, and arrangement

(1) General

(A) The premises of a distilled spirits plant shall be as described in the application required by section 5171(c). The Secretary shall prescribe such regulations relating to the location, construction, arrangement, and protection of distilled spirits plants as he deems necessary to facilitate inspection and afford adequate security to the revenue.

(B) No distilled spirits plant for the production of distilled spirits shall be located in any dwelling house, in any shed, yard, or inclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is made or produced, or liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under subsection (b)).

(C) Notwithstanding any other provision of this chapter relating to distilled spirits plants the Secretary may approve the location, construction, arrangement, and method of operation of any establishment which was quali-

fied to operate on the date preceding the effective date of this section if he deems that such location, construction, arrangement, and method of operation will afford adequate security to the revenue.

(2) Production operations

(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

(C) The Secretary is authorized to order and require—

(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment, as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

(3) Warehousing operations

(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration, warehouse bulk distilled spirits on the bonded premises of such plant.

(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

(4) Processing operations

Any person establishing a distilled spirits plant may, as described in the application for registration, process distilled spirits on the bonded premises of such plant.

(b) Use of premises for other businesses

The Secretary may authorize the carrying on of such other businesses (not specifically prohibited by section 5601(a)(6)) on premises of distilled spirits plants, as he finds will not jeopardize the revenue. Such other businesses shall not be carried on until an application to carry on such business has been made to and approved by the Secretary.

(c) Cross references

(1) For provisions authorizing the Secretary to require installation of meters, tanks, and other apparatus, see section 5552.

(2) For penalty for distilling on prohibited premises, see section 5601(a)(6).

(3) For provisions relating to the bottling of distilled spirits labeled as alcohol, see section 5235.

(4) For provisions relating to the unauthorized use of distilled spirits in any manufacturing process, see section 5601(a)(9).

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 91-659, § 5, Jan. 8, 1971, 84 Stat. 1966; Pub. L. 94-455, title XIX,

§ 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, § 2(b), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §§ 805(b)(1), 807(a)(18), July 26, 1979, 93 Stat. 275, 283.)

PRIOR PROVISIONS

A prior section 5178, act Aug. 16, 1954, ch. 736, 68A Stat. 631, related to plan of distillery, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a) and 5172 of this title.

Provisions similar to those comprising subsecs. (a)(1)(A), (B), (2)(A) to (C), (3), (4)(A), (B), (D), (5), (b), (c)(1), (2), (4) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)(1)(A)	5172, 5173(a), 5231, 5271(a), 5273(a), 5305.
(a)(1)(B)	5171(a).
(a)(2)(A)	5307.
(a)(2)(B)	5173(b).
(a)(2)(C)	5173(a), (c).
(a)(3)	5231, 5243(a), 5302.
(a)(4)(A)	5243(a).
(a)(4)(B), (D)	5271(a), 5273(a).
(a)(5)	5303, 5305, 5331(a)(1).
(b)	5171(a).
(c)(1)	5173(d)(1), 5273(b)(1).
(c)(2)	5171(b).
(c)(4)	5216(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 628, 641, 643, 645, 650, 654, 655, 657, 661.

AMENDMENTS

1979—Subsec. (a)(1)(A). Pub. L. 96-39, § 807(a)(18), substituted “section 5171(c)” for “section 5171(a)”.

Subsec. (a)(2). Pub. L. 96-39, § 805(b)(1), substituted in heading “operations” for “facilities” and in subpar. (A) “produce” for “provided facilities which may be used for the production of” and struck out in subpar. (B) “closed at all points where potable or readily recoverable spirits are present and the distilling apparatus” after “shall be continuous and”.

Subsec. (a)(3). Pub. L. 96-39, § 805(b)(1), substituted in heading “Warehousing operations” for “Bonded warehousing facilities” and in subpar. (A) “the application” for “his application” and “warehouse bulk distilled spirits” for “establish warehousing facilities” and struck out subpar. (C) which related to facilities for the storage on bonded premises of distilled spirits in casks, packages, cases, or similar portable approved containers and subpar. (D), which related to the establishment of a portion of the premises established under subpar. (C) as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b).

Subsec. (a)(4). Pub. L. 96-39, § 805(b)(1), substituted provisions relating to processing operations for provisions relating to bottling facilities.

Subsec. (a)(5). Pub. L. 96-39, § 805(b)(1), struck out par. (5) which related to arrangement and segregation of denaturing facilities by regulation of the Secretary.

1977—Subsec. (a)(3)(D). Pub. L. 95-176 added subpar. (D).

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

1971—Subsec. (a)(4)(A). Pub. L. 91-659 substantially reenacted existing provisions and added cl. (ii) and the following sentence.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91-659, set out as an Effective Date note under section 5066 of this title.

§ 5179. Registration of stills

(a) Requirements

Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register such still or apparatus with the Secretary immediately on its being set up, by subscribing and filing with the Secretary a statement, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its capacity, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used (except that stills or distilling apparatus not used or intended to be used for the distillation, redistillation, or recovery of distilled spirits are not required to be registered under this section).

(b) Cross references

(1) For penalty and forfeiture provisions relating to unregistered stills, see sections 5601(a)(1) and 5615(1).

(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1355; amended Pub. L. 94-455, title XIX, §§ 1905(b)(6)(C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 98-369, div. A, title IV, § 451(b)(1), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5179, act Aug. 16, 1954, ch. 736, 68A Stat. 631, related to “survey of distillery”, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior sections 5174 and 5275(2), act Aug. 16, 1954, ch. 736, 68A Stat. 630, 651, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-369 substituted “notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2)” for “permit to set up a still, boiler or other vessel for distilling, see section 5105”.

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

Subsec. (b)(1). Pub. L. 94-455, § 1905(b)(6)(C), struck out “, 5601(b)(1),” after “5601(a)(1)”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(6)(C) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5180. Signs

(a) Requirements

Every person engaged in distilled spirits operations shall place and keep conspicuously on the

outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged. The sign required by this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

(b) Penalty

For penalty and forfeiture relating to failure to post sign or improperly posting such sign, see section 5681.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1355; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, § 807(a)(19), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

A prior section 5180, act Aug. 16, 1954, ch. 736, 68A Stat. 632, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior section 5274, act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted “distilled spirits operation” for “distilling, bonded warehousing, rectifying, or bottling of distilled spirits”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5181. Distilled spirits for fuel use

(a) In general

(1) Purposes for which plant may be established

On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

- (A) producing, processing, and storing, and
- (B) using or distributing,

distilled spirits to be used exclusively for fuel use.

(2) Regulations

In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

- (A) expedite all applications;
- (B) establish a minimum bond; and
- (C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

(b) Authority to exempt

The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

(c) Special rules for small plant production

(1) Applications

(A) In general

An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

(B) Receipt of application

Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

(C) Multiple applications

If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

(2) Determination

(A) In general

In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

(B) Failure to make determination

If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

(C) Rejection of application

If the Secretary determines under subparagraph (A) that a permit should not be issued—

- (i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

(ii) such determination shall not prejudice any further application for such operating permit.

(3) Bond

No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

(4) Eligible distilled spirits plant

The term “eligible distilled spirits plant” means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

(d) Withdrawal free of tax

Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

(e) Prohibited withdrawal, use, sale, or disposition

(1) In general

Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

(2) Rendering unfit for use

For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

(f) Definition of distilled spirits

For purposes of this section, the term “distilled spirits” does not include distilled spirits produced from petroleum, natural gas, or coal.

(Added Pub. L. 96–223, title II, § 232(e)(1), Apr. 2, 1980, 94 Stat. 278.)

PRIOR PROVISIONS

A prior section 5181 was renumbered 5182 of this title.

EFFECTIVE DATE

Pub. L. 96–223, title II, § 232(h)(3), Apr. 2, 1980, 94 Stat. 281, provided that: “The amendments made by subsection (e) [enacting this section, amending sections 5004, 5005, 5214, and 5601, and repealing provisions set out as a note under section 4081 of this title] shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act [Apr. 2, 1980].”

§ 5182. Cross references

For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112,¹ and by retail liquor dealers, see section 5122.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1356, § 5181; amended Pub. L. 96–39, title VIII, § 807(a)(20), July 26, 1979, 93 Stat. 283; renumbered § 5182, Pub. L. 96–223, title II,

§ 232(e)(1), Apr. 2, 1980, 94 Stat. 278; Pub. L. 109–59, title XI, § 11125(b)(16), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in a prior section 5275(3), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 amended text of section generally. Prior to amendment, text read as follows: “For provisions requiring payment of special (occupational) tax as wholesale liquor dealer, see section 5111, or as retail liquor dealer, see section 5121.”

1979—Pub. L. 96–39 struck out “as rectifier, see section 5081, or” after “(occupational) tax”.

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 1979 AMENDMENT

Amendment by Pub. L. 96–39 effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as a note under section 5001 of this title.

Subchapter C—Operation of Distilled Spirits Plants

Part

- I. General provisions.
- II. Operations on bonded premises.
- [III. Repealed.]

PRIOR PROVISIONS

A prior subchapter C, Internal Revenue Bonded Warehouses, consisted of part I, Establishment, and part II, Operation, and consisted of sections 5231 to 5233 and 5241 to 5252, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(5), July 26, 1979, 93 Stat. 290, struck out item relating to Part III “Operations on bottling premises” in table of parts comprising subchapter C.

PART I—GENERAL PROVISIONS

Sec.

- 5201. Regulation of operations.
- 5202. Supervision of operations.
- 5203. Entry and examination of premises.
- 5204. Gauging.
- [5205. Repealed.]
- 5206. Containers.
- 5207. Records and reports.

PRIOR PROVISIONS

A prior part I, Establishment, consisted of sections 5231 to 5233, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1984—Pub. L. 98–369, div. A, title IV, § 454(c)(14), July 18, 1984, 98 Stat. 823, struck out item 5205 “Stamps”.

§ 5201. Regulation of operations

(a) General

Proprietors of distilled spirits plants shall conduct all operations authorized to be con-

¹ So in original. Probably should be “5121.”

ducted on the premises of such plants under such regulations as the Secretary shall prescribe.

(b) Distilled spirits for industrial uses

The regulations of the Secretary under this chapter respecting the production, warehousing, denaturing, distribution, sale, export, and use of distilled spirits for industrial purposes shall be such as he deems necessary, advisable, or proper to secure the revenue, to prevent diversion to illegal uses, and to place the distilled spirits industry and other industries using such distilled spirits as a chemical raw material or for other lawful industrial purposes on the highest possible plane of scientific and commercial efficiency and development consistent with the provisions of this chapter. Where nonpotable chemical mixtures containing distilled spirits are produced for transfer to the bonded premises of a distilled spirits plant for completion of processing, the Secretary may waive any provision of this chapter with respect to the production of such mixtures, and the processing of such mixtures on the bonded premises shall be deemed to be production of distilled spirits for purposes of this chapter.

(c) Hours of operations

The Secretary may prescribe regulations relating to hours for distillery operations and to hours for removal of distilled spirits from distilled spirits plants; however, such regulations shall not be more restrictive, as to any operation or function, than the provisions of internal revenue law and regulations relating to such operation or function in effect on the day preceding the effective date of this section.

(d) Identification of distilled spirits

The Secretary may provide by regulations for the addition of tracer elements to distilled spirits to facilitate the enforcement of this chapter. Tracer elements to be added to distilled spirits at any distilled spirits plant under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not impair the quality of the distilled spirits for their intended use.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(21), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5193(a), 5194(g), 5241(a), 5281, 5282(a), 5302, 5305-5307, 5319(6).
(b)	5305.
(c)	5195, 5215, 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 633, 636, 640, 644, 651, 654, 657, 661.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted “all operations authorized to be conducted” for “their operations relating to the production, storage, denaturing,

rectification and bottling of distilled spirits, and all other operations authorized to be conducted”.

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5202. Supervision of operations

All operations on the premises of a distilled spirits plant shall be conducted under such supervision and controls (including the use of Government locks and seals) as the Secretary shall by regulations prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §806(a), July 26, 1979, 93 Stat. 279.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5192(a), (c), 5241(a), (b), 5282(b).
(b)	5173(b), 5192(b), (c).
(c)	5241(a), (b).
(d)	5241(b).
(e)	5331(a)(1).
(f)	5193(a), 5250(a), (b).
(g)	5243(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 628, 633, 644, 646, 649, 652, 661.

AMENDMENTS

1979—Pub. L. 96-39 substituted provisions making on-site supervision and the use of government locks and seals optional at the discretion of the Secretary of the Treasury for provisions whereby bonded warehouses are required to be kept under government locks and certain activities are required to be conducted under government supervision.

1976—Subsecs. (a) to (g). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5203. Entry and examination of premises

(a) Keeping premises accessible

Every proprietor of a distilled spirits plant shall furnish the Secretary such keys as may be required for internal revenue officers to gain access to the premises and any structures thereon, and such premises shall always be kept accessible to any officer having such keys.

(b) Right of entry and examination

It shall be lawful for any internal revenue officer at all times, as well by night as by day, to enter any distilled spirits plant, or any other premises where distilled spirits operations are

carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, it shall be lawful for such officer, at all times, as well by night as by day, to use such force as is necessary for him to gain entry to such premises.

(c) Furnishing facilities and assistance

On the demand of any internal revenue officer or agent, every proprietor of a distilled spirits plant shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on such premises. Such proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels on such premises.

(d) Authority to break up grounds or walls

It shall be lawful for any internal revenue officer, and any person acting in his aid, to break up the ground on any part of a distilled spirits plant or any other premises where distilled spirits operations are carried on, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any distilled spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(e) Penalty

For penalty for violation of this section, see section 5687.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(22), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5196(a).
(b)	5196(b), (e).
(c)	5196(c), (e), 5283, 5615.
(d)	5196(d), 5283.
(e)	5615, 5687.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 636, 652, 686, 700.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39, §807(a)(22)(A), substituted “where distilled spirits operations are carried

on” for “where distilled spirits are produced or rectified”.

Subsec. (c). Pub. L. 96-39, §807(a)(22)(B), substituted “on such premises” for “not under the control of the internal revenue officer in charge”.

Subsec. (d). Pub. L. 96-39, §807(a)(22)(C), substituted “where distilled spirits operations are carried on” for “where distilled spirits are produced or rectified”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5204. Gauging

(a) General

The Secretary may by regulations require the gauging of distilled spirits for such purposes, as he may deem necessary, and all required gauges shall be made at such times and under such conditions as he may by regulations prescribe.

(b) Gauging instruments

For the determination of tax and the prevention and detection of frauds, the Secretary may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means or methods for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

(c) Gauging, marking, and branding by proprietors

The Secretary may by regulations require the proprietor of a distilled spirits plant, at the proprietor's expense and under such supervision as the Secretary may require, to do such gauging, marking, and branding and such mechanical labor pertaining thereto as the Secretary deems proper and determines may be done without danger to the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(23), July 26, 1979, 93 Stat. 283; Pub. L. 98-369, div. A, title IV, §454(c)(4), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5193(a), 5194(g), 5245, 5282(b).
(b)	5212.
(c)	5193(d), 5250(b), 5282(b), 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 633, 634, 636, 639, 647, 649, 652, 657.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-369 struck out “stamping,” before “marking” in heading and text.

1979—Subsec. (a). Pub. L. 96-39 struck out “, in addition to those specified in section 5202(f),” after “spirits for such purposes”.

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

[§ 5205. Repealed. Pub. L. 98-369, div. A, title IV, § 454(a), July 18, 1984, 98 Stat. 820]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-569, §1, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 95-176, §2(c), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §807(a)(24), July 26, 1979, 93 Stat. 283, related to stamps for containers of distilled spirits.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 5206. Containers

(a) Authority to prescribe

The Secretary shall by regulations prescribe the types or kinds of containers which may be used to contain, store, transfer, convey, remove, or withdraw distilled spirits.

(b) Standards of fill

The Secretary may by regulations prescribe the standards of fill for approved containers.

(c) Marking, branding, or identification

Containers of distilled spirits (and cases containing bottles or other containers of such spirits) shall be marked, branded, or identified in such manner as the Secretary shall by regulations prescribe.

(d) Effacement of marks and brands on emptied containers

Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.

(e) Applicability

This section shall be applicable exclusively with respect to containers of distilled spirits for industrial use, with respect to containers of distilled spirits of a capacity of more than one gallon for other than industrial use, and with respect to cases containing bottles or other containers of distilled spirits.

(f) Cross references

(1) For other provisions relating to regulation of containers of distilled spirits, see section 5301.

(2) For provisions relating to labeling containers of distilled spirits of one gallon or less for nonindustrial uses, see section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)).

(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1360; 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, §454(c)(5), July 18, 1984, 98 Stat. 821; Pub. L. 104-188, title I, §1704(t)(13), Aug. 20, 1996, 110 Stat. 1888.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5193(a), (b), 5194, 5247(a), (d), 5302.
(b)	5193(c).
(c)	5009(a), 5193(a), 5194, 5243(d), (e), 5250(a), 5282(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 603, 633 to 635, 646 to 649, 652, 654.

AMENDMENTS

1996—Subsec. (f)(2). Pub. L. 104-188 substituted “section 105(e)” for “section 5(e)”.

1984—Subsecs. (d) to (f). Pub. L. 98-369 added subsec. (d), redesignated existing subsecs. (d) and (e) as (e) and (f), respectively, and in subsec. (f) added pars. (3) and (4).

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

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.

§ 5207. Records and reports

(a) Records of distilled spirits plant proprietors

Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

(1) The following production activities—

(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

(B) the receipt and use of distilled spirits received for redistillation, and

(C) the kind and quantity of distilled spirits produced.

(2) The following storage activities—

(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and

(C) the kind and quantity of distilled spirits returned to storage.

(3) The following denaturation activities—

(A) the kind and quantity of denaturants received and used or otherwise disposed of,

(B) the kind and quantity of distilled spirits denatured, and

(C) the kind and quantity of denatured distilled spirits removed.

(4) The following processing activities—

- (A) all distilled spirits, wines, and alcoholic ingredients received or transferred,
- (B) the kind and quantity of distilled spirits packaged or bottled, and
- (C) the kind and quantity of distilled spirits removed from his premises.

(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

(b) Reports

Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

(c) Preservation and inspection

The records required by subsection (a) and a copy of each report required by subsection (b) shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

(d) Penalty

For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1361; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, §2(e), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §807(a)(25), July 26, 1979, 93 Stat. 283; Pub. L. 98-369, div. A, title IV, §454(c)(6), July 18, 1984, 98 Stat. 821; Pub. L. 105-34, title XIV, §1413(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections:</i>
(a)	5197(a)(1)(A), (a)(2), 5305, 5331(a)(3), 5285, 5555(a).
(b)	5197(b), 5285, 5305, 5331(a)(3), 5555(a).
(c)	5197(a)(1)(B), 5285, 5305, 5331(a)(3), 5555(a).
(e)	5197(c)(2), 5285.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 637, 638, 652, 657, 662, 681.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34 struck out “shall be kept on the premises where the operations covered by the record are carried on and” after “required by subsection (b)”.

1984—Subsec. (a)(4)(D). Pub. L. 98-369, §454(c)(6), struck out subpar. (D) which required every distilled spirits plant proprietor to keep records in such form and manner as prescribed by the Secretary of the receipt, use, and balance on hand of all stamps required by law or regulations to be used by the proprietor.

1979—Subsec. (a). Pub. L. 96-39 struck out provisions relating to the bottling of distilled spirits in bond and relating to the kind and quantity of distilled spirits returned to bonded premises and inserted provisions relating to the kind and quantity of distilled spirits returned to storage and relating to receipt, use, and balance on hand of all stamps required by law or regulations to be used by the Secretary.

Subsec. (b). Pub. L. 96-39 redesignated subsec. (c) as (b) and struck out “or (b)” after “subsection (a)”. Former subsec. (b), relating to records of rectifiers and bottlers, was struck out.

Subsec. (c). Pub. L. 96-39 redesignated subsec. (d) as (c), struck out “and (b),” after “subsection (a)”, and substituted “subsection (b)” for “subsection (c)”. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 96-39 redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1977—Subsec. (a)(10), (11). Pub. L. 95-176, §2(e)(2), (3), added par. (10) and redesignated former par. (10) as (11). 1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1413(b), Aug. 5, 1997, 111 Stat. 1046, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

PART II—OPERATIONS ON BONDED PREMISES

Subpart

- A. General
- B. Production.
- C. Storage.
- D. Denaturation.

PRIOR PROVISIONS

A prior part II, Operation, consisted of sections 5241 to 5252, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

SUBPART A—GENERAL

- Sec. 5211. Production and entry of distilled spirits.
- 5212. Transfer of distilled spirits between bonded premises.
- 5213. Withdrawal of distilled spirits from bonded premises on determination of tax.
- 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax.
- 5215. Return of tax determined distilled spirits to bonded premises.
- 5216. Regulation of operations.

§ 5211. Production and entry of distilled spirits

Distilled spirits in the process of production in a distilled spirits plant may be held prior to the production gauge only for so long as is reasonably necessary to complete the process of production. Under such regulations as the Secretary shall prescribe, all distilled spirits produced in a distilled spirits plant shall be gauged

and a record made of such gauge within a reasonable time after the production thereof has been completed. The proprietor shall, pursuant to such production gauge and in accordance with such regulations as the Secretary shall prescribe, make appropriate entry for—

- (1) deposit of such spirits on bonded premises for storage or processing;
- (2) withdrawal upon determination of tax as authorized by law;
- (3) withdrawal under the provisions of section 5214; and
- (4) transfer for redistillation under the provisions of section 5223.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(26), July 26, 1979, 93 Stat. 284.)

PRIOR PROVISIONS

A prior section 5211, act Aug. 16, 1954, ch. 736, 68A Stat. 638, related to detention of casks, packages, or containers on suspicion, prior to the general revision of this chapter by Pub. L. 85-859. See section 5311 of this title.

Provisions similar to those comprising this section were contained in prior sections 5193(a), 5194(a), (e) to (g), 5242(a), 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 633 to 636, 645, 657, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pars. (1), (5), Pub. L. 96-39 substituted in par. (1) “on bonded premises for storage or processing” for “in storage on bonded premises” and struck out par. (5) which related to an appropriate entry by the proprietor for immediate denaturation.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5212. Transfer of distilled spirits between bonded premises

Bulk distilled spirits on which the internal revenue tax has not been paid or determined as authorized by law may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises in any approved container. For the purposes of this chapter, the removal of bulk distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises. The provisions of this section restricting transfers to bulk distilled spirits shall not apply to alcohol bottled under the provisions of section 5235 which is to be withdrawn for industrial purposes. In the case of distilled spirits transferred in bond after December 31, 2017, and before January 1, 2020, this section shall be applied without regard to whether distilled spirits are bulk distilled spirits.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94-455, title XIX,

§1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §805(b)(2), July 26, 1979, 93 Stat. 276; Pub. L. 96-598, §6(d), Dec. 24, 1980, 94 Stat. 3490; Pub. L. 115-97, title I, §13808(a), Dec. 22, 2017, 131 Stat. 2177.)

PRIOR PROVISIONS

A prior section 5212, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to the prevention and detection of fraud and contained a cross reference to provisions for gauging and marking of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5204(b) of this title.

Provisions similar to those comprising this section were contained in prior sections 5194(a), (e) to (g), 5217(a), 5246, 5308, act Aug. 16, 1954, ch. 736, 68A Stat. 634 to 636, 641, 647, 657, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Pub. L. 115-97 inserted at end “In the case of distilled spirits transferred in bond after December 31, 2017, and before January 1, 2020, this section shall be applied without regard to whether distilled spirits are bulk distilled spirits.”

1980—Pub. L. 96-598 inserted provision that restriction on transfers to bulk distilled spirits not apply to alcohol bottled under section 5235 of this title which is to be withdrawn for industrial purposes.

1979—Pub. L. 96-39 substituted “Bulk distilled spirits” for “Distilled spirits” and “bulk distilled spirits” for “distilled spirits”.

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

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13808(b), Dec. 22, 2017, 131 Stat. 2178, provided that: “The amendments made by this section [amending this section] shall apply distilled spirits transferred in bond after December 31, 2017.”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5213. Withdrawal of distilled spirits from bonded premises on determination of tax

Subject to the provisions of section 5173, distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant on payment or determination of tax thereon, in approved containers, under such regulations as the Secretary shall prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(27), July 26, 1979, 93 Stat. 285.)

PRIOR PROVISIONS

A prior section 5213, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to return of materials used in the manufacture of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5002(a)(6) and 5291 of this title.

Provisions similar to those comprising this section were contained in prior sections 5194(a), (e) and 5244, act Aug. 16, 1954, ch. 736, 68A Stat. 634, 647, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “Subject to the provisions of section 5173” for “On application to the Secretary and subject to the provisions of section 5174(a)”.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers—

(1) free of tax after denaturation of such spirits in the manner prescribed by law for—

(A) exportation;

(B) use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(C) any other use in the arts and industries (except for uses prohibited by section 5273(b) or (d)) and for fuel, light, and power; or

(2) free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for non-beverage purposes; or

(3) free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale—

(A) for the use of any educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a), or for the use of any scientific university or college of learning;

(B) for any laboratory for use exclusively in scientific research;

(C) for use at any hospital, blood bank, or sanitarium), (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(D) for the use of any clinic operated for charity and not for profit (including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(4) without payment of tax for exportation, after making such application and entries, filing such bonds as are required by section 5175, and complying with such other requirements as may by regulations be prescribed; or

(5) without payment of tax for use in wine production, as authorized by section 5373; or

(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or

(7) without payment of tax for use of certain vessels and aircraft, as authorized by law; or

(8) without payment of tax for transfer to foreign-trade zones, as authorized by law; or

(9) without payment of tax, for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary may prescribe; or

(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distilled spirits operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue; or

(11) free of tax when contained in an article (within the meaning of section 5002(a)(14)); or

(12) free of tax in the case of distilled spirits produced under section 5181; or

(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).

(b) Cross references

(1) For provisions relating to denaturation, see sections 5241 and 5242.

(2) For provisions requiring permit for users of distilled spirits withdrawn free of tax and for users of specially denatured distilled spirits, see section 5271.

(3) For provisions relating to withdrawal of distilled spirits without payment of tax for use of certain vessels and aircraft, as authorized by law, see 19 U.S.C. 1309.

(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311.

(5) For provisions relating to foreign-trade zones, see 19 U.S.C. 81c.

(6) For provisions authorizing regulations for withdrawal of distilled spirits free of tax for use of the United States, see section 7510.

(7) For provisions authorizing removal of distillates to bonded wine cellars for use in the production of distilling material, see section 5373(c).

(8) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 91-172, title I, § 101(j)(29), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94-455, title XIX, §§ 1905(c)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95-176, §§ 3(a), (d), 4(a), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96-39, title VIII, § 807(a)(28), July 26, 1979, 93 Stat. 285; Pub. L. 96-223, title II, § 232(e)(2)(B), Apr. 2, 1980, 94 Stat. 280; Pub. L. 98-369, div. A, title IV, § 455(a), July 18, 1984, 98 Stat. 823.)

PRIOR PROVISIONS

A prior section 5214, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to regulation of traffic in containers of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5301(a), (c), (d) of this title.

Provisions similar to those comprising subsecs. (a)(1) to (4), (9) and (b)(3) to (5) of this section were contained

in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5243(e), 5247, 5310(a)-(c), 5331 (a)(1), (b), 5373(b)(4), 5522(a).
(a)(1)	5310(a), 5331(a)(1), (b).
(a)(2), (3)	5310(b), (c).
(a)(4)	5243(e), 5247.
(a)(9)	5373(b)(4).
(b)(3)	5248(2).
(b)(4)	5248(4).
(b)(5)	5248(3).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 646-648, 658, 661, 662, 667.

AMENDMENTS

1984—Subsec. (a)(13). Pub. L. 98-369 added par. (13).
 1980—Subsec. (a)(12). Pub. L. 96-223 added par. (12).
 1979—Subsec. (a)(6). Pub. L. 96-39, § 807(a)(28)(A), inserted “for manufacturing in such warehouses for export” after “bonded warehouses” and substituted “by law” for “by section 5522(a)”.

Subsec. (a)(9). Pub. L. 96-39, § 807(a)(28)(B), struck out “in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b),” after “payment of tax,”.

Subsec. (a)(10). Pub. L. 96-39, § 807(a)(28)(C), (D), substituted “distilled spirits operations” for “distillery operations”.

Subsec. (a)(11). Pub. L. 96-39, § 807(a)(28)(D), added par. (11).

Subsec. (b)(4) to (8). Pub. L. 96-39, § 807(a)(28)(E), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively.

1977—Subsec. (a)(9). Pub. L. 95-176, § 3(a), substituted provisions for withdrawal of distilled spirits from bonded premises without payment of tax where the distilled spirits are bottled in bond for export or are returned to bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse for exportation and requiring the transferred distilled spirits to be entered, stored, and accounted for, for prior provision for tax free withdrawals for use as samples in making tests or laboratory analyses.

Subsec. (a)(10). Pub. L. 95-176, § 4(a), added par. (10).
 Subsec. (b)(7). Pub. L. 95-176, § 3(d), added par. (7).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary” in introductory provisions and struck out “or Territory” after “State” in par. (2).

1969—Subsec. (a)(3)(A). Pub. L. 91-172 substituted “section 170(b)(1)(A)(ii)” for “section 503(b)(2)”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, see section 456(c) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(2) of Pub. L. 94-455 effective on first day of first month which begins more

than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

§ 5215. Return of tax determined distilled spirits to bonded premises

(a) General rule

Under such regulations as the Secretary may prescribe, distilled spirits on which tax has been determined or paid may be returned to the bonded premises of a distilled spirits plant but only for destruction, denaturation, redistillation, reconditioning, or rebottling.

(b) Applicability of chapter to distilled spirits returned to a distilled spirits plant

All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

(c) Return of bottled distilled spirits for relabeling and reclosing

Under such regulations as the Secretary shall prescribe, bottled distilled spirits withdrawn from bonded premises may be returned to bonded premises for relabeling or reclosing, and the tax under section 5001 shall not again be collected on such spirits.

(d) Cross reference

For provisions relating to the abatement, credit, or refund of tax on distilled spirits returned to a distilled spirits plant under this section, see section 5008(c).

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1364; amended Pub. L. 89-44, title VIII, § 805(c), June 21, 1965, 79 Stat. 161; Pub. L. 91-659, § 2(c), Jan. 8, 1971, 84 Stat. 1964; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-176, § 2(a), Nov. 14, 1977, 91 Stat. 1363; Pub. L. 96-39, title VIII, § 807(a)(29), July 26, 1979, 93 Stat. 285; Pub. L. 98-369, div. A, title IV, § 454(c)(7), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5215, act Aug. 16, 1954, ch. 736, 68A Stat. 640, related to exemption of distillers of fruit brandy from certain requirements, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5201(c), 5312(a), (c), 5373(a) and 5562 of this title.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-369 substituted “reclosing” for “restamping” in heading and text.

1979—Pub. L. 96-39 amended section generally thereby authorizing the return of distilled spirits to the bonded premises of the distilled spirits plant for certain enumerated purposes except mere storage.

1977—Subsec. (a). Pub. L. 95-176 reenacted existing provisions but struck out last sentence relating to applicability of chapter to distilled spirits returned to bonded premises, which was covered in subsec. (d).

Subsecs. (b), (c). Pub. L. 95-176 added subsecs. (b) and (c) and redesignated former subsec. (b) as (e).

Subsec. (d). Pub. L. 95-176 redesignated last sentence of former subsec. (a) as subsec. (d) and inserted introductory phrase “Except as otherwise provided in this section,”.

Subsec. (e). Pub. L. 95-176 redesignated former subsec. (b) as par. (1) and added par. (2).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1971—Subsec. (a). Pub. L. 91-659, §2(c)(1), struck out requirements that withdrawn distilled spirits be returned when found unsuitable, in bulk containers, before processing and before removal from the original container and permitted return of withdrawn distilled spirits other than products to which any alcoholic ingredients other than such distilled spirits have been added and made additional authorization under section 5234(a)(1)(B) for mingling returned distilled spirits.

Subsec. (b). Pub. L. 91-659, §2(c)(2), (3), repealed subsec. (b) which provided for definition of “original container in which such distilled spirits were withdrawn from bonded premises” in the case of distilled spirits withdrawn by pipeline. Former subsec. (c) redesignated (b).

1965—Subsec. (a). Pub. L. 89-44 inserted reference to destruction to redistillation, denaturation, and mingling in second sentence on list of options which might be used in disposing of returned distilled spirits.

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-659 effective on first day of first calendar month which begins more than 90 days after January 8, 1971, see section 6 of Pub. L. 91-659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89-44, set out as a note under section 5008 of this title.

DISTILLED SPIRITS TO WHICH ALCOHOLIC INGREDIENTS OTHER THAN DISTILLED SPIRITS HAVE BEEN ADDED AND WHICH HAVE BEEN WITHDRAWN FROM DISTILLED SPIRITS PLANTS BEFORE JANUARY 1, 1980

Subsec. (a) of this section to apply to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before Jan. 1, 1980, only if such spirits are returned to the distilled spirits plant from which withdrawn, see section 808(e) of Pub. L. 96-39, set out as a note under section 5061 of this title.

§ 5216. Regulation of operations

For general provisions relating to operations on bonded premises see part I of this subchapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1364.)

PRIOR PROVISIONS

A prior section 5216, act Aug. 16, 1954, ch. 736, 68A Stat. 640, related to “mash, wort and vinegar; vinegar factories”, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(c)(4), 5222(a)(1), (2)(D), (d), 5501, 5502(a), 5503, 5504(a), (b), 5505(a), (c) and 5601(a)(7), (8), (9)(A) of this title.

A prior section 5217, acts Aug. 16, 1954, ch. 736, 68A Stat. 641; July 11, 1956, ch. 573, §1, 70 Stat. 530; July 11, 1958, Pub. L. 85-517, 72 Stat. 357, related to national emergency transfers, prior to the general revision of this chapter by Pub. L. 85-859.

SUBPART B—PRODUCTION

- | | |
|---------------|--|
| Sec.
5221. | Commencement, suspension, and resumption of operations. |
| 5222. | Production, receipt, removal, and use of distilling materials. |
| 5223. | Redistillation of spirits, articles, and residues. |

AMENDMENTS

1965—Pub. L. 89-44, title VIII, §805(f)(9), June 21, 1965, 79 Stat. 161, inserted reference to articles and residues in item 5223.

§ 5221. Commencement, suspension, and resumption of operations

(a) Commencement, suspension, and resumption

The proprietor of a distilled spirits plant authorized to produce distilled spirits shall not commence production operations until written notice has been given to the Secretary stating when operations will begin. Any proprietor of a distilled spirits plant desiring to suspend production of distilled spirits shall give notice in writing to the Secretary, stating when he will suspend such operations. Pursuant to such notice, an internal revenue officer shall take such action as the Secretary shall prescribe to prevent the production of distilled spirits. No proprietor, after having given such notice, shall, after the time stated therein, produce distilled spirits on such premises until he again gives notice in writing to the Secretary stating the time when he will resume operations. At the time stated in the notice of resuming such operations an internal revenue officer shall take such action as is necessary to permit operations to be resumed. The notices submitted under this section shall be in such form and submitted in such manner as the Secretary may by regulations require. Nothing in this section shall apply to suspensions caused by unavoidable accidents; and the Secretary shall prescribe regulations to govern such cases of involuntary suspension.

(b) Penalty

For penalty and forfeiture for carrying on the business of distiller after having given notice of suspension, see sections 5601(a)(14) and 5615(3).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1364; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §806(b), July 26, 1979, 93 Stat. 279.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5191(a), act Aug. 16, 1954, ch. 736, 68A Stat. 632, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted “until written notice has been given to the Secretary stating when operations will begin” for “until an internal revenue officer has been assigned to the premises”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5222. Production, receipt, removal, and use of distilling materials

(a) Production, removal, and use

(1) No mash, wort, or wash fit for distillation or for the production of distilled spirits shall be made or fermented in any building or on any premises other than on the bonded premises of a distilled spirits plant duly authorized to produce distilled spirits according to law; and no mash, wort, or wash so made or fermented shall be removed from any such premises before being distilled, except as authorized by the Secretary; and no person other than an authorized distiller shall, by distillation or any other process, produce distilled spirits from any mash, wort, wash, or other material.

(2) Nothing in this subsection shall be construed to apply to—

(A) authorized operations performed on the premises of vinegar plants established under part I of subchapter H;

(B) authorized production and removal of fermented materials produced on authorized brewery or bonded wine cellar premises as provided by law;

(C) products exempt from tax under the provisions of section 5042 or 5053(e); or

(D) fermented materials used in the manufacture of vinegar by fermentation.

(b) Receipt

Under such regulations as the Secretary may prescribe, fermented materials to be used in the production of distilled spirits may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits as follows—

(1) from the premises of a bonded wine cellar authorized to remove such material by section 5362(c)(6);

(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or

(3) cider exempt from tax under the provisions of section 5042(a)(1).

(c) Processing of distilled spirits containing extraneous substances

The Secretary may by regulations provide for the removal from the distilling system, and the addition to the fermented or unfermented distilling material, of distilled spirits containing substantial quantities of fusel oil or aldehydes, or other extraneous substances.

(d) Penalty

For penalty and forfeiture for unlawful production, removal, or use of material fit for distillation or for the production of distilled spirits, and for penalty and forfeiture for unlawful production of distilled spirits, see sections 5601(a)(7), 5601(a)(8), and 5615(4).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1365; amended Pub. L. 94-455, title XIX, §§1905(b)(6)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95-458, §2(b)(4), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 96-39, title VIII, §807(a)(30), July 26, 1979, 93 Stat. 286; Pub. L. 105-34, title XIV, §1414(a), Aug. 5, 1997, 111 Stat. 1047.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a)(1), (2)(D), (b), and (d) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)(1), (2)(D)	5216(a)(1), (4).
(b)	5309, 5362(7), 5412.
(d)	5216(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 640, 641, 658, 665, 675.

AMENDMENTS

1997—Subsec. (b)(2). Pub. L. 105-34 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “conveyed without payment of tax from contiguous brewery premises where produced; or”.

1979—Subsec. (c). Pub. L. 96-39 struck out “, in the production facilities of a distilled spirits plant” after “distilling material”.

1978—Subsec. (a)(2)(C). Pub. L. 95-458 inserted reference to section 5053(e).

1976—Subsecs. (a)(1), (b), (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, §1905(b)(6)(D), struck out “5601(b)(3), 5601(b)(4),” after “5601(a)(8),”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105-34, set out as a note under section 5053 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(6)(D) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5223. Redistillation of spirits, articles, and residues

(a) Spirits on bonded premises

The proprietor of a distilled spirits plant authorized to produce distilled spirits may, under such regulations as the Secretary shall prescribe, redistill any distilled spirits which have not been withdrawn from bonded premises.

(b) Distilled spirits returned for redistillation

Distilled spirits which have been lawfully removed from bonded premises free of tax or without payment of tax may, under such regulations as the Secretary may prescribe, be returned for

redistillation to the bonded premises of a distilled spirits plant authorized to produce distilled spirits.

(c) Redistillation of articles and residues

Articles, containing denatured distilled spirits, which were manufactured under the provisions of subchapter D or on the bonded premises of a distilled spirits plant, and the spirits residues of manufacturing processes related thereto, may be received, and the distilled spirits therein recovered by redistillation, on the bonded premises of a distilled spirits plant authorized to produce distilled spirits, under such regulations as the Secretary may prescribe.

(d) Denatured distilled spirits, articles, and residues

Distilled spirits recovered by the redistillation of denatured distilled spirits, or by the redistillation of the articles or residues described in subsection (c), may not be withdrawn from bonded premises except for industrial use or after denaturation thereof in the manner prescribed by law.

(e) Products of redistillation

All distilled spirits redistilled on bonded premises subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter applicable to the original production of distilled spirits shall be applicable thereto. Any prior obligation as to taxes, liens, and bonds with respect to such distilled spirits shall be extinguished on redistillation. Nothing in this subsection shall be construed as affecting any provision of law relating to the labeling of distilled spirits or as limiting the authority of the Secretary to regulate the marking, branding, or identification of distilled spirits redistilled under this section.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1365; amended Pub. L. 89-44, title VIII, §805(d), (f)(8), (10), June 21, 1965, 79 Stat. 161, 162; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(31), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

Provisions similar to those comprising subssecs. (a) and (d) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subssecs.:</i>	<i>Prior sections</i>
(a)	5194(f), 5217(a), 5305, 5308.
(d)	5194(f).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 635, 641, 657.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-39, §807(a)(31)(A), inserted “or on the bonded premises of a distilled spirits plant” after “subchapter D.”.

Subsec. (e). Pub. L. 96-39, §807(a)(31)(B), struck out provisions relating to the treatment of the processing of distilled spirits, subsequent to production gauge, in the manufacture of vodka in the production facilities of a distilled spirits plant as a redistillation of the spirits for purposes of this subsection, subsection (a), and sections 5025(d) and 5215.

1976—Subsecs. (a) to (c), (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1965—Pub. L. 89-44, §805(f)(8), substituted “spirits, articles, and residues” for “spirits” in section catchline.

Subsec. (c). Pub. L. 89-44, §805(d), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89-44, §805(d), (f)(10), redesignated subsec. (c) as (d), inserted “, articles, and residues” after “distilled spirits” in heading, and inserted “, or by the redistillation of the articles or residues described in subsection (c),” after “denatured distilled spirits” in text. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 89-11, §805(d), redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Oct. 1, 1965, see section 805(g)(2) of Pub. L. 89-44, set out as a note under section 5004 of this title.

SUBPART C—STORAGE

Sec.	
5231.	Entry for deposit.
5232.	Imported distilled spirits.
[5233, 5234.	Repealed.]
5235.	Bottling of alcohol for industrial purposes.
5236.	Discontinuance of storage facilities and transfer of distilled spirits.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(6), July 26, 1979, 93 Stat. 290, substituted “Entry for deposit” for “Entry for deposit in storage” in item 5231 and struck out items 5233 “Bottling of distilled spirits in bond” and 5234 “Mingling and blending of distilled spirits”.

§ 5231. Entry for deposit

All distilled spirits entered for deposit on the bonded premises of a distilled spirits plant under section 5211 shall, under such regulations as the Secretary shall prescribe, be deposited in the facilities on the bonded premises designated in the entry for deposit.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(32), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5231, act Aug. 16, 1954, ch. 736, 68A Stat. 643, related to authority to establish internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), 5172, 5173(a), and 5178(a)(1)(A)(B), (3)(A)(B) of this title.

Provisions similar to those comprising this section were contained in prior section 5242(a), (b)(5), act Aug. 16, 1954, ch. 736, 68A Stat. 645, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 struck out in section catchline “in storage” after “for deposit” and subsec. (a) catchline and in text substituted “on the bonded premises of a distilled spirits plant” for “in storage” and “in the facilities” for “in storage facilities” and repealed subsec. (b) which related to a cross reference to section 5006(a)(2) for provisions requiring that all distilled spirits entered for deposit be withdrawn within 20 years from date of original entry for deposit.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5232. Imported distilled spirits**(a) Transfer to distilled spirits plant without payment of tax**

Distilled spirits imported or brought into the United States in bulk containers may, under such regulations as the Secretary shall prescribe, be withdrawn from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits. The person operating the bonded premises of the distilled spirits plant to which such spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under this section upon release of the spirits from customs custody, and the importer, or the person bringing such distilled spirits into the United States, shall thereupon be relieved of his liability for such tax.

(b) Withdrawals, etc.

Distilled spirits transferred pursuant to subsection (a)—

- (1) may be redistilled or denatured only if of 185 degrees or more of proof, and
- (2) may be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 90-630, §3(a), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91-659, §7, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 94-455, title XIX, §1905(a)(15), Oct. 4, 1976, 90 Stat. 1820; Pub. L. 96-39, title VIII, §807(a)(33), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5232, acts Aug. 16, 1954, ch. 736, 68A Stat. 643; Sept. 2, 1958, Pub. L. 85-859, title II, §206(b), 72 Stat. 1431, related to bond requirements of internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5005(c)(1), 5006(a)(2), 5173(a), (c)(1), 5174(a)(1), 5176(a), (b), and 5177(b)(1) of this title.

Provisions similar to those comprising this section were contained in prior section 5311, act Aug. 16, 1954, ch. 736, 68A Stat. 658, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 redesignated par. (2) and (3) as (1) and (2). Former par. (1), which prohibited distilled spirits transferred pursuant to subsection (a) from being bottled in bond under section 5233, was struck out.

1976—Subsec. (a). Pub. L. 94-455 inserted “, or the person bringing such distilled spirits into the United States,” after “and the importer”.

1971—Subsec. (a). Pub. L. 91-659, §7(a), extended privilege of transfer of distilled spirits to the plant without payment of tax to distilled spirits imported, or brought into the United States, and struck out reference to section 5001.

Subsec. (b). Pub. L. 91-659, §7(b), struck out “Imported” before “distilled spirits” and thus applied subsection to all distilled spirits.

1968—Pub. L. 90-630 permitted withdrawal in bulk containers or by pipeline from customs custody to internal revenue bond without payment of internal revenue taxes of all imported distilled spirits in bulk containers, regardless of proof, extended to all such imported distilled spirits the withdrawal privileges already available to imported distilled spirits of at least 185 proof, whether or not they have been redistilled or denatured, provided that transferor's liability for the internal revenue tax ceases when the transferee's liability attaches, and established that imported bulk spirits are not eligible for the bottled in bond privileges available to domestic spirits.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91-659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-630 applicable only to withdrawals from customs custody on or after first day of first calendar month which begins more than 90 days after Oct. 22, 1968, see section 4 of Pub. L. 90-630, set out as a note under section 5008 of this title.

[§ 5233. Repealed. Pub. L. 96-39, title VIII, § 807(a)(34), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 94-455, title XIX, §§1905(a)(16), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to the bottling of distilled spirits in bond.

A prior section 5233, act Aug. 16, 1954, ch. 736, 68A Stat. 644, made a cross reference provision to establishment of bottling in bond department, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsecs. (a) to (d) and (e)(1) of section 5233 added by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1366, were contained in prior section 5243(a) to (c), (g), act Aug. 16, 1954, ch. 736, 68A Stat. 645, as amended by Pub. L. 85-859, title II, §206(c), Sept. 2, 1958, 72 Stat. 1431.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

[§ 5234. Repealed. Pub. L. 96-39, title VIII, § 807(a)(35), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1367; amended Pub. L. 89-44, title VIII, §805(f)(11), June 21, 1965, 79 Stat. 162; Pub. L. 94-455, title XIX, §§1905(a)(17), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 95-176, §5(a), Nov. 14, 1977, 91 Stat. 1366, related to the mingling and blending of distilled spirits.

Provisions similar to those comprising section 5234(a)(1)(A) and (b) to (d) of this title were contained in prior sections of act Aug. 16, 1954, ch. 736, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Subsecs.:</i>	<i>Prior sections</i>
(a)(1)(A)	5306.
(b)	5217(a).
(c)	5023.
(d)	5251.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 606, 641, 649, 657.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5235. Bottling of alcohol for industrial purposes

Alcohol for industrial purposes may be bottled, labeled, and cased on bonded premises of a distilled spirits plant prior to payment or determination of tax, under such regulations as the Secretary may prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(36), July 26, 1979, 93 Stat. 286; Pub. L. 98-369, div. A, title IV, §454(c)(8), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 657, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1984—Pub. L. 98-369 struck out “stamped,” before “labeled,” and struck out provision that section 5205(a)(1) shall not apply to alcohol bottled, stamped, and labeled as such under this section.

1979—Pub. L. 96-39 substituted “section 5205(a)(1) shall not apply” for “sections 5178(a)(4)(A), 5205(a)(1), and 5233 (relating to the bottling of distilled spirits in bond) shall not be applicable”.

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

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5236. Discontinuance of storage facilities and transfer of distilled spirits

When the Secretary finds any facilities for the storage of distilled spirits on bonded premises to be unsafe or unfit for use, or the spirits contained therein subject to great loss or wastage he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the Secretary may require and the expense of the transfer shall be paid by the owner or the warehouseman of the distilled spirits. Whenever the owner of such distilled spirits or the warehouseman fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascer-

tained and determined by the Secretary, such distilled spirits may be seized and sold by the Secretary in the same manner as goods are sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such distilled spirits.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5252, act Aug. 16, 1954, ch. 736, 68A Stat. 649, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

SUBPART D—DENATURATION

Sec.	
5241.	Authority to denature.
5242.	Denaturing materials.
5243.	Sale of abandoned spirits for denaturation without collection of tax.
5244.	Cross references.

§ 5241. Authority to denature

Under such regulations as the Secretary shall prescribe, distilled spirits may be denatured on the bonded premises of a distilled spirits plant qualified for the processing of distilled spirits. Distilled spirits to be denatured under this section shall be of such kind and such degree of proof as the Secretary shall by regulations prescribe. Distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(37), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5241, act Aug. 16, 1954, ch. 736, 68A Stat. 644, related to supervision of operations of internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5201(a), 5202 (a), (c), (d), and 7803 of this title and section 22 of former Title 5, Executive Departments and Government Officers and Employees.

Provisions similar to those comprising this section were contained in prior sections 5194(c), 5303, 5310(a), 5331(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 635, 655, 658, 661, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “a distilled spirits plant qualified for the processing of distilled spirits” for “any distilled spirits plant operated by a proprietor who is authorized to produce distilled spirits at such plant or on other bonded premises”, struck out provision that any other person operating bonded premises may, at the discretion of the Secretary and under such regulations as he may prescribe, be authorized to denature distilled spirits on such bonded premises, and inserted provision that distilled spirits denatured under

this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5242. Denaturing materials

Methanol or other denaturing materials suitable to the use for which the denatured distilled spirits are intended to be withdrawn shall be used for the denaturation of distilled spirits. Denaturing materials shall be such as to render the spirits with which they are admixed unfit for beverage or internal human medicinal use. The character and the quantity of denaturing materials used shall be as prescribed by the Secretary by regulations.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5242, acts Aug. 16, 1954, ch. 736, 68A Stat. 645; Sept. 2, 1958, Pub. L. 85-859, title II, §206(e), 72 Stat. 1431, related to deposit of spirits in warehouses, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior sections 5303, 5310(a) and 5331(a)(1), (2), act Aug. 16, 1954, ch. 736, 68A Stat. 655, 658, 661, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5243. Sale of abandoned spirits for denaturation without collection of tax

Notwithstanding any other provision of law, any distilled spirits abandoned to the United States may be sold, in such cases as the Secretary may by regulation provide, to the proprietor of any distilled spirits plant for denaturation, or redistillation and denaturation, without the payment of the internal revenue tax thereon.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5243, acts Aug. 16, 1954, ch. 736, 68A Stat. 645; Sept. 2, 1958, Pub. L. 85-859, §206(c), 72 Stat. 1431, related to bottling of distilled spirits in bond, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171, 5172, 5175, 5178(a)(3)(C), (4)(A), 5202(g), 5206(c), 5214(a)(4), and 5233(a) to (c), (e)(1) of this title and section 121 of Title 27, Intoxicating Liquors.

Provisions similar to those comprising this section were contained in prior section 5333, act Aug. 16, 1954, ch. 736, 68A Stat. 662, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5244. Cross references

(1) For provisions authorizing the withdrawal from the bonded premises of a distilled spirits plant of denatured distilled spirits, see section 5214(a)(1).

(2) For provisions requiring a permit to procure specially denatured distilled spirits, see section 5271.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1370.)

PRIOR PROVISIONS

A prior section 5244, act Aug. 16, 1954, ch. 736, 68A Stat. 647, related to withdrawal of spirits from bonded warehouse on determination of tax, prior to the general revision of this chapter by Pub. L. 85-859. See section 5213 of this title.

[PART III—REPEALED]

[§§ 5251, 5252. Repealed. Pub. L. 96-39, title VIII, § 807(a)(38), July 26, 1979, 93 Stat. 286]

Section 5251, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, required proprietors of distilled spirits plants to give notice of their intention to rectify or compound any distilled spirits or wines.

A prior section 5251, act Aug. 16, 1954, ch. 736, 68A Stat. 649, made a cross reference provision to “blending of beverage brandies in internal revenue bonded warehouses”, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising section 5251 of this title were contained in prior section 5282(a), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5252, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1370, set out cross references to other sections with regard to the regulation of operations.

A prior section 5252, act Aug. 16, 1954, ch. 736, 68A Stat. 649, related to “discontinuance of warehouse and transfer of merchandise”, prior to the general revision of this chapter by Pub. L. 85-859. See section 5236 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter D—Industrial Use of Distilled Spirits

Sec.	
5271.	Permits.
5272.	Bonds.
5273.	Sale, use, and recovery of denatured distilled spirits.
5274.	Applicability of other laws.
5275.	Records and reports.
5276.	Occupational tax. ¹

PRIOR PROVISIONS

A prior subchapter D, Rectifying Plants, consisted of part I, Establishment, and part II, Operation, and comprised sections 5271 to 5275 and 5281 to 5285, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(e)(2), Dec. 22, 1987, 101 Stat. 1330-449, added item 5276.

¹ Section repealed by Pub. L. 109-59 without corresponding amendment of subchapter analysis.

§ 5271. Permits**(a) Requirements**

No person shall—

- (1) procure or use distilled spirits free of tax under the provisions of section 5214(a)(2) or (3); or
- (2) procure, deal in, or use specially denatured distilled spirits; or
- (3) recover specially or completely denatured distilled spirits, until he has filed an application with and received a permit to do so from the Secretary.

(b) Form of application and permit

(1) The application required by subsection (a) shall be in such form, shall be submitted at such times, and shall contain such information, as the Secretary shall by regulations prescribe.

(2) Permits under this section shall, under such regulations as the Secretary shall prescribe, designate and limit the acts which are permitted, and the place where and time when such acts may be performed. Such permits shall be issued in such form and under such conditions as the Secretary may by regulations prescribe.

(c) Disapproval of application

Any application submitted under this section may be disapproved and the permit denied if the Secretary, after notice and opportunity for hearing, finds that—

- (1) in case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or
- (2) the applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter; or
- (3) the applicant has failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application; or
- (4) the premises on which it is proposed to conduct the business are not adequate to protect the revenue.

(d) Changes after issuance of permit

With respect to any change relating to the information contained in the application for a permit issued under this section, the Secretary may by regulations require the filing of written notice of such change and, where the change affects the terms of the permit, require the filing of an amended application.

(e) Suspension or revocation

If, after notice and hearing, the Secretary finds that any person holding a permit issued under this section—

- (1) has not in good faith complied with the provisions of this chapter or regulations issued thereunder; or
- (2) has violated the conditions of such permit; or
- (3) has made any false statement as to any material fact in his application therefor; or

(4) has failed to disclose any material information required to be furnished; or

(5) has violated or conspired to violate any law of the United States relating to intoxicating liquor, or has been convicted of any offense under this title punishable as a felony or of any conspiracy to commit such offense; or

(6) is, in the case of any person who has a permit under subsection (a)(1) or (a)(2), by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(7) has, in the case of any person who has a permit under subsection (a)(2), manufactured articles which do not correspond to the descriptions and limitations prescribed by law and regulations; or

(8) has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

such permit may, in whole or in part, be revoked or be suspended for such period as the Secretary deems proper.

(f) Duration of permits

Permits issued under this section, unless terminated by the terms of the permit, shall continue in effect until suspended or revoked as provided in this section, or until voluntarily surrendered.

(g) Posting of permits

Permits issued under this section, to use distilled spirits free of tax, to deal in, or use specially denatured distilled spirits, or to recover specially or completely denatured distilled spirits, shall be kept posted available for inspection on the premises covered by the permit.

(h) Regulations

The Secretary shall prescribe all necessary regulations relating to issuance, denial, suspension, or revocation, of permits under this section, and for the disposition of distilled spirits (including specially denatured distilled spirits) procured under permit pursuant to this section which remain unused when such permit is no longer in effect.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5271, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to "notice of business of rectifier", prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (c), 5172, and 5178(a)(1)(A), (4)(B)-(D) of this title.

Provisions similar to those comprising subsecs. (a) to (f) and (h) of this section were contained in prior section 5304(a)(1) to (4), (b), (c), act Aug. 16, 1954, ch. 736, 68A Stat. 655, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a) to (e), (h). Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5272. Bonds**(a) Requirements**

Before any permit required by section 5271(a) is granted, the Secretary may require a bond, in such form and amount as he may prescribe, to insure compliance with the terms of the permit and the provisions of this chapter.

(b) Exceptions

No bond shall be required in the case of permits issued to the United States or any governmental agency thereof, or to the several States or any political subdivision thereof, or to the District of Columbia.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94-455, title XIX, §§1905(c)(3), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834.)

PRIOR PROVISIONS

A prior section 5272, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to requirement and approval of bond as condition to commencing business of rectifier of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5173(a), (d) of this title.

Provisions similar to those comprising this section were contained in prior sections 5304(a)(5) and 5310(d), act Aug. 16, 1954, ch. 736, 68A Stat. 655, 658, prior to the general revision of this chapter by Pub. L. 85-859.

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, §1905(c)(3), struck out “and Territories” after “several States”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(3) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5273. Sale, use, and recovery of denatured distilled spirits**(a) Use of specially denatured distilled spirits**

Any person using specially denatured distilled spirits in the manufacture of articles shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.

(b) Internal medicinal preparations and flavoring extracts**(1) Manufacture**

No person shall use denatured distilled spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remains in the finished product.

(2) Sale

No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remains in the finished product.

(c) Recovery of spirits for reuse in manufacturing

Manufacturers employing processes in which denatured distilled spirits withdrawn under section 5214(a)(1) are expressed, evaporated, or otherwise removed, from the articles manufactured shall be permitted to recover such distilled spirits and to have such distilled spirits restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Secretary may prescribe.

(d) Prohibited withdrawal or sale

No person shall withdraw or sell denatured distilled spirits, or sell any article containing denatured distilled spirits for beverage purposes.

(e) Cross references

(1) For penalty and forfeiture for unlawful use or concealment of denatured distilled spirits, see section 5607.

(2) For applicability of all provisions of law relating to distilled spirits that are not denatured, including those requiring payment of tax, to denatured distilled spirits or articles produced, withdrawn, sold, transported, or used in violation of law or regulations, see section 5001(a)(6).¹

(3) For definition of “articles”, see section 5002(a)(14).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(39), July 26, 1979, 93 Stat. 286.)

REFERENCES IN TEXT

Section 5001(a)(6), referred to in subsec. (e)(2), was redesignated section 5001(a)(5) by Pub. L. 103-465, title I, §136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5273, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to premises of rectifier, prior to the general revision of this chapter by Pub. L. 85-859. See section 5178(a)(1)(A), (4)(B), (D) and (c)(1) of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5331(a), (b).
(b)	5303, 5305, 5310(a), 5331(a)(1), (2), (b), 5647.
(c)	5332.
(d)	5303, 5305, 5310(a), 5331(a), 5647.
(e)(1), (2)	5334.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 655, 657, 658, 661, 662, 693.

AMENDMENTS

1979—Subsec. (e)(3). Pub. L. 96-39 substituted “section 5002(a)(14)” for “section 5002(a)(11)”.

1976—Subsecs. (a), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5274. Applicability of other laws

The provisions, including penalties, of sections 9, and 10 of the Federal Trade Commission Act

¹ See References in Text note below.

(15 U.S.C., secs. 49, 50), as now or hereafter amended, shall apply to the jurisdiction, powers, and duties of the Secretary under this subtitle, and to any person (whether or not a corporation) subject to the provisions of this subtitle.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5274, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to sign required on rectifying premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5180 of this title.

Provisions similar to those comprising this section were contained in prior section 5317(b), act Aug. 16, 1954, ch. 736, 68A Stat. 660, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5275. Records and reports

Every person procuring or using distilled spirits withdrawn under section 5214(a)(2) or (3), or procuring, dealing in, or using specially denatured distilled spirits, or recovering specially denatured or completely denatured distilled spirits, shall keep such records and file such reports of the receipt and use of distilled spirits withdrawn free of tax, of the receipt, disposition, use, and recovery of denatured distilled spirits, the manufacture and disposition of articles, and such other information as the Secretary may be regulations require. The Secretary may require any person reprocessing, bottling or repackaging articles, or dealing in completely denatured distilled spirits or articles, to keep such records, submit such reports, and comply with such other requirements as he may by regulations prescribe. Records required to be kept under this section and a copy of all reports required to be filed shall be preserved as regulations shall prescribe and shall be kept available for inspection by any internal revenue officer during business hours. Such officer may also inspect and take samples of distilled spirits, denatured distilled spirits, or articles (including any substances for use in the manufacture thereof), to which such records or reports relate.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1373; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5275, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to cross references, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5179(2) and 5181 of this title.

Provisions similar to those comprising this section were contained in prior sections 5305, 5313(b), and 5331(a)(3), act Aug. 16, 1954, ch. 736, 68A Stat. 657, 659, 662, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

[§ 5276. Repealed. Pub. L. 109-59, title XI, § 11125(a)(3), Aug. 10, 2005, 119 Stat. 1953]

Section, added Pub. L. 100-203, title X, §10512(e)(1), Dec. 22, 1987, 101 Stat. 1330-448; amended Pub. L. 100-647,

title II, §2004(t)(1), title VI, §6105(a), (b), Nov. 10, 1988, 102 Stat. 3609, 3711; Pub. L. 101-239, title VII, §7816(o), Dec. 19, 1989, 103 Stat. 2422, related to occupational tax on permit holders.

PRIOR PROVISIONS

A prior section 5281, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to regulation of business rectifier, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5282, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to rectification of spirits, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5283, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to examination of rectifying premises, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5284, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to prohibited hours for removal of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5285, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to records and returns, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter E—General Provisions Relating to Distilled Spirits

Part

- I. Return of materials used in the manufacture or recovery of distilled spirits.
- II. Regulation of traffic in containers of distilled spirits.
- III. Miscellaneous provisions.

PRIOR PROVISIONS

A prior subchapter E, Industrial Alcohol Plants, Bonded Warehouses, Denaturing Plants, and Denaturation, consisted of part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants and part II, Denaturation, and consisted of sections 5301 to 5320 and 5331 to 5334, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

PART I—RETURN OF MATERIALS USED IN THE MANUFACTURE OR RECOVERY OF DISTILLED SPIRITS

Sec.

- 5291. General.

PRIOR PROVISIONS

A prior part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants, consisted of sections 5301 to 5320, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5291. General

(a) Requirement

Every person disposing of any substance of the character used in the manufacture of distilled spirits, or disposing of denatured distilled spirits or articles from which distilled spirits may be recovered, shall, when required by the Secretary, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details, as to the quantity so disposed of or

other information which the Secretary may require as to each such disposition, as will enable the Secretary to determine whether all taxes due with respect to any distilled spirits manufactured or recovered from any such substance, denatured, distilled spirits, or articles, have been paid. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Cross references

(1) For the definition of distilled spirits, see section 5002(a)(8).

(2) For the definition of articles, see section 5002(a)(14).

(3) For penalty for violation of subsection (a), see section 5605.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1373; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(40), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5213, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-39, §807(a)(40)(A), substituted “section 5002(a)(8)” for “section 5002(a)(6)”.

Subsec. (b)(2). Pub. L. 96-39, §807(a)(40)(B), substituted “section 5002(a)(14)” for “section 5002(a)(11)”.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PART II—REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

Sec.
5301. General.

PRIOR PROVISIONS

A prior part II, Denaturation, consisted of section 5331 to 5334, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5301. General

(a) Requirements

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him and permits issued thereunder if required by him—

(1) to regulate the kind, size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of not more

than 5 wine gallons) designed or intended for use for the sale of distilled spirits (within the meaning of such term as it is used in section 5002(a)(8) for other than industrial use; and

(2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith.

Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law and shall apply as well to persons not liable for tax under the internal revenue laws as to persons so liable.

(b) Disposition

Every person disposing of containers of the character used for the packaging of distilled spirits shall, when required by the Secretary for protection of the revenue, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details as to the quantities so disposed of or other information which the Secretary may require as to each such disposition. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(c) Refilling of liquor bottles

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall—

(1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter; or

(2) possess any liquor bottle in which any distilled spirits have been placed in violation of the provisions of paragraph (1); or

(3) by the addition of any substance whatsoever to any liquor bottle, in any manner alter or increase any portion of the original contents contained in such bottle at the time of tax determination under the provisions of this chapter; or

(4) possess any liquor bottle, any portion of the contents of which has been altered or increased in violation of the provisions of paragraph (3);

except that the Secretary may by regulations authorize the reuse of liquor bottles, under such conditions as he may by regulations prescribe. When used in this subsection the term “liquor bottle” shall mean a liquor bottle or other container which has been used for the bottling or packaging of distilled spirits under regulations issued pursuant to subsection (a).

(d) Closures

The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed

so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.

(e) Penalty

For penalty for violation of this section, see section 5606.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1374; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(41), July 26, 1979, 93 Stat. 287; Pub. L. 98-369, div. A, title IV, §454(b), (c)(9), July 18, 1984, 98 Stat. 820, 821.)

PRIOR PROVISIONS

A prior section 5301, act Aug. 16, 1954, ch. 736, 68A Stat. 654, related to establishment of industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (b) of this title.

Provisions similar to those comprising subsecs. (a), (c), and (d) of this section were contained in prior section 5214, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5302, act Aug. 16, 1954, ch. 736, 68A Stat. 645, related to the establishment of industrial alcohol warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(3)(A), (B), 5201(a), and 5206(a) of this title.

A prior section 5303, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to establishment of industrial alcohol denaturing plants, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(5), 5241, 5242, and 5273(b)(1), (2), (d) of this title.

A prior section 5304, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to alcohol permits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(b)(1), 5173(a), (e)(1), 5271(a) to (c), (e), (f), (h), and 5272(a) of this title.

A prior section 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to regulations for establishing, bonding, and operations of plants and warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171, 5172, 5173(a), 5178(a)(1)(A), (5), 5201(a), (b), 5207(a), (c), (d), 5211, 5223(a), 5235, 5273(b)(1), (2), (d), 5275, and 5312(b) of this title.

A prior section 5306, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to exemption of industrial alcohol plants and warehouses from certain laws, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5025(d), (e)(1), 5173(c), 5201(a), (c), 5204(c), 5234(a)(1)(A), 5306, and 5312(c) of this title.

A prior section 5307, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to production, use, or sale of alcohol, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5178(a)(2)(A) and 5201(a) of this title.

A prior section 5308, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to transfer of alcohol to other plants or warehouses, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5212 and 5223(a) of this title.

A prior section 5309, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of fermented liquors to industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85-859. See section 5222(b) of this title.

A prior section 5310, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of alcohol free of tax, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5214(a), (a)(1) to (3), 5241, 5242, 5272(b), 5273(b)(1), (2), (d), and 5313 of this title.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-369, §454(c)(9), substituted “tax determination” for “stamping” in pars.

(1) and (3), and struck out “, if the liquor bottles are to be again stamped under the provisions of this chapter” after “by regulations prescribe” in provisions following par. (4).

Subsec. (d). Pub. L. 98-369, §454(b), added subsec. (d) and redesignated former subsec. (d) as (e).

1979—Subsec. (a)(1). Pub. L. 96-39 substituted “section 5002(a)(8)” for “section 5002(a)(6)”.

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PART III—MISCELLANEOUS PROVISIONS

Sec.	
5311.	Detention of containers.
5312.	Production and use of distilled spirits for experimental research.
5313.	Withdrawal of distilled spirits from customs custody free of tax for use of the United States.
5314.	Special applicability of certain provisions.
[5315.	Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1905(b)(4), Oct. 4, 1976, 90 Stat. 1822, struck out item 5315 “Status of certain distilled spirits on July 1, 1959”.

§ 5311. Detention of containers

It shall be lawful for any internal revenue officer to detain any container, containing or supposed to contain, distilled spirits, wines, or beer, when he has reason to believe that the tax imposed by law on such distilled spirits, wines, or beer has not been paid or determined as required by law, or that such container is being removed in violation of law; and every such container may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the officer to whom such detention is to be reported.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1375.)

PRIOR PROVISIONS

A prior section 5311, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to importation of alcohol for industrial purposes, prior to the general revision of this chapter by Pub. L. 85-859. See section 5232 of this title.

Provisions similar to those comprising this section were contained in prior section 5211, act Aug. 16, 1954, ch. 736, 68A Stat. 638, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5312. Production and use of distilled spirits for experimental research

(a) Scientific institutions and colleges of learning

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, test, and store distilled spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes.

(b) Experimental distilled spirits plants

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, experimental distilled spirits plants may, at the discretion of the Secretary, be established and operated for specific and limited periods of time solely for experimentation in, or development of—

- (1) sources of materials from which distilled spirits may be produced;
- (2) processes by which distilled spirits may be produced or refined; or
- (3) industrial uses of distilled spirits.

(c) Authority to exempt

The Secretary may by regulations provide for the waiver of any provision of this chapter (other than this section) to the extent he deems necessary to effectuate the purposes of this section, except that he may not waive the payment of any tax on distilled spirits removed from any such university, college, institution, or plant.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5312, act Aug. 16, 1954, ch. 736, 68A Stat. 659, made a cross reference to remission and refund of tax on alcohol for loss or leakage, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5215.
(b)	5305.
(c)	5215, 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 640, 657.

AMENDMENTS

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5313. Withdrawal of distilled spirits from customs custody free of tax for use of the United States

Distilled spirits may be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, under such regulations as may be prescribed by the Secretary.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5313, act Aug. 16, 1954, ch. 736, 68A Stat. 659, related to powers and duties of persons enforcing provisions respecting industrial alcohol plants, bonded warehouses, and denaturing plants, prior to the general revision of this chapter by Pub. L. 85-859. See section 5275 of this title.

Provisions similar to those comprising this section were contained in prior section 5310(b), act Aug. 16, 1954, ch. 736, 68A Stat. 658, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5314. Special applicability of certain provisions

(a) Puerto Rico

(1) Applicability

The provisions of this subsection shall not apply to the Commonwealth of Puerto Rico unless the Legislative Assembly of the Commonwealth of Puerto Rico expressly consents thereto in the manner prescribed in the constitution of the Commonwealth of Puerto Rico, for the enactment of a law.

(2) In general

Distilled spirits for the purposes authorized in section 5214(a)(2) and (3), denatured distilled spirits, and articles, as described in this paragraph, produced or manufactured in Puerto Rico, may be brought into the United States free of any tax imposed by section 5001(a)(10)¹ or 7652(a)(1) for disposal under the same conditions as like spirits, denatured spirits, and articles, produced or manufactured in the United States; and the provisions of this chapter and regulations promulgated thereunder (and all other provisions of the internal revenue laws applicable to the enforcement thereof, including the penalties of special application thereto) relating to the production, bonded warehousing, and denaturation of distilled spirits, to the withdrawal of distilled spirits or denatured distilled spirits, and to the manufacture of articles from denatured distilled spirits, shall, insofar as applicable, extend to and apply in Puerto Rico in respect of—

(A) distilled spirits for shipment to the United States for the purposes authorized in section 5214(a)(2) and (3);

(B) distilled spirits for denaturation;

(C) denatured distilled spirits for shipment to the United States;

(D) denatured distilled spirits for use in the manufacture of articles for shipment to the United States; and

(E) articles, manufactured from denatured distilled spirits, for shipment to the United States.

(3) Withdrawals authorized by Puerto Rico

Distilled spirits (including denatured distilled spirits) may be withdrawn from the bonded premises of a distilled spirits plant in Puerto Rico pursuant to authorization issued under the laws of the Commonwealth of Puerto Rico; such spirits so withdrawn, and products containing such spirits so withdrawn,

¹ See References in Text note below.

may not be brought into the United States free of tax.

(4) Costs of administration

Any expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico of the provisions of this subtitle and section 7652(a), and regulations promulgated thereunder, shall be charged against and retained out of taxes collected under this title in respect of commodities of Puerto Rican manufacture brought into the United States. The funds so retained shall be deposited as a reimbursement to the appropriation to which such expenses were originally charged.

(b) Virgin Islands

(1) In general

Distilled spirits for the purposes authorized in section 5214(a)(2) and (3), denatured distilled spirits, and articles, as described in this paragraph, produced or manufactured in the Virgin Islands, may be brought into the United States free of any tax imposed by section 7652(b)(1) for disposal under the same conditions as like spirits, denatured spirits, and articles, produced or manufactured in the United States; and the provisions of this chapter and regulations promulgated thereunder (and all other provisions of the internal revenue laws applicable to the enforcement thereof, including the penalties of special application thereto) relating to the production, bonded warehousing, and denaturation of distilled spirits, to the withdrawal of distilled spirits or denatured distilled spirits, and to the manufacture of articles from denatured distilled spirits, shall, insofar as applicable, extend to and apply in the Virgin Islands in respect of—

(A) distilled spirits for shipment to the United States for the purposes authorized in section 5214(a)(2) and (3);

(B) distilled spirits for denaturation;

(C) denatured distilled spirits for shipment to the United States;

(D) denatured distilled spirits for use in the manufacture of articles for shipment to the United States; and

(E) articles, manufactured from denatured distilled spirits, for shipment to the United States.

(2) Advance of funds

The insular government of the Virgin Islands shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in the Virgin Islands of paragraph (1) and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection.

(3) Regulations issued by Virgin Islands

The Secretary may authorize the Governor of the Virgin Islands, or his duly authorized agents, to issue or adopt such regulations, to

approve such bonds, and to issue, suspend, or revoke such permits, as are necessary to carry out the provisions of this subsection. When regulations have been issued or adopted under this paragraph with concurrence of the Secretary he may exempt the Virgin Islands from any provisions of law and regulations otherwise made applicable by the provisions of paragraph (1), except that denatured distilled spirits, articles and distilled spirits for tax-free purposes which are brought into the United States from the Virgin Islands under the provisions of this subsection shall in all respects conform to the requirements of law and regulations imposed on like products of domestic manufacture.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94-455, title XIX, §§ 1905(a)(18), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834.)

REFERENCES IN TEXT

Section 5001(a)(10), referred to in subsec. (a)(2), was redesignated section 5001(a)(9) by Pub. L. 103-465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5314, act Aug. 16, 1954, ch. 736, 68A Stat. 659, related to officers and agents authorized to investigate, issue search warrants, and prosecute for violations, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5557 of this title.

Provisions similar to those comprising subsec. (a)(2) of this section were contained in prior section 5318, act Aug. 16, 1954, ch. 736, 68A Stat. 660, prior to the general revisions of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-455, § 1905(a)(18), substituted “section 5001(a)(10)” for “section 5001(a)(4)”.

Subsec. (b)(2), (3). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(18) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

[§ 5315. Repealed. Pub. L. 94-455, title XIX, § 1905(a)(19), Oct. 4, 1976, 90 Stat. 1820]

Section 5315, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1377, related to status of certain distilled spirits on July 1, 1959.

A prior section 5316, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to form of affidavit, information or indictment, prior to the general revision of this chapter by Pub. L. 85-859. See Fed. Rules Cr. Proc., rules 7(c), (f), and 8(a), Title 18, Appendix, Crimes and Criminal Procedure.

A prior section 5317, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to applicability of other laws, prior to the general revision of this chapter by Pub. L. 85-859. See section 5274 of this title.

A prior section 5318, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to application of this part to Puerto Rico and the Virgin Islands, prior to the general revision of this chapter by Pub. L. 85-859. See section 5314(a)(2) of this title.

A prior section 5319, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to definitions, etc., prior to the general revision of this chapter by Pub. L. 85-859. See sections 5002(a)(6)(A), (9), (11) and 5201(a) of this title.

A prior section 5320, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to cross references, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5331, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to withdrawal from bond free of tax, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5171(a), 5172, 5173(a), (c), 5178(a)(5), 5202(e), 5207(a), (c), (d), 5214(a), (a)(1), 5241, 5242, 5273(a), (b)(1), (2), (d), and 5275 of this title.

A prior section 5332, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to recovery of spirits for reuse in manufacturing, prior to the general revision of this chapter by Pub. L. 85-859. See section 5273(c) of this title.

A prior section 5333, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to sale of abandoned spirits for denaturation without collection of tax, prior to the general revision of this chapter by Pub. L. 85-859. See section 5243 of this title.

A prior section 5334, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to cross references, prior to the general revision of this chapter by Pub. L. 85-859. See section 5273(e)(1), (2) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 5005 of this title.

Subchapter F—Bonded and Taxpaid Wine Premises

Part I.	Establishment.
II.	Operations.
III.	Cellar treatment and classification of wine.
IV.	General.

PRIOR PROVISIONS

A prior subchapter F, Bonded and Taxpaid Wine Premises, consisted of part I, Establishment, part II, Operations, part III, Cellar Treatment and Classification of Wine, and part IV, General, and comprised sections 5351 to 5357, 5361 to 5373, 5381 to 5388, and 5391 to 5392, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT

Sec.	
5351.	Bonded wine cellar.
5352.	Taxpaid wine bottling house.
5353.	Bonded wine warehouse.
5354.	Bond.
5355.	General provisions relating to bonds.
5356.	Application.
5357.	Premises.

PRIOR PROVISIONS

A prior part I consisted of sections 5351 to 5357 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5351. Bonded wine cellar

(a) In general

Any person establishing premises for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine (other than wine produced exempt from tax under section 5042), including the use of wine spirits in wine production, shall, before commencing operations, make application to the Secretary and, except as provided under section 5551(d), file bond and receive permission to operate.

(b) Definitions

For purposes of this chapter—

(1) Bonded wine cellar

The term “bonded wine cellar” means any premises described in subsection (a), including any such premises established by a taxpayer described in section 5551(d).

(2) Bonded winery

At the discretion of the Secretary, any bonded wine cellar that engages in production operations may be designated as a “bonded winery”.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1378; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 114-113, div. Q, title III, §332(b)(2)(B), Dec. 18, 2015, 129 Stat. 3106.)

PRIOR PROVISIONS

A prior section 5351, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Pub. L. 114-113 designated existing provisions as subsec. (a), inserted heading, inserted “, except as provided under section 5551(d),” before “file bond”, struck out “Such premises shall be known as ‘bonded wine cellars’; except that any such premises engaging in production operations may, in the discretion of the Secretary, be designated as a ‘bonded winery’.” at end, and added subsec. (b).

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

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to any calendar quarters beginning more than 1 year after Dec. 18, 2015, see section 332(c) of Pub. L. 114-113, set out as a note under section 5061 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5352. Taxpaid wine bottling house

Any person bottling, packaging, or repackaging taxpaid wines shall, before commencing such operations, make application to the Secretary and receive permission to operate. Such premises shall be known as “tax-paid wine bottling houses.”

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1378; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(42), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5352, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 struck out “at premises other than the bottling premises of a distilled spirits plant” after “taxpaid wines”.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5353. Bonded wine warehouse

Any responsible warehouse company or other responsible person may, upon filing application with the Secretary and consent of the proprietor and the surety on the bond of any bonded wine cellar, under regulations prescribed by the Secretary, establish on such premises facilities for the storage of wines and allied products for credit purposes, to be known as a “bonded wine warehouse”. The proprietor of the bonded wine cellar shall remain responsible in all respects for operations in the warehouse and the tax on the wine or wine spirit stored therein.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5353, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5354. Bond

The bond for a bonded wine cellar shall be in such form, on such conditions, and with such adequate surety, as regulations issued by the Secretary shall prescribe, and shall be in a penal sum not less than the tax on any wine or distilled spirits possessed or in transit at any one time (taking into account the appropriate amount of credit with respect to such wine under section 5041(c)), but not less than \$1,000 nor more than \$50,000; except that where the tax on such wine and on such distilled spirits exceeds \$250,000, the penal sum of the bond shall be not more than \$100,000. Where additional liability arises as a result of deferral of payment of tax payable on any return, the Secretary may require the proprietor to file a supplemental bond in such amount as may be necessary to protect the revenue. The liability of any person on any such bond shall apply whether the transaction or operation on which the liability of the proprietor is based occurred on or off the proprietor's premises.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1379; 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, §455(c), July 18, 1984, 98 Stat. 823; Pub. L. 104-188, title I, §1702(b)(7), Aug. 20, 1996, 110 Stat. 1869.)

PRIOR PROVISIONS

A prior section 5354, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1996—Pub. L. 104-188 inserted “(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))” after “any one time”.

1984—Pub. L. 98-369 substituted “distilled spirits” for “wine spirits” in two places.

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

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 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, see section 456(c) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

§ 5355. General provisions relating to bonds

The provisions of section 5551 (relating to bonds) shall be applicable to the bonds required under section 5354.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1379.)

PRIOR PROVISIONS

A prior section 5355, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5356. Application

The application required by this part shall disclose, as regulations issued by the Secretary shall provide, such information as may be necessary to enable the Secretary to determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5356, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5357. Premises

Bonded wine cellar premises, including non-contiguous portions thereof, shall be so located, constructed, and equipped, as to afford adequate protection to the revenue, as regulations prescribed by the Secretary may provide.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5357, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

PART II—OPERATIONS

Sec.	
5361.	Bonded wine cellar operations.
5362.	Removals of wine from bonded wine cellars.
5363.	Taxpaid wine bottling house operations.
5364.	Wine imported in bulk.
5365.	Segregation of operations.
5366.	Supervision.
5367.	Records.
5368.	Gauging and marking.
5369.	Inventories.
5370.	Losses.
5371.	Insurance coverage, etc.
5372.	Sampling.
5373.	Wine spirits.

PRIOR PROVISIONS

A prior part II consisted of sections 5361 to 5373 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1422(b), Aug. 5, 1997, 111 Stat. 1050, added item 5364.

1979—Pub. L. 96-39, title VIII, §807(b)(7), July 26, 1979, 93 Stat. 290, struck out item 5364 “Standard wine premises”.

1976—Pub. L. 94-455, title XIX, §1905(b)(5), Oct. 4, 1976, 90 Stat. 1822, substituted “and marking” for “, marking, and stamping” in item 5368.

§ 5361. Bonded wine cellar operations

In addition to the operations described in section 5351, the proprietor of a bonded wine cellar may, subject to regulations prescribed by the Secretary, on such premises receive taxpaid wine for return to bond, reconditioning, or destruction; prepare for market and store commercial fruit products and by-products not taxable as wines; produce or receive distilling material or vinegar stock; produce (with or without added wine spirits, and without added sugar) or receive on wine premises, subject to tax as wine but not for sale or consumption as beverage wine, (1) heavy bodied blending wines and Spanish-type blending sherries, and (2) other wine products made from natural wine for nonbeverage purposes; and such other operations as may be conducted in a manner that will not jeopardize the revenue or conflict with wine operations.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(43), July 26, 1979, 93 Stat. 287; Pub. L. 105-34, title XIV, §1416(b)(1), Aug. 5, 1997, 111 Stat. 1048.)

PRIOR PROVISIONS

A prior section 5361, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Pub. L. 105-34 struck out “unmerchantable” after “premises receive”.

1979—Pub. L. 96-39 substituted “or receive on wine premises” for “or receive on standard wine premises only”.

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days

after Aug. 5, 1997, see section 1416(c) of Pub. L. 105-34, set out as a note under section 5044 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5362. Removals of wine from bonded wine cellars**(a) Withdrawals on determination of tax**

Wine may be withdrawn from bonded wine cellars on payment or determination of the tax thereon, under such regulations as the Secretary shall prescribe.

(b) Transfers of wine between bonded premises**(1) In general**

Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

(2) Wine transferred to a distilled spirits plant may not be removed for consumption or sale as wine

Any wine transferred to the bonded premises of a distilled spirits plant—

(A) may be used in the manufacture of a distilled spirits product, and

(B) may not be removed from such bonded premises for consumption or sale as wine.

(3) Continued liability for tax

The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

(4) Transfer in bond not treated as removal for consumption or sale

For purposes of this chapter, the removal of wine for transfer in bond between bonded premises shall not be treated as a removal for consumption or sale.

(5) Bonded premises

For purposes of this subsection, the term “bonded premises” means a bonded wine cellar or the bonded premises of a distilled spirits plant.

(c) Withdrawals of wine free of tax or without payment of tax

Wine on which the tax has not been paid or determined may, under such regulations and bonds as the Secretary may deem necessary to protect the revenue, be withdrawn from bonded wine cellars—

(1) without payment of tax for export by the proprietor or by any authorized exporter;

(2) without payment of tax for transfer to any foreign-trade zone;

(3) without payment of tax for use of certain vessels and aircraft as authorized by law;

(4) without payment of tax for transfer to any customs bonded warehouse;

(5) without payment of tax for use in the production of vinegar;

(6) without payment of tax for use in distillation in any distilled spirits plant authorized to produce distilled spirits;

(7) free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research;

(8) free of tax for use by or for the account of the proprietor or his agents for analysis or testing, organoleptic or otherwise; and

(9) free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

(d) Withdrawal free of tax of wine and wine products unfit for beverage use

Under such regulations as the Secretary may deem necessary to protect the revenue, wine, or wine products made from wine, when rendered unfit for beverage use, on which the tax has not been paid or determined, may be withdrawn from bonded wine cellars free of tax. The wine or wine products to be so withdrawn may be treated with methods or materials which render such wine or wine products suitable for their intended use. No wine or wine products so withdrawn shall contain more than 21 percent of alcohol by volume, or be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

(e) Withdrawal from customs bonded warehouses for use of foreign embassies, legations, etc.

(1) In general

Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

(2) Withdrawal for domestic use

Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

(3) Sale or unauthorized use prohibited

Wine withdrawn from customs bonded warehouses or otherwise brought into the United

States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 90-73, § 1(a), Aug. 29, 1967, 81 Stat. 175; Pub. L. 94-455, title XIX, §§ 1905(c)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96-39, title VIII, § 807(a)(44), July 26, 1979, 93 Stat. 287; Pub. L. 96-601, § 2(a), (b), Dec. 24, 1980, 94 Stat. 3495.)

PRIOR PROVISIONS

A prior section 5362, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1980—Subsec. (c)(4). Pub. L. 96-601, § 2(a), substituted “customs bonded” for “class 6 customs manufacturing”.

Subsec. (e). Pub. L. 96-601, § 2(b), added subsec. (e).

1979—Subsec. (b). Pub. L. 96-39 substituted references to bonded premises for references to bonded wine cellars and inserted provisions relating to wine transferred in bond to a distilled spirits plant which may not be removed for consumption or sale as wine, provisions relating to continued liability for tax on wine transferred to bonded premises, and provisions defining “bonded premises”.

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

Subsec. (c)(9). Pub. L. 94-455, § 1905(c)(4), struck out “and Territories” after “the several States”.

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

1967—Subsec. (d). Pub. L. 90-73 added subsec. (d).

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-601, § 2(c), Dec. 24, 1980, 94 Stat. 3496, provided that: “The amendments made by this section [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Dec. 24, 1980].”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90-73, § 1(b), Aug. 29, 1967, 81 Stat. 175, provided that: “The amendment made by subsection (a) [amending this section] shall become effective on the first day of the first month which begins 90 days or more after the date of the enactment of this Act [Aug. 29, 1967].”

§ 5363. Taxpaid wine bottling house operations

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bot-

tling house may, subject to regulations issued by the Secretary, on such premises mix wine of the same kind and taxable grade to facilitate handling; preserve, filter, or clarify wine; and conduct operations not involving wine where such operations will not jeopardize the revenue or conflict with wine operations.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(45), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5363, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 struck out provision that this subchapter apply to any wine received on the bottling premises of any distilled spirits plant for bottling, packaging, or repackaging, and to all operations relative thereto and provision that sections 5021, 5081, and 5082, not apply to the mixing or treatment of taxpaid wine under this section.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5364. Wine imported in bulk

Natural wine (as defined in section 5381) imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.

(Added Pub. L. 105-34, title XIV, §1422(a), Aug. 5, 1997, 111 Stat. 1050; amended Pub. L. 105-206, title VI, §6014(b)(3), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5364, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381, limited proprietors of bonded wine cellars or taxpaid wine bottling houses to the production, reception, storage, or use of only standard wine, prior to repeal by Pub. L. 96-39, title VIII, §§807(a)(46), 810, July 26, 1979, 93 Stat. 287, 292, eff. Jan. 1, 1980.

Another prior section 5364, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Pub. L. 105-206 substituted “Natural wine (as defined in section 5381) imported or brought into” for “Wine imported or brought into” in first sentence.

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

Pub. L. 105-34, title XIV, §1422(c), Aug. 5, 1997, 111 Stat. 1050, provided that: “The amendments made by this section [enacting this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

§ 5365. Segregation of operations

The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(47), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5365, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 authorized segregation of operations to prevent the commingling of standard wines with other than standard wines.

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5366. Supervision

The Secretary may by regulations require that operations at a bonded wine cellar or taxpaid wine bottling house be supervised by an internal revenue officer where necessary for the protection of the revenue or for the proper enforcement of this subchapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5366, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5367. Records

The proprietor of a bonded wine cellar or a tax-paid wine bottling house shall keep such

records and file such returns, in such form and containing such information, as the Secretary may by regulations provide.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5367, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5368. Gauging and marking

(a) Gauging and marking

All wine or wine spirits shall be locked, sealed, and gauged, and shall be marked, branded, labeled, or otherwise identified, in such manner as the Secretary may by regulations prescribe.

(b) Marking

Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels evidencing compliance with this chapter, as the Secretary may by regulations prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §§1905(a)(20), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834.)

PRIOR PROVISIONS

A prior section 5368, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 substituted “Gauging and marking” for “Gauging, marking, and stamping” in section catchline, substituted “Marking” for “Stamping” in heading for subsec. (b), and, in text of subsec. (b), substituted “marks and labels” for “marks, labels, and stamps” and struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(20) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5369. Inventories

Each proprietor of premises subject to the provisions of this subchapter shall take and report such inventories as the Secretary may by regulations prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5369, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5370. Losses

(a) General

No tax shall be collected in respect of any wines lost or destroyed while in bond, except that tax shall be collected—

(1) Theft

In the case of loss by theft, unless the Secretary shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor or other person responsible for the tax, or the owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(2) Voluntary destruction

In the case of voluntary destruction, unless the wine was destroyed under Government supervision, or on such adequate notice to, and approval by, the Secretary as regulations shall provide.

(b) Proof of loss

In any case in which the wine is lost or destroyed, whether by theft or otherwise, the Secretary may require by regulations the proprietor of the bonded wine cellar or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the Secretary, that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5370, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5371. Insurance coverage, etc.

Any remission, abatement, refund, or credit of, or other relief from, taxes on wines or wine spirits authorized by law shall be allowed only to the extent that the claimant is not indemnified or recompensed for the tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1382.)

PRIOR PROVISIONS

A prior section 5371, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5372. Sampling

Under regulations prescribed by the Secretary, wine may be utilized in any bonded wine cellar for testing, tasting, or sampling, free of tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1382; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5372, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5373. Wine spirits

(a) In general

The wine spirits authorized to be used in wine production shall be brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from—

- (1) fresh or dried fruit, or their residues,
- (2) the wine or wine residues, therefrom, or
- (3) special natural wine under such conditions as the Secretary may by regulations prescribe;

except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from distillation proof, nor be distilled, unless regulations otherwise provide, at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this subsection).

(b) Withdrawal of wine spirits

(1) The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of any distilled spirits plant, or from any bonded wine cellar as provided in paragraph (2), for use in the production of natural wine, for addition to concentrated or unconcentrated juice for use in wine production, or for such other uses as may be authorized in this subchapter.

(2) Wine spirits so withdrawn, and not used in wine production or as otherwise authorized in this subchapter, may, as provided by regulations prescribed by the Secretary, be transferred to the bonded premises of any distilled spirits plant or bonded wine cellar, or may be taxpaid and removed as provided by law.

(3) On such use, transfer, or taxpayment, the Secretary shall credit the proprietor with the amount of wine spirits so used or transferred or taxpaid and, in addition, with such portion of wine spirits so withdrawn as may have been lost either in transit or on the bonded wine cellar premises, to the extent allowable under section 5008(a). Where the proprietor has used wine spirits in actual wine production but in violation of the requirements of this subchapter, the Secretary shall also extend such credit to the wine spirits so used if the proprietor satisfactorily shows that such wine spirits were not knowingly used in violation of law.

(4) Suitable samples of brandy or wine spirits may, under regulations prescribed by the Sec-

retary, be withdrawn free of tax from the bonded premises of any distilled spirits plant, bonded wine cellar, or authorized experimental premises, for analysis or testing.

(c) Distillates containing aldehydes

When the Secretary deems such removal and use will not jeopardize the revenue nor unduly increase administrative supervision, distillates containing aldehydes may, under such regulations as the Secretary may prescribe, be removed without payment of tax from the bonded premises of a distilled spirits plant to an adjacent bonded wine cellar and used therein in fermentation of wine to be used as distilling material at the distilled spirits plant from which such unfinished distilled spirits were removed.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1382; amended Pub. L. 90-619, §1, Oct. 22, 1968, 82 Stat. 1236; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5373, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1968—Subsec. (a). Pub. L. 90-619 inserted special natural wine, under conditions prescribed by regulations, as one of the materials from which wine spirits may be produced and extended to special natural wines the existing prohibition on the use of natural wine whose sugars have been refermented.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-619, §6, Oct. 22, 1968, 82 Stat. 1237, provided that: “The amendments made by this Act [amending this section and sections 5382 to 5387 of this title] shall take effect on the first day of the first month which begins 90 days or more after the date of the enactment of this Act [Oct. 22, 1968].”

PART III—CELLAR TREATMENT AND CLASSIFICATION OF WINE

Sec. 5381.	Natural wine.
5382.	Cellar treatment of natural wine.
5383.	Amelioration and sweetening limitations for natural grape wines.
5384.	Amelioration and sweetening limitations for natural fruit and berry wines.
5385.	Specially sweetened natural wines.
5386.	Special natural wines.
5387.	Agricultural wines.
5388.	Designation of wines.

PRIOR PROVISIONS

A prior part III consisted of sections 5381 to 5388 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, Sept. 2, 1958, 72 Stat. 1313.

§ 5381. Natural wine

Natural wine is the product of the juice or must of sound, ripe grapes or other sound, ripe fruit, made with such cellar treatment as may be authorized under section 5382 and containing not more than 21 percent by weight of total solids. Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine, unless the condition is corrected.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1383; amended Pub. L. 96-39, title VIII, §807(a)(48), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5381, act Aug. 16, 1954, ch. 736, 68A Stat. 668, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 struck out provisions authorizing removal for distillation of wine deemed not to be natural wine, destruction of such wine under government supervision, and transfer of such wine to premises in which other than natural wine may be stored or used.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5382. Cellar treatment of natural wine

(a) Proper cellar treatment

(1) In general

Proper cellar treatment of natural wine constitutes—

(A) subject to paragraph (2), those practices and procedures in the United States, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice in accordance with regulations prescribed by the Secretary; and

(B) subject to paragraph (3), in the case of wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under such agreement or treaty.

(2) Recognition of continuing treatment

For purposes of paragraph (1)(A), where a particular treatment has been used in customary commercial practice in the United States, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be proper cellar treatment within the meaning of this subsection.

(3) Certification of practices and procedures for imported wine

(A) In general

In the case of imported wine produced after December 31, 2004, the Secretary shall accept the practices and procedures used to produce such wine, if, at the time of importation—

(i) the Secretary has on file or is provided with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A),

(ii) the Secretary has on file or is provided with such certification, if any, as may be required by an international agreement or treaty under paragraph (1)(B), or

(iii) in the case of an importer that owns or controls or that has an affiliate that owns or controls a winery operating under a basic permit issued by the Secretary, the importer certifies that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A).

(B) Affiliate defined

For purposes of this paragraph, the term “affiliate” has the meaning given such term by section 117(a)(4) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(4)) and includes a winery’s parent or subsidiary or any other entity in which the winery’s parent or subsidiary has an ownership interest.

(b) Specifically authorized treatments

The practices and procedures specifically enumerated in this subsection shall be deemed proper cellar treatment for natural wine:

(1) The preparation and use of pure concentrated or unconcentrated juice or must. Concentrated juice or must reduced with water to its original density or to not less than 22 degrees Brix or unconcentrated juice or must reduced with water to not less than 22 degrees Brix shall be deemed to be juice or must, and shall include such amounts of water to clear crushing equipment as regulations prescribed by the Secretary may provide.

(2) The addition to natural wine, or to concentrated or unconcentrated juice or must, from one kind of fruit, of wine spirits (whether or not tax-paid) distilled in the United States from the same kind of fruit; except that (A) the wine, juice, or concentrate shall not have an alcoholic content in excess of 24 percent by volume after the addition of wine spirits, and (B) in the case of still wines, wine spirits may be added in any State only to natural wines produced by fermentation in bonded wine cellars located within the same State.

(3) Amelioration and sweetening of natural grape wines in accordance with section 5383.

(4) Amelioration and sweetening of natural wines from fruits other than grapes in accordance with section 5384.

(5) In the case of effervescent wines, such preparations for refermentation and for dosage as may be acceptable in good commercial practice, but only if the alcoholic content of the finished product does not exceed 14 percent by volume.

(6) The natural darkening of the sugars or other elements in juice, must, or wine due to storage, concentration, heating processes, or natural oxidation.

(7) The blending of natural wines with each other or with heavy-bodied blending wine or with concentrated or unconcentrated juice, whether or not such juice contains wine spirits, if the wines, juice, or wine spirits are from the same kind of fruit.

(8) Such use of acids to correct natural deficiencies and stabilize the wine as may be acceptable in good commercial practice.

(9) The addition—

(A) to natural grape or berry wine of the winemaker's own production, of volatile fruit-flavor concentrate produced from the same kind and variety of grape or berry at a plant qualified under section 5511, or

(B) to natural fruit wine (other than grape or berry) of the winemaker's own production, of volatile fruit-flavor concentrate produced from the same kind of fruit at such a plant,

so long as the proportion of the volatile fruit-flavor concentrate to the wine does not exceed the proportion of the volatile fruit-flavor concentrate to the original juice or must from which it was produced. The transfer of volatile fruit-flavor concentrate from a plant qualified under section 5511 to a bonded wine cellar and its storage and use in such a cellar shall be under such applications and bonds, and under such other requirements, as may be provided in regulations prescribed by the Secretary.

(c) Other authorized treatment

The Secretary may by regulations prescribe limitations on the preparation and use of clarifying, stabilizing, preserving, fermenting, and corrective methods or materials, to the extent that such preparation or use is not acceptable in good commercial practice.

(d) Use of juice or must from which volatile fruit flavor has been removed

For purposes of this part, juice, concentrated juice, or must processed at a plant qualified under section 5511 may be deemed to be pure juice, concentrated juice, or must even though volatile fruit flavor has been removed if, at a plant qualified under section 5511 or at the bonded wine cellar, there is added to such juice, concentrated juice, or must, or (in the case of a bonded wine cellar) to wine of the winemaker's own production made therefrom, either the identical volatile flavor removed or—

(1) in the case of natural grape or berry wine of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate produced at such a plant and derived from the same kind and variety of grape or berry, or

(2) in the case of natural fruit wine (other than grape or berry wine) of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate produced at such a plant and derived from the same kind of fruit.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1383; amended Pub. L. 88-653, §1, 2, Oct. 13, 1964, 78 Stat. 1085; Pub. L. 89-44, title VIII, §806(c)(1), June 21, 1965, 79 Stat. 164; Pub. L. 90-619, §2, Oct. 22, 1968, 82 Stat. 1237; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 108-429, title II, §2002(a), Dec. 3, 2004, 118 Stat. 2588; Pub. L. 109-432, div. D, title III, §3007, Dec. 20, 2006, 120 Stat. 3176.)

PRIOR PROVISIONS

A prior section 5382, act Aug. 16, 1954, ch. 736, 68A Stat. 668, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2006—Subsec. (a)(1)(A). Pub. L. 109-432 substituted “correct or stabilize” for “stabilize”.

2004—Subsec. (a). Pub. L. 108-429 amended heading and text of subsec. (a) generally. Prior to amendment text read as follows: “Proper cellar treatment of natural wine constitutes those practices and procedures in the United States and elsewhere, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice. Where a particular treatment has been used in customary commercial practice, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be a proper cellar treatment within the meaning of this subsection.”

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

1968—Subsec. (b)(2)(B). Pub. L. 90-619 permitted wine spirits to be added to natural wine produced by fermentation in any bonded wine cellars located within the same State in which the addition is to take place.

1965—Subsec. (b)(2). Pub. L. 89-44 struck out “made without added sugar or reserved as provided in sections 5383(b) and 5384(b)” after “winemaker's own production”.

1964—Subsec. (b)(9). Pub. L. 88-653, §1, added par. (9). Subsec. (d). Pub. L. 88-653, §2, added subsec. (d).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title II, §2002(b), Dec. 3, 2004, 118 Stat. 2589, provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 2005.”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-653, §4, Oct. 13, 1964, 78 Stat. 1085, provided that: “The amendments made by the first section [amending this section] and sections 2 and 3 of this Act [amending this section and section 5511 of this title] shall take effect on the first day of the second month which begins more than 10 days after the date on which this Act is enacted [Oct. 13, 1964].”

§ 5383. Amelioration and sweetening limitations for natural grape wines**(a) Sweetening of grape wines**

Any natural grape wine may be sweetened after fermentation and before taxpayment with pure dry sugar or liquid sugar if the total solids content of the finished wine does not exceed 12 percent of the weight of the wine and the alcoholic content of the finished wine after sweetening is not more than 14 percent by volume; except that the use under this subsection of liquid sugar shall be limited so that the resultant volume will not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(b) High acid wines**(1) Amelioration**

Before, during, and after fermentation, ameliorating materials consisting of pure dry

sugar or liquid sugar, water, or a combination of sugar and water, may be added to natural grape wines of a winemaker's own production when such wines are made from juice having a natural fixed acid content of more than five parts per thousand (calculated before fermentation and as tartaric acid). Ameliorating material so added shall not reduce the natural fixed acid content of the juice to less than five parts per thousand, nor exceed 35 percent of the volume of juice (calculated exclusive of pulp) and ameliorating material combined.

(2) Sweetening

Any wine produced under this subsection may be sweetened by the producer thereof, after amelioration and fermentation, with pure dry sugar or liquid sugar if the total solids content of the finished wine does not exceed (A) 17 percent by weight if the alcoholic content is more than 14 percent by volume, or (B) 21 percent by weight if the alcoholic content is not more than 14 percent by volume. The use under this paragraph of liquid sugar shall be limited to cases where the resultant volume does not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(3) Wine spirits

Wine spirits may be added (whether or not wine spirits were previously added) to wine produced under this subsection only if the wine contains not more than 14 percent of alcohol by volume derived from fermentation.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1384; amended Pub. L. 89-44, title VIII, §806(b)(1), June 21, 1965, 79 Stat. 162; Pub. L. 90-619, §3, Oct. 22, 1968, 82 Stat. 1237.)

PRIOR PROVISIONS

A prior section 5383, act Aug. 16, 1954, ch. 736, 68A Stat. 669, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-619, §3(b), substituted "not more than 14 percent" for "less than 14 percent".

Subsec. (b). Pub. L. 90-619, §3(a), simplified production procedures and calculations, provided that the limitation on sweetening high acid wine is to be based upon the total solids content of the finished wine, authorized the use of liquid sugar but only to the extent that it did not increase the total volume of the finished wine above what it would be if the maximum authorized use had been made of dry sugar only, and inserted provisions making it clear that wine spirits may be added at more than one stage in the process of wine production.

1965—Pub. L. 89-44 divided subsec. (b) relating to high acid wines into pars. (1) and (2) and par. (2) into subpars. (A) to (E), struck out reserve inventory requirement with respect to the amelioration and sweetening of wines, authorized use of other than pure, dry sugar, and allowed limited use of liquid sugar at appropriate points where use of pure dry sugar had formerly been prescribed.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §806(d)(2), June 21, 1965, 79 Stat. 164, provided that: "The amendments made by subsections (b) and (c) [amending this section and sections 5382, 5384, 5385, and 5392] shall take effect on January 1, 1966."

§ 5384. Amelioration and sweetening limitations for natural fruit and berry wines

(a) In general

To natural wine made from berries or fruit other than grapes, pure dry sugar or liquid sugar may be added to the juice in the fermenter, or to the wine after fermentation; but only if such wine has not more than 14 percent alcohol by volume after complete fermentation, or after complete fermentation and sweetening, and a total solids content not in excess of 21 percent by weight; and except that the use under this subsection of liquid sugar shall be limited so that the resultant volume will not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(b) Ameliorated fruit and berry wines

(1) Any natural fruit or berry wine (other than grape wine) of a winemaker's own production may, if not made under subsection (a) of this section, be ameliorated to correct high acid content. Ameliorating material calculations and accounting shall be separate for wines made from each different kind of fruit.

(2) Pure dry sugar or liquid sugar may be used in the production of wines under this subsection for the purpose of correcting natural deficiencies, but not to such an extent as would reduce the natural fixed acid in the corrected juice or wine to five parts per thousand. The quantity of sugar so used shall not exceed the quantity which would have been required to adjust the juice, prior to fermentation, to a total solids content of 25 degrees (Brix). Such sugar shall be added prior to the completion of fermentation of the wine. After such addition of the sugar, the wine or juice shall be treated and accounted for as provided in section 5383(b), covering the production of high acid grape wines, except that—

(A) Natural fixed acid shall be calculated as malic acid for apple wine and as citric acid for other fruit and berry wines, instead of tartaric acid;

(B) Juice adjusted with pure dry sugar or liquid sugar as provided in this paragraph shall be treated in the same manner as original natural juice under the provisions of section 5383(b); except that if liquid sugar is used, the volume of water contained therein must be deducted from the volume of ameliorating material authorized;

(C) Wines made under this subsection shall have a total solids content of not more than 21 percent by weight, whether or not wine spirits have been added; and

(D) Wines made exclusively from any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) shall be entitled to a volume of ameliorating material not in excess of 60 percent (in lieu of 35 percent).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1385; amended Pub. L. 89-44, title VIII,

§ 806(b)(2), (c)(2), (3), June 21, 1965, 79 Stat. 163, 164; Pub. L. 90-619, § 3(b), Oct. 22, 1968, 82 Stat. 1237; Pub. L. 105-34, title XIV, § 1417(a), Aug. 5, 1997, 111 Stat. 1048.)

PRIOR PROVISIONS

A prior section 5384, act Aug. 16, 1954, ch. 736, 68A Stat. 670, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Subsec. (b)(2)(D). Pub. L. 105-34 substituted “any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)” for “loganberries, currants, or gooseberries.”

1968—Subsec. (a). Pub. L. 90-619 substituted “not more than 14 percent” for “less than 14 percent”.

1965—Subsec. (a). Pub. L. 89-44, § 806(b)(2)(A), authorized addition of liquid sugar provided resultant volume will not exceed volume which could result from maximum authorized use of pure dry sugar only.

Subsec. (b). Pub. L. 89-44, § 806(c)(3), substituted “Ameliorated” for “Reserve” in heading.

Subsec. (b)(1). Pub. L. 89-44, § 806(b)(2)(B), struck out references to reserves and reserve inventories.

Subsec. (b)(2). Pub. L. 89-44, § 806(b)(2)(C), amended first sentence by authorizing use of liquid sugar but limiting use of any sugar if it reduced natural fixed acid in corrected juice or wine to five parts per thousand.

Pub. L. 89-44, § 806(c)(2), struck out “reserved” after “covering the production of” in fourth sentence.

Subsec. (b)(2)(B). Pub. L. 89-44, § 806(b)(2)(D), required that, if liquid sugar is used, the volume of water contained therein be deducted from the volume of ameliorating material authorized.

Subsec. (b)(2)(C). Pub. L. 89-44, § 806(b)(2)(E), substituted “shall have” for “may be withdrawn from reserve inventory with”.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, § 1417(b), Aug. 5, 1997, 111 Stat. 1048, provided that: “The amendment made by this section [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

§ 5385. Specially sweetened natural wines

(a) Definition

Specially sweetened natural wine is the product made by adding to natural wine of the wine-maker's own production a sufficient quantity of pure dry sugar, or juice or concentrated juice from the same kind of fruit, separately or in combination, to produce a finished product having a total solids content in excess of 17 percent by weight and an alcoholic content of not more than 14 percent by volume, and shall include extra sweet kosher wine and similarly heavily sweetened wines.

(b) Cellar treatment

Specially sweetened natural wines may be blended with each other, or with natural wine or

heavy bodied blending wine in the further production of specially sweetened natural wine only, if the wines so blended are made from the same kind of fruit. Wines produced under this section may be cellar treated under the provisions of section 5382(a) and (c). Wine spirits may not be added to specially sweetened natural wine.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 89-44, title VIII, § 806(c)(4), June 21, 1965, 79 Stat. 164; Pub. L. 90-619, §§ 3(b), 4, Oct. 22, 1968, 82 Stat. 1237.)

PRIOR PROVISIONS

A prior section 5385, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-619, § 3(b), substituted “not more than 14 percent” for “less than 14 percent”.

Subsec. (b). Pub. L. 90-619, § 4, authorized cellar treatment of specially sweetened natural wines, special natural wines, and agricultural wines.

1965—Subsec. (a). Pub. L. 89-44 substituted “total solids content in excess of 17” for “sugar solids content in excess of 15”.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

§ 5386. Special natural wines

(a) In general

Special natural wines are the products made, pursuant to a formula approved under this section, from a base of natural wine (including heavy-bodied blending wine) exclusively, with the addition, before, during or after fermentation, of natural herbs, spices, fruit juices, aromatics, essences, and other natural flavorings in such quantities or proportions as to enable such products to be distinguished from any natural wine not so treated, and with or without carbon dioxide naturally or artificially added, and with or without the addition, separately or in combination, of pure dry sugar or a solution of pure dry sugar and water, or caramel. No added wine spirits or alcohol or other spirits shall be used in any wine under this section except as may be contained in the natural wine (including heavy-bodied blending wine) used as a base or except as may be necessary in the production of approved essences or similar approved flavorings. The Brix degree of any solution of pure dry sugar and water used may be limited by regulations prescribed by the Secretary in accordance with good commercial practice.

(b) Cellar treatment

Special natural wines may be cellar treated under the provisions of section 5382(a) and (c).

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 90-619, § 5, Oct. 22,

1968, 82 Stat. 1237; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5386, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1968—Subsec. (b). Pub. L. 90-619 inserted reference to subsec. (a) of section 5382.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

§ 5387. Agricultural wines

(a) In general

Wines made from agricultural products other than the juice of fruit shall be made in accordance with good commercial practice as may be prescribed by the Secretary by regulations. Wines made in accordance with such regulations shall be classed as “standard agricultural wines”. Wines made under this section may be cellar treated under the provisions of section 5382(a) and (c).

(b) Limitations

No wine spirits may be added to wines produced under this section, nor shall any coloring material or herbs or other flavoring material (except hops in the case of honey wine) be used in their production.

(c) Restriction on blending

Wines from different agricultural commodities shall not be blended together.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 90-619, § 5, Oct. 22, 1968, 82 Stat. 1237; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5387, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1968—Subsec. (a). Pub. L. 90-619 inserted reference to subsec. (a) of section 5382.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90-619, set out as a note under section 5373 of this title.

§ 5388. Designation of wines

(a) Standard wines

Standard wines may be removed from premises subject to the provisions of this subchapter and be marked, transported, and sold under their proper designation as to kind and origin, or, if there is no such designation known to the

trade or consumers, then under a truthful and adequate statement of composition.

(b) Other wines

Wines other than standard wines may be removed for consumption or sale and be marked, transported, or sold only under such designation as to kind and origin as adequately describes the true composition of such products and as adequately distinguish them from standard wines, as regulations prescribed by the Secretary shall provide.

(c) Use of semi-generic designations

(1) In general

Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

(A) there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and

(B) the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(2) Determination of whether name is semi-generic

(A) In general

Except as provided in subparagraph (B), a name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Secretary.

(B) Certain names treated as semi-generic

The following names shall be treated as semi-generic: Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, Tokay.

(3) Special rule for use of certain semi-generic designations

(A) In general

In the case of any wine to which this paragraph applies—

(i) paragraph (1) shall not apply,

(ii) in the case of wine of the European Community, designations referred to in subparagraph (C)(i) may be used for such wine only if the requirement of subparagraph (B)(ii) is met, and

(iii) in the case any other wine bearing a brand name, or brand name and fanciful name, semi-generic designations may be used for such wine only if the requirements of clauses (i), (ii), and (iii) of subparagraph (B) are met.

(B) Requirements

(i) The requirement of this clause is met if there appears in direct conjunction with the semi-generic designation an appropriate appellation of origin disclosing the origin of the wine.

(ii) The requirement of this clause is met if the wine conforms to the standard of identity, if any, for such wine contained in the

regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(iii) The requirement of this clause is met if the person, or its successor in interest, using the semi-generic designation held a Certificate of Label Approval or Certificate of Exemption from Label Approval issued by the Secretary for a wine label bearing such brand name, or brand name and fanciful name, before March 10, 2006, on which such semi-generic designation appeared.

(C) Wines to which paragraph applies

(i) In general

Except as provided in clause (ii), this paragraph shall apply to any grape wine which is designated as Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Retsina, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, or Tokay.

(ii) Exception

This paragraph shall not apply to wine which—

(I) contains less than 7 percent or more than 24 percent alcohol by volume,

(II) is intended for sale outside the United States, or

(III) does not bear a brand name.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title IX, §910(a), Aug. 5, 1997, 111 Stat. 877; Pub. L. 109-432, div. A, title IV, §422(a), Dec. 20, 2006, 120 Stat. 2972.)

PRIOR PROVISIONS

A prior section 5388, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109-432 added par. (3).

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

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

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §422(b), Dec. 20, 2006, 120 Stat. 2973, provided that: “The amendments made by this section [amending this section] shall apply to wine imported or bottled in the United States on or after the date of enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §910(b), Aug. 5, 1997, 111 Stat. 877, 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].”

PART IV—GENERAL

Sec.	
5391.	Exemption from distilled spirits taxes.
5392.	Definitions.

PRIOR PROVISIONS

A prior part IV consisted of sections 5391 and 5392 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(8), July 26, 1979, 93 Stat. 290, substituted “Exemption from distilled spirits taxes” for “Exemption from rectifying and spirits taxes” in item 5391.

§ 5391. Exemption from distilled spirits taxes

Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 96-39, title VIII, §807(a)(49), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5391, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “distilled” for “rectifying and” in section catchline and struck out provisions relating to exemption from taxes imposed on rectified spirits and wines and the status of any proprietor of a bonded wine cellar as a rectifier of such spirits in text.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5392. Definitions

(a) Standard wine

For purposes of this subchapter the term “standard wine” means natural wine, specially sweetened natural wine, special natural wine, and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387, respectively.

(b) Heavy bodied blending wine

For purposes of this subchapter the term “heavy bodied blending wine” means wine made from fruit without added sugar, and with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

(c) Pure sugar

For purposes of this subchapter the term “pure sugar” means pure refined sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch. Invert sugar syrup produced from such pure sugar by

recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar, authorized in this subchapter.

(d) Total solids

For purposes of this subchapter the term “total solids”, in the case of wine, means the degrees Brix of the dealcoholized wine.

(e) Same kind of fruit

For purposes of this subchapter the term “same kind of fruit” includes, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) Own production

For purposes of this subchapter the term “own production”, when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar, whether or not produced by a predecessor in interest at such bonded wine cellar. This term may also include, under regulations, wine produced by fermentation in bonded wine cellars owned or controlled by the same or affiliated persons or firms when located within the same State; the term “affiliated” shall be deemed to include any one or more bonded wine cellar proprietors associated as members of any farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211).¹

(g) Liquid sugar

For purposes of this subchapter the term “liquid sugar” means a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix.)

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 89-44, title VIII, §806(b)(3), June 21, 1965, 79 Stat. 163; Pub. L. 94-455, title XIX, §1905(a)(21), Oct. 4, 1976, 90 Stat. 1820.)

REFERENCES IN TEXT

Section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211), referred to in subsec. (f), was renumbered section 117(a)(5) of the Federal Alcohol Administration Act by Pub. L. 100-690, title VIII, §8001(a)(2), Nov. 18, 1988, 102 Stat. 4517, and is classified to section 211(a)(5) of Title 27, Intoxicating Liquors.

PRIOR PROVISIONS

A prior section 5392, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-455 struck out “49 Stat. 990;” before “27 U.S.C. 211”.

1965—Subsec. (c). Pub. L. 89-44, §806(b)(3)(A), added fruit, grain, or other sources of starch to cane and beets as sources of “pure sugar”.

Subsec. (g). Pub. L. 89-44, §806(b)(3)(B), added subsec. (g).

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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89-44, set out as a note under section 5383 of this title.

Subchapter G—Breweries

Part

- I. Establishment.
- II. Operations.

PRIOR PROVISIONS

A prior subchapter G consisted of parts I and II, contained sections 5401 to 5403 and 5411 to 5416, respectively, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT

Sec.

- 5401. Qualifying documents.
- 5402. Definitions.
- 5403. Cross references.

PRIOR PROVISIONS

A prior part I consisted of sections 5401 to 5403 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5401. Qualifying documents

(a) Notice

Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary a notice in writing, in such form and containing such information as the Secretary shall by regulations prescribe as necessary to protect and insure collection of the revenue.

(b) Bonds

Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned (1) that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; (2) that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053(a), which beer is not exported or returned to the brewery; and (3) that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary, the brewer shall execute a new bond or a continuation certificate, in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond or continuation certificate shall be in lieu of any

¹ See References in Text note below.

former bond or bonds, or former continuation certificate or certificates, of such brewer in respect to all liabilities accruing after its approval. If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force between the parties for a succeeding period of not less than 4 years, the brewer may submit, in lieu of a new bond, a certificate executed, under penalties of perjury, by the brewer and the surety attesting to continuation of the bond, which certificate shall constitute a bond subject to all provisions of law applicable to bonds given pursuant to this section.

(c) Exception from bond requirements for certain breweries

Subsection (b) shall not apply to any taxpayer for any period described in section 5551(d).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1388; amended Pub. L. 91-673, §3(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 114-113, div. Q, title III, §332(b)(2)(C), Dec. 18, 2015, 129 Stat. 3106.)

PRIOR PROVISIONS

A prior section 5401, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-113 added subsec. (c).

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

1971—Subsec. (b). Pub. L. 91-673 permitted bonding requirement to be satisfied by continuation of an existing bond, with such continuation being subject to Government approval in the same manner as a new bond and required that the continuation certificate be executed by both the brewer and the surety, under penalties of perjury.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to any calendar quarters beginning more than 1 year after Dec. 18, 2015, see section 332(c) of Pub. L. 114-113, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5402. Definitions

(a) Brewery

The brewery shall consist of the land and buildings described in the brewer's notice. The continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions; and if parts of the brewery are so separated they must abut on the dividing medium and be adjacent to each other. Notwithstanding the preceding sentence, facilities under the control of the brewer for case packing, load-

ing, or storing which are located within reasonable proximity to the brewery packaging facilities may be approved by the Secretary as a part of the brewery if the revenue will not be jeopardized thereby.

(b) Brewer

For definition of brewer, see section 5052(d).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(b), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109-59, title XI, §11125(b)(17), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5402, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-59 substituted “section 5052(d)” for “section 5092”.

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

1971—Subsec. (a). Pub. L. 91-673 inserted proviso to definition of “Brewery” that the continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions, with the exception that the Secretary approve facilities under the control of the brewer for case packing, loading, or storing, which are located within reasonable proximity to the brewery as a part of the brewery if the revenue will not be jeopardized thereby.

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 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5403. Cross references

(1) For authority of Secretary to disapprove brewers' bonds, see section 5551.

(2) For authority of Secretary to require the installation and use of meters, tanks, and other apparatus, see section 5552.

(3) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5403, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1982—Par. (3). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”.

1976—Par. (1). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

PART II—OPERATIONS

Sec.
5411. Use of brewery.

Sec.	
5412.	Removal of beer in containers or by pipeline.
5413.	Brewers procuring beer from other brewers.
5414.	Removals from one brewery to another belonging to the same brewer.
5415.	Records and returns.
5416.	Definitions of package and packaging.
5417.	Pilot brewing plants.
5418.	Beer imported in bulk.

PRIOR PROVISIONS

A prior part II consisted of sections 5411 to 5416, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1421(b), Aug. 5, 1997, 111 Stat. 1049, added item 5418.

1971—Pub. L. 91-673, §4(b), Jan. 12, 1971, 84 Stat. 2058, substituted “Definitions of package and packaging” for “Definitions of bottle and bottling” in item 5416 and added item 5417.

§ 5411. Use of brewery

The brewery shall be used under regulations prescribed by the Secretary only for the purpose of producing, packaging, and storing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and of soft drinks; for the purpose of processing spent grain, carbon dioxide, and yeast; and for such other purposes as the Secretary by regulation may find will not jeopardize the revenue.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(c), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5411, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

1971—Pub. L. 91-673 struck out requirement of separate facilities for bottling of beer and cereal beverages and permitted use of brewery for packaging and storing beer and other cereal beverages.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5412. Removal of beer in containers or by pipeline

Beer may be removed from the brewery for consumption or sale only in hogsheads, packages, and similar containers, marked, branded, or labeled in such manner as the Secretary may by regulation require, except that beer may be removed from the brewery pursuant to section 5414 or by pipeline to contiguous distilled spirits plants under section 5222.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91-673, §3(d), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 115-97, title I, §13803(b), Dec. 22, 2017, 131 Stat. 2173.)

PRIOR PROVISIONS

A prior section 5412, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Pub. L. 115-97 inserted “pursuant to section 5414 or” before “by pipeline”.

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

1971—Pub. L. 91-673 substituted “packages,” for “barrels, kegs, bottles,”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13803(c), Dec. 22, 2017, 131 Stat. 2173, provided that: “The amendments made by this section [amending this section and section 5414 of this title] shall apply to any calendar quarters beginning after December 31, 2017.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5413. Brewers procuring beer from other brewers

A brewer, under such regulations as the Secretary shall prescribe, may obtain beer in his own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5054.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5413, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5414. Removals from one brewery to another belonging to the same brewer**(a) In general**

Beer may be removed from one brewery to another brewery belonging to the same brewer, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe. The removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (1) one such corporation owns the controlling interest in the other such corporation, or (2)

the controlling interest in each such corporation is owned by the same person or persons.

(b) Transfer of beer between bonded facilities

(1) In general

Beer may be removed from one bonded brewery to another bonded brewery, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe, which shall include—

(A) any removal from one brewery to another brewery belonging to the same brewer,

(B) any removal from a brewery owned by one corporation to a brewery owned by another corporation when—

(i) one such corporation owns the controlling interest in the other such corporation, or

(ii) the controlling interest in each such corporation is owned by the same person or persons, and

(C) any removal from one brewery to another brewery when—

(i) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and

(ii) the transferor has divested itself of all interest in the beer so transferred and the transferee has accepted responsibility for payment of the tax.

(2) Transfer of liability for tax

For purposes of paragraph (1)(C), such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(3) Termination

This subsection shall not apply to any calendar quarter beginning after December 31, 2019.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 115-97, title I, §13803(a), Dec. 22, 2017, 131 Stat. 2172.)

PRIOR PROVISIONS

A prior section 5414, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2017—Pub. L. 115-97 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

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

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to any calendar quarters beginning after Dec. 31, 2017, see section 13803(c) of Pub. L. 115-97, set out as a note under section 5412 of this title.

§ 5415. Records and returns

(a) Records

Every brewer shall keep records, in such form and containing such information as the Sec-

retary shall prescribe by regulations as necessary for protection of the revenue. These records shall be preserved by the person required to keep such records for such period as the Secretary shall by regulations prescribe, and shall be available during business hours for examination and taking of abstracts therefrom by any internal revenue officer.

(b) Returns

Every brewer shall make true and accurate returns of his operations and transactions in the form, at the times, and for such periods as the Secretary shall by regulation prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5415, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5416. Definitions of package and packaging

For purposes of this subchapter, the term “package” means a bottle, can, keg, barrel, or other original consumer container, and the term “packaging” means the filling of any package.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 91-673, §3(e), Jan. 12, 1971, 84 Stat. 2057.)

PRIOR PROVISIONS

A prior section 5416, act Aug. 16, 1954, ch. 736, 68A Stat. 676, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1971—Pub. L. 91-673 substituted definitions of package and packaging for definitions of bottle and bottling.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as a note under section 5056 of this title.

§ 5417. Pilot brewing plants

Under such regulations as the Secretary may prescribe, and on the filing of such bonds and applications as he may require, pilot brewing plants may, at the discretion of the Secretary be established and operated off the brewery premises for research, analytical, experimental, or development purposes with regard to beer or brewery operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter.

(Added Pub. L. 91-673, §4(a), Jan. 12, 1971, 84 Stat. 2057; 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.

EFFECTIVE DATE

Section effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91-673, set out as an Effective Date of 1971 Amendment note under section 5056 of this title.

§ 5418. Beer imported in bulk

Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.

(Added Pub. L. 105-34, title XIV, § 1421(a), Aug. 5, 1997, 111 Stat. 1049.)

EFFECTIVE DATE

Pub. L. 105-34, title XIV, § 1421(c), Aug. 5, 1997, 111 Stat. 1049, provided that: "The amendments made by this section [enacting this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997]."

Subchapter H—Miscellaneous Plants and Warehouses

Part	
I.	Vinegar plants.
II.	Volatile fruit-flavor concentrate plants.
[III.]	Repealed.]

PRIOR PROVISIONS

A prior subchapter H consisted of parts I to III, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(9), July 26, 1979, 93 Stat. 291, struck out item relating to Part III "Manufacturing bonded warehouses" in table of Parts comprising Subchapter H.

PART I—VINEGAR PLANTS

Sec.	
5501.	Establishment.
5502.	Qualification.
5503.	Construction and equipment.
5504.	Operation.
5505.	Applicability of provisions of this chapter.

PRIOR PROVISIONS

A prior part I consisted of sections 5501 and 5502, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5501. Establishment

Plants for the production of vinegar by the vaporizing process, where distilled spirits of not more than 15 percent of alcohol by volume are to be produced exclusively for use in the manufacture of vinegar on the premises, may be established under this part.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390.)

PRIOR PROVISIONS

A prior section 5501, act Aug. 16, 1954, ch. 736, 68A Stat. 677, made a cross reference to provisions pertaining to establishment and operation of vinegar factories, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising this section were contained in prior section 5216(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5502. Qualification**(a) Requirements**

Every person, before commencing the business of manufacturing vinegar by the vaporizing process, and at such other times as the Secretary may by regulations prescribe, shall make application to the Secretary for the registration of his plant and receive permission to operate. No application required under this section shall be approved until the applicant has complied with all requirements of law, and regulations prescribed by the Secretary, in relation to such business. With respect to any change in such business after approval of an application, the Secretary may by regulations authorize the filing of written notice of such change or require the filing of an application to make such change.

(b) Form of application

The application required by subsection (a) shall be in such form and contain such information as the Secretary shall by regulations prescribe to enable him to determine the identity of the applicant, the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5502, act Aug. 16, 1954, ch. 736, 68A Stat. 677, related to distilled vinegar, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5216(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

§ 5503. Construction and equipment

Plants established under this part for the manufacture of vinegar by the vaporizing process shall be constructed and equipped in accordance with such regulations as the Secretary shall prescribe.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections 5216(a)(1) and 5552, act

Aug. 16, 1954, ch. 736, 68A Stat. 640, 680, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5504. Operation

(a) General

Any manufacturer of vinegar qualified under this part may, under such regulations as the Secretary shall prescribe, separate by a vaporizing process the distilled spirits from the mash produced by him, and condense the vapor by introducing it into the water or other liquid used in making vinegar in his plant.

(b) Removals

No person shall remove, or cause to be removed, from any plant established under this part any vinegar or other fluid or material containing a greater proportion than 2 percent of proof spirits.

(c) Records

Every person manufacturing vinegar by the vaporizing process shall keep such records and file such reports as the Secretary shall by regulations prescribe of the kind and quantity of materials received on his premises and fermented or mashed, the quantity of low wines produced, the quantity of such low wines used in the manufacture of vinegar, the quantity of vinegar produced, the quantity of vinegar removed from the premises, and such other information as may by regulations be required. Such records, and a copy of such reports, shall be preserved as regulations shall prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in prior section 5216(a)(1)(2), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5505. Applicability of provisions of this chapter

(a) Tax

The taxes imposed by subchapter A shall be applicable to any distilled spirits produced in violation of section 5501 or removed in violation of section 5504(b).

(b) Prohibited premises

Plants established under this part shall not be located on any premises where distilling is prohibited under section 5601(a)(6).

(c) Entry and examination of premises

The provisions of section 5203(b), (c), and (d), relating to right of entry and examination, furnishing facilities and assistance, and authority to break up grounds or walls, shall be applicable

to all premises established under this part, and to all proprietors thereof, and their workmen or other persons employed by them.

(d) Registration of stills

Stills on the premises of plants established under this part shall be registered as provided in section 5179.

(e) Installation of meters, tanks, and other apparatus

The provisions of section 5552 relating to the installation of meters, tanks, and other apparatus shall be applicable to plants established under this part.

(f) Assignment of internal revenue officers

The provisions of section 5553(a) relating to the assignment of internal revenue officers shall be applicable to plants established under this part.

(g) Authority to waive records, statements, and returns

The provisions of section 5555(b) relating to the authority of the Secretary to waive records, statements, and returns shall be applicable to records, statements, or returns required by this part.

(h) Regulations

The provisions of section 5556 relating to the prescribing of regulations shall be applicable to this part.

(i) Penalties

The penalties and forfeitures provided in sections 5601(a)(1), (6), and (12), 5603, 5615(1) and (4), 5686, and 5687 shall be applicable to this part.

(j) Other provisions

This chapter (other than this part and the provisions referred to in subsection (a), (b), (c), (d), (e), (f), (g), (h), (i) shall not be applicable with respect to plants established or operations conducted under this part.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94-455, title XIX, §1905(b)(6)(E), Oct. 4, 1976, 90 Stat. 1823.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (i) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5216(a)(1).
(b)	5171.
(c)	5216(a)(3).
(d)	5174.
(e)	5552.
(f)	5553(a).
(g)	5555(b).
(h)	5556.
(i)	5601, 5607, 5608, 5686(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 630, 640, 680, 681, 683-685, 700.

AMENDMENTS

1976—Subsec. (i). Pub. L. 94-455 struck out “5601(b)(1),” after “5601(a)(1), (6), and (12),”.

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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

PART II—VOLATILE FRUIT-FLAVOR CONCENTRATE PLANTS

Sec.	
5511.	Establishment and operation.
5512.	Control of products after manufacture.

PRIOR PROVISIONS

A prior part II consisted of sections 5511 and 5512, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5511. Establishment and operation

This chapter (other than sections 5178(a)(2)(C), 5179, 5203(b), (c), and (d), and 5552) shall not be applicable with respect to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

(1) such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and

(2) such concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of a concentrate which does not exceed 24 percent alcohol by volume) such concentrate is transferred to a bonded wine cellar for use in production of natural wine as provided in section 5382; and

(3) the manufacturer thereof makes such application, keeps such records, renders such reports, files such bonds, and complies with such other requirements with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Secretary may by regulations prescribe as necessary for the protection of the revenue.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392; amended Pub. L. 88-653, § 3, Oct. 13, 1964, 78 Stat. 1085; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5511, act Aug. 16, 1954, ch. 736, 68A Stat. 677, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Par. (3). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1964—Par. (2). Pub. L. 88-653 inserted “or (in the case of a concentrate which does not exceed 24 percent alcohol by volume) such concentrate is transferred to a bonded wine cellar for use in production of natural wine as provided in section 5382”.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-653 effective on first day of second month which begins more than 10 days after Oct. 13, 1964, see section 4 of Pub. L. 88-653, set out as a note under section 5383 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5512. Control of products after manufacture

For applicability of all provisions of this chapter pertaining to distilled spirits and wines, including

those requiring payment of tax, to volatile fruit-flavor concentrates sold, transported, or used in violation of law or regulations, see section 5001(a)(7).¹

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392.)

REFERENCES IN TEXT

Section 5001(a)(7), referred to in text, was redesignated section 5001(a)(6) by Pub. L. 103-465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5512, act Aug. 16, 1954, ch. 736, 68A Stat. 677, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

[PART III—REPEALED]

[§§ 5521 to 5523. Repealed. Pub. L. 96-39, title VIII, § 807(a)(50), July 26, 1979, 93 Stat. 288]

Section 5521, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to establishment and operation of manufacturing bonded warehouses.

A prior section 5521, act Aug. 16, 1954, ch. 736, 68A Stat. 678, related to establishment and operation of manufacturing bonded warehouses, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5522, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1393; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to withdrawal of distilled spirits to manufacturing bonded warehouses.

A prior section 5522, act Aug. 16, 1954, ch. 736, 68A Stat. 679, related to withdrawal of distilled spirits to manufacturing bonded warehouses, prior to general revision of this chapter by Pub. L. 85-859. See sections 5008(f)(2) and 5214(a) of this title.

Section 5523, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1394; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, made special provision for distilled spirits and wines rectified in manufacturing bonded warehouses.

A prior section 5523, act Aug. 16, 1954, ch. 736, 68A Stat. 679, made special provision for distilled spirits and wines rectified in manufacturing bonded warehouses, prior to general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter I—Miscellaneous General Provisions

Sec.	
5551.	General provisions relating to bonds.
5552.	Installation of meters, tanks, and other apparatus.
5553.	Supervision of premises and operations.
5554.	Pilot operations.
5555.	Records, statements, and returns.
5556.	Regulations.
5557.	Officers and agents authorized to investigate, issue search warrants, and prosecute for violations.
5558.	Authority of enforcement officers.
5559.	Determinations.
5560.	Other provisions applicable.
5561.	Exemptions to meet the requirements of the national defense.

¹ See References in Text note below.

Sec.
5562. Exemptions from certain requirements in cases of disaster.

PRIOR PROVISIONS

A prior subchapter I consisted of sections 5551 to 5557, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5551. General provisions relating to bonds

(a) Approval as condition to commencing business

Except as provided under subsection (d), no individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, warehouseman, processor, brewer, or winemaker, shall commence or continue the business of a distiller, warehouseman, processor, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Secretary of the Treasury or the officer designated by him.

(b) Disapproval

The Secretary of the Treasury or any officer designated by him may disapprove any such bond or bonds if the individual, firm, partnership, or corporation, or association giving such bond or bonds, or owning, controlling, or actively participating in the management of the business of the individual, firm, partnership, corporation, or association giving such bond or bonds, shall have been previously convicted, in a court of competent jurisdiction, of—

(1) any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of distilled spirits, wines, or beer, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise, or

(2) any felony under a law of any State, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(c) Appeal from disapproval

In case the disapproval is by an officer designated by the Secretary of the Treasury to approve or disapprove such bonds, the individual, firm, partnership, corporation, or association giving the bond may appeal from such disapproval to the Secretary of the Treasury or an officer designated by him to hear such appeals, and the disapproval of the bond by the Secretary of the Treasury or officer designated to hear such appeals shall be final.

(d) Removal of bond requirements

(1) In general

During any period to which subparagraph (A) of section 5061(d)(4) applies to a taxpayer (determined after application of subparagraph (B) thereof), such taxpayer shall not be required to furnish any bond covering operations or withdrawals of distilled spirits or wines for nonindustrial use or of beer.

(2) Satisfaction of bond requirements

Any taxpayer for any period described in paragraph (1) shall be treated as if sufficient

bond has been furnished for purposes of covering operations and withdrawals of distilled spirits or wines for nonindustrial use or of beer for purposes of any requirements relating to bonds under this chapter.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1394; amended Pub. L. 94-455, title XIX, §§ 1905(c)(5), 1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96-39, title VIII, § 807(a)(51), July 26, 1979, 93 Stat. 288; Pub. L. 114-113, div. Q, title III, § 332(b)(1), Dec. 18, 2015, 129 Stat. 3105.)

PRIOR PROVISIONS

A prior section 5551, act Aug. 16, 1954, ch. 736, 68A Stat. 680, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (c) of this section were contained in prior section 5177(c), act Aug. 16, 1954, ch. 736, 68A Stat. 630, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-113, § 332(b)(1)(A), substituted “Except as provided under subsection (d), no individual” for “No individual”.

Subsec. (d). Pub. L. 114-113, § 332(b)(1)(B), added subsec. (d).

1979—Subsec. (a). Pub. L. 96-39 substituted “warehouseman, processor” for “bonded warehouseman, rectifier” in two places.

1976—Subsec. (a). Pub. L. 94-455, § 1906(b)(13)(B), substituted “Secretary of the Treasury” for “Secretary”.

Subsec. (b). Pub. L. 94-455, §§ 1905(c)(5), 1906(b)(13)(B), substituted “Secretary of the Treasury” for “Secretary” in provisions preceding par. (1) and struck out “Territory, or” after “State,” in par. (2).

Subsec. (c). Pub. L. 94-455, § 1906(b)(13)(B), substituted “Secretary of the Treasury” for “Secretary”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to any calendar quarters beginning more than 1 year after Dec. 18, 2015, see section 332(c) of Pub. L. 114-113, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(5) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5552. Installation of meters, tanks, and other apparatus

The Secretary is authorized to require at distilled spirits plants, breweries, and at any other premises established pursuant to this chapter as in his judgment may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing

or neglecting to install such apparatus when so required by the Secretary shall not be permitted to conduct business on such premises.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5552, act Aug. 16, 1954, ch. 736, 68A Stat. 680, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

For application to vinegar plants of provisions of prior section 5552 relating to installation of meters, tanks, and other apparatus, see also sections 5503 and 5505(e) of this title.

AMENDMENTS

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

§ 5553. Supervision of premises and operations

(a) Assignment of internal revenue officers

The Secretary is authorized to assign to any premises established under the provisions of this chapter such number of internal revenue officers as may be deemed necessary.

(b) Functions of internal revenue officer

When used in this chapter, the term “internal revenue officer assigned to the premises” means the internal revenue officer assigned by the Secretary to duties at premises established and operated under the provisions of this chapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5553, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

For application to vinegar plants of provisions of prior section 5553(a) relating to assignment of storekeeper-gaugers, see also section 5505(f) of this title.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5554. Pilot operations

For the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over distilled spirits plants established under this chapter, the Secretary is authorized to waive any regulatory provisions of this chapter for temporary pilot or experimental operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5554, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5555. Records, statements, and returns

(a) General

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may prescribe.

(b) Authority to waive

Whenever in this chapter any record is required to be made or kept, or statement or return is required to be made by any person, the Secretary may by regulation waive, in whole or in part, such requirement when he deems such requirement to no longer serve a necessary purpose. This subsection shall not be construed as authorizing the waiver of the payment of any tax.

(c) Photographic copies

Whenever in this chapter any record is required to be made and preserved by any person, the Secretary may by regulations authorize such person to record, copy, or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process, which accurately reproduces or forms a durable medium for so reproducing the original of such record and to retain such reproduction in lieu of the original. Every person who is authorized to retain such reproduction in lieu of the original shall, under such regulations as the Secretary may prescribe, preserve such reproduction in conveniently accessible files and make provision for examining, viewing, and using such reproduction the same as if it were the original. Such reproduction shall be treated and considered for all purposes as though it were the original record and all provisions of law applicable to the original shall be applicable to such reproduction. Such reproduction, or enlargement or facsimile thereof, shall be admissible in evidence in the same manner and under the same conditions as provided for the admission of reproductions, enlargements, or facsimiles of records made in the regular course of business under section 1732(b) of title 28 of the United States Code.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1395; 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, §454(c)(10), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5555, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising subsecs. (a) and (b) of this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5555(a), relating to general provisions respecting records, statements, and returns, is also incorporated in section 5207(b) to (d) of this title.

Prior section 5555(b), relating to authority to waive records, statements, and returns, is also incorporated in section 5505(g) of this title.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369 struck out “or for the affixing of any stamp required to be affixed by this chapter,” after “the collection thereof.”

1976—Subsecs. (a) to (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

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.

§ 5556. Regulations

The regulations prescribed by the Secretary for enforcement of this chapter may make such distinctions in requirements relating to construction, equipment, or methods of operation as he deems necessary or desirable due to differences in materials or variations in methods used in production, processing, or storage of distilled spirits.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1396; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5556, act Aug. 16, 1954, ch. 736, 68A Stat. 681, authorized the Secretary to prescribe regulations, prior to the general revision of this chapter by Pub. L. 85-859.

For application to vinegar plants of regulatory provisions of prior section 5556, see also section 5505(h) of this title.

AMENDMENTS

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

APPLICABILITY OF RULES AND REGULATIONS

Pub. L. 85-859, title II, §210(e), Sept. 2, 1958, 72 Stat. 1435, provided that: “Until regulations are promulgated under any provision of this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under sections 5001, 5006, 5025, 5064, 5175, 5304 and 5601 of this title] which depends for its application upon the promulgation of regulations (or which is to be applied in such manner as may be prescribed by regulations) all instructions, rules, or regulations which are in effect immediately prior to the effective date of such provision shall, to the extent such instructions, rules, or regulations could be prescribed as regulations under authority of such provision, be applied as is promulgated as regulations under such provision.”

§ 5557. Officers and agents authorized to investigate, issue search warrants, and prosecute for violations

(a) General

The Secretary shall investigate violations of this subtitle and in any case in which prosecution appears warranted the Secretary shall report the violation to the United States Attorney for the district in which such violation was committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and the Secretary may swear out warrants before United States magistrate judges or other officers or courts authorized to issue warrants for the apprehension of such offenders, and may, subject to the control of such United States Attorney, conduct the prosecution at the committing trial for the purpose of having the

offenders held for the action of a grand jury. Section 3041 of title 18 of the United States Code is hereby made applicable in the enforcement of this subtitle.

(b) Cross reference

For provisions relating to the issuance of search warrants, see the Federal Rules of Criminal Procedure.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1396; amended Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix of Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

A prior section 5557, act Aug. 16, 1954, ch. 736, 68A Stat. 681, related to applicability of other provisions, prior to the general revision of this chapter by Pub. L. 85-859. See section 5560 of this title.

Provisions similar to those comprising this section were contained in prior section 5314, act Aug. 16, 1954, ch. 736, 68A Stat. 659, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (a) 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 magistrates” substituted for “United States commissioners” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

§ 5558. Authority of enforcement officers

For provisions relating to the authority of internal revenue enforcement officers, see section 7608.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1396.)

§ 5559. Determinations

Whenever the Secretary is required or authorized, in this chapter, to make or verify any quantitative determination, such determination or verification may be made by actual count, weight, or measurement, or by the application of statistical methods, or by other means, under such regulations as the Secretary may prescribe.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1396; 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.

§ 5560. Other provisions applicable

All provision of subtitle F, insofar as applicable and not inconsistent with the provisions of this subtitle, are hereby extended to and made a part of this subtitle.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1396.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5557, act Aug. 16, 1954, ch. 736, 68A Stat. 681, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5561. Exemptions to meet the requirements of the national defense

The Secretary may temporarily exempt proprietors of distilled spirits plants from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, whenever in his judgment it may seem expedient to do so to meet the requirements of the national defense. Whenever the Secretary shall exercise the authority conferred by this section he may prescribe such regulations as may be necessary to accomplish the purpose which caused him to grant the exemption.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1397; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5217(b), act Aug. 16, 1954, ch. 736, 68A Stat. 641, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5562. Exemptions from certain requirements in cases of disaster

Whenever the Secretary finds that it is necessary or desirable, by reason of disaster, to waive provisions of internal revenue law with regard to distilled spirits, he may temporarily exempt proprietors of distilled spirits plants from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, to the extent he may deem necessary or desirable.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1397; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5215, act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

Subchapter J—Penalties, Seizures, and Forfeitures Relating to Liquors

Part

- I. Penalty, seizure, and forfeiture provisions applicable to distilling, rectifying, and distilled and rectified products.
- II. Penalty and forfeiture provisions applicable to wine and wine production.
- III. Penalty, seizure, and forfeiture provisions applicable to beer and brewing.

Part

- IV. Penalty, seizure, and forfeiture provisions common to liquors.
- [V. Repealed.]

PRIOR PROVISIONS

A prior subchapter J consisted of parts I to V, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(19)(B), Aug. 10, 2005, 119 Stat. 1956, struck out item for part V “Penalties applicable to occupational taxes”.

PART I—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO DISTILLING, RECTIFYING, AND DISTILLED AND RECTIFIED PRODUCTS

Sec.

- 5601. Criminal penalties.
- 5602. Penalty for tax fraud by distiller.
- 5603. Penalty relating to records, returns, and reports.¹
- 5604. Penalties relating to marks, brands, and containers.
- 5605. Penalty relating to return of materials used in the manufacture of distilled spirits, or from which distilled spirits may be recovered.
- 5606. Penalty relating to containers of distilled spirits.
- 5607. Penalty and forfeiture for unlawful use, recovery, or concealment of denatured distilled spirits, or articles.
- 5608. Penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding.
- 5609. Destruction of unregistered stills, distilling apparatus, equipment, and materials.
- 5610. Disposal of forfeited equipment and material for distilling.
- 5611. Release of distillery before judgment.
- 5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises.
- 5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law.
- 5614. Burden of proof in cases of seizure of spirits.
- 5615. Property subject to forfeiture.

PRIOR PROVISIONS

A prior part I consisted of sections 5601 to 5650, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title IV, §454(c)(11)(B), (12)(C), July 18, 1984, 98 Stat. 822, struck out “stamps,” in item 5604, and substituted “closed” for “stamped” in item 5613.

§ 5601. Criminal penalties

(a) Offenses

Any person who—

(1) Unregistered stills

has in his possession or custody, or under his control, any still or distilling apparatus set up which is not registered, as required by section 5179(a); or

(2) Failure to file application

engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or

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

(3) False or fraudulent application

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and files a false or fraudulent application under section 5171; or

(4) Failure or refusal of distiller, warehouseman, or processor to give bond

carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or

(5) False, forged, or fraudulent bond

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and gives any false, forged, or fraudulent bond, under subchapter B; or

(6) Distilling on prohibited premises

uses, or possesses with intent to use, any still, boiler, or other utensil for the purpose of producing distilled spirits, or aids or assists therein, or causes or procures the same to be done, in any dwelling house, or in any shed, yard, or inclosure connected with such dwelling house (except as authorized under section 5178(a)(1)(C)), or on board any vessel or boat, or on any premises where beer or wine is made or produced, or where liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under section 5178(b)); or

(7) Unlawful production, removal, or use of material fit for production of distilled spirits

except as otherwise provided in this chapter, makes or ferments mash, wort, or wash, fit for distillation or for the production of distilled spirits, in any building or on any premises other than the designated premises of a distilled spirits plant lawfully qualified to produce distilled spirits, or removes, without authorization by the Secretary, any mash, wort, or wash, so made or fermented, from the designated premises of such lawfully qualified plant before being distilled; or

(8) Unlawful production of distilled spirits

not being a distiller authorized by law to produce distilled spirits, produces distilled spirits by distillation or any other process from any mash, wort, wash, or other material; or

(9) Unauthorized use of distilled spirits in manufacturing processes

except as otherwise provided in this chapter, uses distilled spirits in any process of manufacture unless such spirits—

(A) have been produced in the United States by a distiller authorized by law to produce distilled spirits and withdrawn in compliance with law; or

(B) have been imported (or otherwise brought into the United States) and withdrawn in compliance with law; or

(10) Unlawful processing

engages in or carries on the business of a processor—

(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or

(11) Unlawful purchase, receipt, or processing of distilled spirits

purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or

(12) Unlawful removal or concealment of distilled spirits

removes, other than as authorized by law, any distilled spirits on which the tax has not been paid or determined, from the place of manufacture or storage, or from any instrument of transportation, or conceals spirits so removed; or

(13) Creation of fictitious proof

adds, or causes to be added, any ingredient or substance (other than ingredients or substances authorized by law to be added) to any distilled spirits before the tax is paid thereon, or determined as provided by law, for the purpose of creating fictitious proof; or

(14) Distilling after notice of suspension

after the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use

Withdraws,¹ uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Presumptions

Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or processor was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1398; amended Pub. L. 94-455, title XIX, §§1905(a)(22), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96-39, title VIII, §807(a)(52), July 26, 1979, 93 Stat. 288; Pub. L. 96-223, title II, §232(e)(2)(A), Apr. 2, 1980, 94 Stat. 280.)

PRIOR PROVISIONS

A prior section 5601, act Aug. 16, 1954, ch. 736, 68A Stat. 683, consisted of provisions similar to those comprising subsec. (a)(1) of this section, and also related to

¹ So in original. Probably should not be capitalized.

forfeiture for possession of unregistered still or distilling apparatus, prior to the general revision of this chapter by Pub. L. 85-859. See section 5615(1) of this title.

Provisions similar to those comprising subsecs. (a)(2) to (8), (9)(A), (10) to (14) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subd. of subsec. (a):</i>	<i>Prior sections</i>
(2)	5172, 5603.
(3)	5603.
(4)	5172, 5604, 5606.
(5)	5604.
(6)	5171, 5607.
(7)	5216(a)(1), (4), 5608(a).
(8)	5216(a)(1), 5608(a).
(9)	5216(a)(1), 5608(a).
(10)	5628, 5629.
(11)	5629.
(12)	5608(a), 5631, 5632, 5643, 5647.
(13)	5634.
(14)	5650.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 640, 641, 684, 685, 689, 690, 692, 693, 695.

AMENDMENTS

1980—Subsec. (a)(15). Pub. L. 96-223 added par. (15).

1979—Subsec. (a)(2). Pub. L. 96-39, §807(a)(52)(A), struck out “distiller or rectifier” in heading and substituted “processor” for “rectifier” and “section 5171(c)” for “section 5171(a)” in text.

Subsec. (a)(3). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(4). Pub. L. 96-39, §807(a)(52)(C), substituted “warehouseman, or processor” for “or rectifier” in heading and in text.

Subsec. (a)(5). Pub. L. 96-39, §807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(10). Pub. L. 96-39, §807(a)(52)(D), substituted “processing” for “rectifying or bottling” in par. (10) heading, “processor” for “rectifier, or a bottler of distilled spirits” in text preceding subpar. (A), and “processed” for “rectified or bottled” in subpar. (A).

Subsec. (a)(11). Pub. L. 96-39, §807(a)(52)(E), substituted “or processing” for “rectification, or bottling” in heading and “or processes” for “rectifies, or bottles” in text.

Subsec. (b). Pub. L. 96-39, §807(a)(52)(F), substituted “processor” for “rectifier”.

1976—Subsec. (a)(7). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1905(a)(22), struck out par. (1) relating to presumptions in the matter of unregistered stills, par. (3) relating to presumptions in the matter of unlawful production, removal, or use of material fit for production of distilled spirits, and par. (4) relating to presumptions in the matter of unlawful production of distilled spirits, and struck out the number designation “(2)” and heading for former par. (2), leaving only the text for former par. (2) relating to presumptions in the matter of failure or refusal of distiller or rectifier to give bond.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96-223, set out as an Effective Date note under section 5181 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PROSECUTION AND PUNISHMENT OF OFFENSES COMMITTED AND PENALTIES OR FORFEITURES INCURRED; SAVINGS PROVISION

Pub. L. 85-859, title II, §210(c), Sept. 2, 1958, 72 Stat. 1435, provided that: “All offenses committed, and all penalties or forfeitures incurred, under any provision of law amended by this title [enacting sections 5849, 5854, 5855 and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 7272, 7301, 7224 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under this section and sections 5001, 5006, 5025, 5064, 5175, and 5304 of this title], may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.”

§ 5602. Penalty for tax fraud by distiller

Whenever any person engaged in or carrying on the business of a distiller defrauds, attempts to defraud, or engages in such business with intent to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. No discontinuance or nolle prosequi of any prosecution under this section shall be allowed without the permission in writing of the Attorney General.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5602, act Aug. 16, 1954, ch. 736, 68A Stat. 863, related to penalty and forfeiture for setting up still without a permit, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5615(2) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5606, 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 684, 688, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5603. Penalty relating to records, returns and reports

(a) Fraudulent noncompliance

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, with intent to defraud the United States, shall—

(1) fail to keep any such document or to make required entries therein; or

(2) make any false entry in such document; or

(3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document or any entry therein; or

(4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(5) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, with intent to defraud the United States, cause or procure the same to be done,

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Failure to comply

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, otherwise than with intent to defraud the United States, shall—

- (1) fail to keep any such document or to make required entries therein; or
- (2) make any false entry in such document; or
- (3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document, or any entry therein, except as provided by this title or regulations issued pursuant thereto; or
- (4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or
- (5) fail to refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, otherwise than with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5603, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for failure or refusal of distiller or rectifier to give notice of intention to engage in such business, prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(2), (3) of this title.

Provisions similar to those comprising this section were contained in prior sections 5610, 5611, 5620, 5621, 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 685 to 687, 703, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5604. Penalties relating to marks, brands, and containers

(a) In general

Any person who shall—

- (1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),
- (2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,
- (3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),
- (4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both, for each such offense.

(b) Cross references

For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1401; amended Pub. L. 96-39, title VIII, §807(a)(53), July 26, 1979, 93 Stat. 289; Pub. L. 98-369, div. A, title IV, §454(c)(11)(A), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5604, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty and forfeiture for failure or refusal of distiller to give bond, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601(a)(4), (5) and 5615(3) of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)(1)	5008(b)(1), 5642.
(a)(2), (3)	5636.
(a)(4), (5)	5642, 5644.
(a)(6)	5642.
(a)(7) to (9)	5636.
(a)(10)	5642, 5644.
(a)(11)	5643.
(a)(12)	5642, 5643.
(a)(13) to (15)	5642.
(a)(16)	5643.
(a)(17)	5635, 5636.
(a)(18)	5637.
(a)(19)	5638.
(b)	5642.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 602, 690 to 693.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, §454(c)(11)(A), in amending subsec. (a) generally, struck out references to stamps in pars. (1) to (3), redesignated pars. (12), (16), (17), (18) as pars. (4)–(7), respectively, in pars. (4) to (7) as so redesignated, struck out all references to stamps, and struck out former pars. (4) to (11), (13) to (15), and (19), which had consisted of additional provisions concerning penalties relating to stamps, marks, brands and containers.

Subsec. (b). Pub. L. 98-369, §454(c)(11)(A), in amending subsec. (b) generally, substituted provisions relating to cross references for provisions relating to officers authorized to enforce this section.

1979—Subsec. (a)(1). Pub. L. 96-39, §807(a)(53)(A), substituted “section 5205(a)(1)” for “section 5205(a)(2)”.

Subsec. (a)(2). Pub. L. 96-39, § 807(a)(53)(B), substituted “section 5205(a)(1)” for “section 5205(a)(1) or (2)” and “section 5205(a)(2)” for “section 5205(a)(3)”.

Subsec. (a)(3). Pub. L. 96-39, § 807(a)(53)(C), substituted “section 5205(f)” for “section 5205(g)”.

Subsec. (a)(6). Pub. L. 96-39, § 807(a)(53)(D), substituted “section 5205(a)(2)” for “section 5205(a)(3)”.

Subsec. (a)(13). Pub. L. 96-39, § 807(a)(53)(E), substituted “section 5205(a)” for “section 5205(a)(2) and (3)”.

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.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5605. Penalty relating to return of materials used in the manufacture of distilled spirits, or from which distilled spirits may be recovered

Any person who willfully violates any provision of section 5291(a), or of any regulation issued pursuant thereto, and any officer, director, or agent of any such person who knowingly participates in such violation, shall be fined not more than \$1,000, or imprisoned not more than 2 years, or both.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5605, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for improper approval of distiller's bond, prior to the general revision of this chapter by Pub. L. 85-859. See section 7214 of this title.

Provisions similar to those comprising this section were contained in prior section 5609, act Aug. 16, 1954, ch. 736, 68A Stat. 685, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5606. Penalty relating to containers of distilled spirits

Whoever violates any provision of section 5301, or of any regulation issued pursuant thereto, or the terms or conditions of any permit issued pursuant to the authorization contained in such section, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5606, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty and forfeiture for distilling without giving bond, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601(a)(4), 5602, and 5615(3) of this title.

Provisions similar to those comprising this section were contained in prior section 5641, act Aug. 16, 1954, ch. 736, 68A Stat. 692, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5607. Penalty and forfeiture for unlawful use, recovery, or concealment of denatured distilled spirits, or articles

Any person who—

(1) uses denatured distilled spirits withdrawn free of tax under section 5214(a)(1) in the manufacture of any medicinal preparation or flavoring extract in violation of the provisions of section 5273(b)(1) or knowingly sells, or offers for sale, any such medicinal preparation or flavoring extract in violation of section 5273(b)(2); or

(2) knowingly withdraws any denatured distilled spirits free of tax under section 5214(a)(1) for beverage purposes; or

(3) knowingly sells any denatured distilled spirits withdrawn free of tax under section 5214(a)(1), or any articles containing such denatured distilled spirits, for beverage purposes; or

(4) recovers or attempts to recover by redistillation or by any other process or means (except as authorized in section 5223 or in section 5273(c)) any distilled spirits from any denatured distilled spirits withdrawn free of tax under section 5214(a)(1), or from any articles manufactured therefrom, or knowingly uses, sells, conceals, or otherwise disposes of distilled spirits so recovered or redistilled;

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense; and all personal property used in connection with his business, together with the buildings and ground constituting the premises on which such unlawful acts are performed or permitted to be performed shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5607, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for distilling on prohibited premises, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5505(i) and 5601(a)(6) of this title.

Provisions similar to those comprising this section were contained in prior section 5647, act Aug. 16, 1954, ch. 736, 68A Stat. 693, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5608. Penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding

(a) Fraudulent claim for drawback

Every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid or determined thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than 5 years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the mas-

ter or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(b) Unlawful relanding

Every person who, with intent to defraud the United States, relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all vessels, vehicles, or aircraft used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 89-44, title VIII, §805(e), June 21, 1965, 79 Stat. 161.)

PRIOR PROVISIONS

A prior section 5608, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for making or fermenting mash on unauthorized premises, illegal use of spirits, unlawful removal of vinegar, etc., prior to the general revision of this chapter by Pub. L. 85-859. See sections 5505(i), 5601(a)(7), (8), (9)(A), (12), 5615(4), and 5687 of this title.

Provisions similar to those comprising this section were contained in prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1965—Subsec. (b). Pub. L. 89-44 substituted “, with intent to defraud the United States,” for “intentionally” after “Every person who”.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89-44, set out as a note under section 5008 of this title.

§ 5609. Destruction of unregistered stills, distilling apparatus, equipment, and materials

(a) General

In the case of seizure elsewhere than on premises qualified under this chapter of any unregistered still, distilling or fermenting equipment or apparatus, or distilling or fermenting material, for any offense involving forfeiture of the same, where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same. In the case of seizure, other than on premises qualified under this chapter or in transit thereto or therefrom, of any distilled spirits on which the tax has not been paid or determined, for any offense involving forfeiture of the same, the seizing officer is authorized to destroy the distilled spirits forthwith. Any destruction under this subsection shall be in the presence of at least one credible witness. The seizing officer shall make such report of said seizure and destruction and take such samples as the Secretary may require.

(b) Claims

Within 1 year after destruction made pursuant to subsection (a) the owner of, including any

person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

(1) such property had not been used in violation of law; or

(2) any unlawful use of such property had been without his consent or knowledge,

the Secretary shall make an allowance to such claimant not exceeding the value of the property destroyed.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5609, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty in connection to return of materials used in the manufacture of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5605 of this title.

Provisions similar to those comprising this section were contained in prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 5610. Disposal of forfeited equipment and material for distilling

All boilers, stills, or other vessels, tools and implements, used in distilling or processing, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for fermentation or distillation, shall be sold at public auction or otherwise disposed of as the court in which forfeiture was recovered shall in its discretion direct.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96-39, title VIII, §807(a)(54), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5610, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using unregistered materials for producing spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 substituted “or processing” for “or rectifying”.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5611. Release of distillery before judgment

Any distillery or distilling apparatus seized on any premises qualified under this chapter, for any violation of law, may, in the discretion of

the court, be released before final judgment to a receiver appointed by the court to operate such distillery or apparatus. Such receiver shall give bond, which shall be approved in open court, with corporate surety, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court. Funds obtained from such operation shall be impounded as the court shall direct pending such final judgment. (Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404.)

PRIOR PROVISIONS

A prior section 5611, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using false weights and measures, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises

(a) General

No distilled spirits on which tax has been paid or determined shall be stored or allowed to remain on the bonded premises of any distilled spirits plant, under the penalty of forfeiture of all spirits so found.

(b) Exceptions

Subsection (a) shall not apply in the case of—

(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96-39, title VIII, §807(a)(55), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5612, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using material or removing spirits without supervision, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 redesignated subpars. (2) and (3) as (1) and (2), respectively, and struck out former subpars. (1) and (4) which excepted distilled spirits which were bottled in bond under section 5233 of this title and which were returned to bonded premises for rebottling, relabeling, or restamping in accordance with subsec. (d) of section 5233, and excepted such spirits, held on bonded premises, on which the tax had become payable by operation of law, but on which the tax had not been paid.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

SUSPENSION OF SUBSECTION (a) DURING 1980

Pub. L. 96-39, title VIII, §808(c)(1), July 26, 1979, 93 Stat. 291, set out as a note under section 5061 of this

title, provided that subsec. (a) of this section was not to apply during 1980.

§ 5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law

(a) Unmarked or unbranded casks or packages

All distilled spirits found in any cask or package required by this chapter or any regulation issued pursuant thereto to bear a mark, brand, or identification, which cask or package is not marked, branded, or identified in compliance with this chapter and regulations issued pursuant thereto, shall be forfeited to the United States.

(b) Containers without closures

All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.

(Added Pub. L. 85-859, title II, §201, Sept. 21, 1958, 72 Stat. 1404; amended Pub. L. 98-369, div. A, title IV, §454(c)(12)(A), (B), July 18, 1984, 98 Stat. 822.)

PRIOR PROVISIONS

A prior section 5613, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for distilling during prohibited hours, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5639 and 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1984—Pub. L. 98-369, §454(c)(12)(B), substituted “closed” for “stamped” in section catchline.

Subsec. (b). Pub. L. 98-369, §454(c)(12)(A), amended subsec. (b) generally, substituting provisions relating to forfeitures of containers without closures for provisions relating to forfeitures of unstamped containers.

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.

§ 5614. Burden of proof in cases of seizure of spirits

Whenever seizure is made of any distilled spirits found elsewhere than on the premises of a distilled spirits plant, or than in any warehouse authorized by law, or than in the store or place of business of a wholesale liquor dealer, or than in transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law, or regulations issued pursuant thereto, to be made in respect of such spirits, have not been made at the time or in the manner required, or in respect to which any owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the

law in relation to the payment of the tax have been complied with.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1405.)

PRIOR PROVISIONS

A prior section 5614, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty and forfeiture for removal of spirits during prohibited hours, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5687 and 7301 of this title.

Provisions similar to those comprising this section were contained in prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5615. Property subject to forfeiture

The following property shall be forfeited to the United States:

(1) Unregistered still or distilling apparatus

Every still or distilling apparatus not registered as required by section 5179, together with all personal property in the possession or custody or under the control of the person required by section 5179 to register the still or distilling apparatus, and found in the building or in any yard or inclosure connected with the building in which such still or distilling apparatus is set up; and

(2) Distilling apparatus removed without notice or set up without notice

Any still, boiler, or other vessel to be used for the purpose of distilling—

(A) which is removed without notice having been given when required by section 5101(a)(1), or

(B) which is set up without notice having been given when required by section 5101(a)(2); and

(3) Distilling without giving bond or with intent to defraud

Whenever any person carries on the business of a distiller without having given bond as required by law or gives any false, forged, or fraudulent bond; or engages in or carries on the business of a distiller with intent to defraud the United States of the tax on the distilled spirits distilled by him, or any part thereof; or after the time fixed in the notice declaring his intention to suspend work, filed under section 5221(a), carries on the business of a distiller on the premises covered by such notice, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises—

(A) all distilled spirits or wines, and all stills or other apparatus fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found; and

(B) all distilled spirits, wines, raw materials for the production of distilled spirits, and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith and used with or constituting a part of the premises; and

(C) all the right, title, and interest of such person in the lot or tract of land on which the distillery is situated; and

(D) all the right, title, and interest in the lot or tract of land on which the distillery is located of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and

(E) all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from the distillery, which shall be found in any such building, yard, or inclosure; and

(F) all the right, title, and interest of every person in any premises used for ingress or egress to or from the distillery who knowingly has suffered or permitted such premises to be used for such ingress or egress; and

(4) Unlawful production and removals from vinegar plants

(A) all distilled spirits in excess of 15 percent of alcohol by volume produced on the premises of a vinegar plant; and

(B) all vinegar or other fluid or other material containing a greater proportion than 2 percent of proof spirits removed from any vinegar plant; and

(5) False or omitted entries in records, returns, and reports

Whenever any person required by section 5207 to keep or file any record, return, report, summary, transcript, or other document, shall, with intent to defraud the United States—

(A) fail to keep any such document or to make required entries therein; or

(B) make any false entry in such document; or

(C) cancel, alter, or obliterate any part of such document, or any entry therein, or destroy any part of such document, or entry therein; or

(D) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(E) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto; or

(F) permit any of the acts described in the preceding subparagraphs to be performed;

all interest of such person in the distilled spirits plant where such acts or omissions occur, and in the equipment thereon, and in the lot or tract of land on which such distilled spirits plant stands, and in all personal property on the premises of the distilled spirits plant where such acts or omissions occur, used in the business there carried on; and

(6) Unlawful removal of distilled spirits

All distilled spirits on which the tax has not been paid or determined which have been removed, other than as authorized by law, from the place of manufacture, storage, or instrument of transportation; and

(7) Creation of fictitious proof

All distilled spirits on which the tax has not been paid or determined as provided by law to

which any ingredient or substance has been added for the purpose of creating fictitious proof.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1405; amended Pub. L. 96-39, title VIII, §807(a)(56), July 26, 1979, 93 Stat. 289; Pub. L. 98-369, div. A, title IV, §451(b)(2), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5615, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect of distillers and rectifiers to give assistance to officers, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5203(e) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

<i>Present subds.:</i>	<i>Prior sections</i>
(1)	5601.
(2)	5602.
(3)	5604, 5606, 5626, 5650.
(4)	5608(b).
(5)	5620.
(6)	5631, 5632, 5643, 5647.
(7)	5634.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 683 to 690, 692, 693, 695.

A prior section 5616, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for obstructing or refusing to admit officer to distillery premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5617, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure to keep distillery accessible, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5618, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure of distiller to identify fixed pipes, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5619, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect to draw off water and clean condensers or worm tanks, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5620, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty and forfeiture for false or omitted entries in distiller's books and records, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5603 and 5615(5) of this title.

A prior section 5621, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to penalty concerning records and returns of distiller as wholesale dealers, rectifiers, prior to the general revision of this chapter by Pub. L. 85-859. See section 5603 of this title.

A prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to disposal of forfeited equipment and material for distilling, prior to the general revision of this chapter by Pub. L. 85-859. See section 5610 of this title.

A prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to destruction of distilling apparatus, prior to the general revision of this chapter by Pub. L. 85-859. See section 5609 of this title.

A prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to release of distillery before judgment, prior to the general revision of this chapter by Pub. L. 85-859. See section 5611 of this title.

A prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to forfeiture of tax-paid distilled spirits remaining on distillery premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5612(a) of this title.

A prior section 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to penalty and forfeiture for tax fraud

by distiller, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5602 and 5615(3) of this title.

A prior section 5627, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful use of rectifying premises, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5628, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for rectification without payment of tax, increasing volume, etc., prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(10) and 5687 of this title.

A prior section 5629, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful rectifying, prior to the general revision of this chapter by Pub. L. 85-859. See section 5601(a)(10), (11) of this title.

A prior section 5630, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for noncompliance by rectifiers with provisions relating to rectifying, gauging, branding, and stamping, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title.

A prior section 5631, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty and forfeiture for failure to comply with warehousing and removal requirements, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601(a)(12), 5615(6), and 5687 of this title.

A prior section 5632, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty or forfeiture for unlawful removal or concealment of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

A prior section 5633, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty of officer in charge of warehouse for unlawful removal of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 7214 of this title.

A prior section 5634, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for creation of fictitious proof, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

A prior section 5635, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty for buying or selling used casks bearing inspection marks, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5636, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for failure to efface, etc., stamps and brands on emptied packages, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5604 and 7301 of this title.

A prior section 5637, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty for changing stamps or shifting spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5638, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty and forfeiture for affixing imitation stamps on packages of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5604, 5613, 7301, and 7302 of this title.

A prior section 5639, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of distilled spirits in unstamped casks or packages, prior to the general revision of this chapter by Pub. L. 85-859. See section 5613 of this title.

A prior section 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of spirits in unstamped containers, prior to the general revision of this chapter by Pub. L. 85-859. See section 5613 of this title.

A prior section 5641, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture relating to containers of distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5606, 5613, 7301, 7302, and 7321 to 7323 of this title.

A prior section 5642, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalties for transporting, possessing, etc., distilled spirits in unstamped containers or counterfeiting of stamps, etc., prior to the general revision of this chapter by Pub. L. 85-859. See section 5613 of this title.

sion of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5643, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture for reuse of stamps or bottles, tampering and unlawful removal, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601, 5604, 5613, 5615, 5687, 7301 and 7302 of this title.

A prior section 5644, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for counterfeiting bottled in bond stamps, prior to the general revision of this chapter by Pub. L. 85-859. See section 5604 of this title.

A prior section 5645, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for unlawful affixing, canceling, or issue of stamps by officer, prior to the general revision of this chapter by Pub. L. 85-859. See section 7214 of this title.

A prior section 5646, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for evasion of distilled spirits tax, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5647, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty and forfeiture for unlawful use or concealment of denatured alcohol, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5273, 5601, 5607, and 5615 of this title.

A prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding, prior to the general revision of this chapter by Pub. L. 85-859. See section 5608 of this title.

A prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to burden of proof in cases of seizure of spirits, prior to the general revision of this chapter by Pub. L. 85-859. See section 5614 of this title.

A prior section 5650, act Aug. 16, 1954, ch. 736, 68A Stat. 695, related to penalty and forfeiture for operating distillery after giving notice of suspension, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5601 and 5615 of this title.

AMENDMENTS

1984—Par. (2). Pub. L. 98-369 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Any still, boiler, or other vessel to be used for the purpose of distilling which is removed without notice having been given as required by section 5105(a) or which is set up without permit first having been obtained as required by such section; and”.

1979—Par. (5). Pub. L. 96-39 substituted “distilled spirits plant” for “distillery, bonded warehouse, or rectifying or bottling establishment” in three places.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

PART II—PENALTY AND FORFEITURE PROVISIONS APPLICABLE TO WINE AND WINE PRODUCTION

Sec.	
5661.	Penalty and forfeiture for violation of laws and regulations relating to wine.
5662.	Penalty for alteration of wine labels.
5663.	Cross reference.

PRIOR PROVISIONS

A prior part II consisted of sections 5661 to 5663 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5661. Penalty and forfeiture for violation of laws and regulations relating to wine

(a) Fraudulent offenses

Whoever, with intent to defraud the United States, fails to pay any tax imposed upon wine or violates, or fails to comply with, any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or recovers or attempts to recover any spirits from wine, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, for each such offense, and all products and materials used in any such violation shall be forfeited to the United States.

(b) Other offenses

Any proprietor of premises subject to the provisions of subchapter F, or any employee or agent of such proprietor, or any other person, who otherwise than with intent to defraud the United States violates or fails to comply with any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or who aids or abets in any such violation, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407.)

PRIOR PROVISIONS

A prior section 5661, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5661(a) also provided for an additional penalty “of double the tax due, to be assessed, levied and collected in the same manner as taxes are collected”. See section 6651 et seq. of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5662. Penalty for alteration of wine labels

Any person who, without the permission of the Secretary, so alters as to materially change the meaning of any mark, brand, or label required to appear upon any wine upon its removal from premises subject to the provisions of subchapter F, or from customs custody, or who, after such removal, represents any wine, whether in its original containers or otherwise, to be of an identity or origin other than its proper identity or origin as shown by such stamp, mark, brand, or label, or who, directly or indirectly, and whether by manner of packaging or advertising or any other form of representation, represents any still wine to be an effervescent wine or a substitute for an effervescent wine, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 94-455, title XIX, §§1905(b)(2)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834.)

PRIOR PROVISIONS

A prior section 5662, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” and “stamp,” before “mark.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(2)(D) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5663. Cross reference

For penalties of common application pertaining to liquors, including wines, see part IV.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 96-39, title VIII, §807(a)(57), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5663, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 struck out reference to penalties for rectified products under part I of this subchapter.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

PART III—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO BEER AND BREWING

Sec.

- 5671. Penalty and forfeiture for evasion of beer tax and fraudulent noncompliance with requirements.
- 5672. Penalty for failure of brewer to comply with requirements and to keep records and file returns.
- 5673. Forfeiture for flagrant and willful removal of beer without taxpayment.
- 5674. Penalty for unlawful production or removal of beer.
- 5675. Penalty for intentional removal or defacement of brewer's marks and brands.
- [5676. Repealed.]

PRIOR PROVISIONS

A prior part III consisted of sections 5671 to 5676 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1978—Pub. L. 95-458, §2(b)(5)(B), Oct. 14, 1978, 92 Stat. 1257, substituted “production or removal” for “removal” in item 5674.

1976—Pub. L. 94-455, title XIX, §1905(b)(1)(B), Oct. 4, 1976, 90 Stat. 1822, struck out item 5676 “Penalties relating to beer stamps”.

§ 5671. Penalty and forfeiture for evasion of beer tax and fraudulent noncompliance with requirements

Whoever evades or attempts to evade any tax imposed by section 5051, or with intent to defraud the United States fails or refuses to keep

and file true and accurate records and returns as required by section 5415 and regulations issued pursuant thereto, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, for each such offense, and shall forfeit all beer made by him or for him, and all the vessels, utensils, and apparatus used in making the same.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1408; amended Pub. L. 109-59, title XI, §11125(b)(18), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5671, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 struck out “or 5091” after “section 5051”.

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

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5672. Penalty for failure of brewer to comply with requirements and to keep records and file returns

Every brewer who, otherwise than with intent to defraud the United States, fails or refuses to keep the records and file the returns required by section 5415 and regulations issued pursuant thereto, or refuses to permit any internal revenue officer to inspect his records in the manner provided, or violates any of the provisions of subchapter G or regulations issued pursuant thereto shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5672, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5673. Forfeiture for flagrant and willful removal of beer without taxpayment

For flagrant and willful removal of taxable beer for consumption or sale, with intent to defraud the United States of the tax thereon, all the right, title, and interest of each person who knowingly has suffered or permitted such removal, or has connived at the same, in the lands and buildings constituting the brewery shall be forfeited by a proceeding in rem in the District Court of the United States having jurisdiction thereof.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5673, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5674. Penalty for unlawful production or removal of beer

(a) Unlawful production

Any person who brews beer or produces beer shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(b) Unlawful removal

Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408; amended Pub. L. 95-458, § 2(b)(5)(A), Oct. 14, 1978, 92 Stat. 1256.)

PRIOR PROVISIONS

A prior section 5674, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1978—Pub. L. 95-458 substituted “production or removal” for “removal” in section catchline, redesignated existing provision as subsec. (b), and added subsec. (a).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

§ 5675. Penalty for intentional removal or defacement of brewer's marks and brands

Every person other than the owner, or his agent authorized so to do, who intentionally removes or defaces any mark, brand, or label required by section 5412 and regulations issued pursuant thereto shall be liable to a penalty of \$50 for each barrel or other container from which such mark, brand, or label is so removed or defaced.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5675, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

[§ 5676. Repealed. Pub. L. 94-455, title XIX, § 1905(b)(1)(A), Oct. 4, 1976, 90 Stat. 1822]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408, set out the penalties for selling, removing, or receiving beer without a proper stamp or device, withdrawing beer from an improperly stamped container or without destroying the stamp, and counterfeiting stamps or devices or trafficking in used stamps or devices, and provided for the forfeiture of unstamped containers, and the penalties for removal or defacement of stamps, devices, or labels.

A prior section 5676, act Aug. 16, 1954, ch. 736, 68A Stat. 697, consisted of provisions similar to those comprising this section prior to repeal by Pub. L. 94-455, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 5005 of this title.

PART IV—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS COMMON TO LIQUORS

Sec.	
5681.	Penalty relating to signs.
5682.	Penalty for breaking locks or gaining access.
5683.	Penalty and forfeiture for removal of liquors under improper brands.
5684.	Penalties relating to the payment and collection of liquor taxes.
5685.	Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws.
5686.	Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter.
5687.	Penalty for offenses not specifically covered.
5688.	Disposition and release of seized property.
[5689.	Repealed.]
5690.	Definition of the term “person”.

PRIOR PROVISIONS

A prior part IV consisted of sections 5681 to 5690 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1976—Pub. L. 94-455, title XIX, § 1905(b)(2)(E)(ii), Oct. 4, 1976, 90 Stat. 1822, struck out item 5689 “Penalty and forfeiture for tampering with a stamp machine”.

§ 5681. Penalty relating to signs

(a) Failure to post required sign

Every person engaged in distilled spirits operations who fails to post the sign required by section 5180(a) shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(b) Posting or displaying false sign

Every person, other than a distiller, warehouseman, or processor of distilled spirits who has received notice of registration of his plant under the provisions of section 5171(c), or other than a wholesale dealer in liquors who has paid the special tax (or who is exempt from payment of such special tax by reason of the provisions of section 5113(a)),¹ who puts up or keeps up any sign indicating that he may lawfully carry on the business of a distiller, warehouseman, or processor of distilled spirits, or wholesale dealer in liquors, as the case may be, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(c) Premises where no sign is placed or kept

Every person who works in any distilled spirits plant on which no sign required by section 5180(a) is placed or kept, and every person who

¹ See References in Text note below.

knowingly receives at, or carries or conveys any distilled spirits to or from any such distilled spirits plant or who knowingly carries or delivers any grain, molasses, or other raw material to any distilled spirits plant on which such a sign is not placed and kept, shall forfeit all vehicles, aircraft, or vessels used in carrying or conveying such property and shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(d) Presumption

Whenever on trial for violation of subsection (c) by working in a distilled spirits plant on which no sign required by section 5180(a) is placed or kept, the defendant is shown to have been present at such premises, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 96-39, title VIII, §807(a)(58), July 26, 1979, 93 Stat. 289; Pub. L. 105-34, title XIV, §1415(b)(1), (2), Aug. 5, 1997, 111 Stat. 1047.)

REFERENCES IN TEXT

Section 5113, referred to in subsec. (b), was repealed by Pub. L. 109-59, title XI, §11125(a)(1)(C), Aug. 10, 2005, 119 Stat. 1953.

PRIOR PROVISIONS

A prior section 5681, act Aug. 16, 1954, ch. 736, 68A Stat. 698, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34, §1415(b)(1), struck out “, and every wholesale dealer in liquors,” after “spirits operations” and “section 5115(a) or” after “sign required by”.

Subsec. (c). Pub. L. 105-34, §1415(b)(2), substituted “on which no sign required by” for “or wholesale liquor establishment, on which no sign required by section 5115(a) or” and substituted “or who” for “or wholesale liquor establishment, or who”.

1979—Subsec. (a). Pub. L. 96-39, §807(a)(58)(A), substituted “distilled spirits operations” for “distilling, warehousing of distilled spirits, rectifying, or bottling of distilled spirits”.

Subsec. (b). Pub. L. 96-39, §807(a)(58)(B), substituted “other than a distiller, warehouseman, or processor of distilled spirits” for “other than a distiller, warehouseman of distilled spirits, rectifier, or bottler of distilled spirits”, “section 5171(c)” for “section 5171(a)”, and “business of a distiller, warehouseman, or processor of distilled spirits” for “business of a distiller, bonded warehouseman, rectifier, bottler of distilled spirits”.

Subsec. (c). Pub. L. 96-39, §807(a)(58)(C), substituted “in any distilled spirits plant” for “in any distillery, or in any rectifying, distilled spirits bottling”, “such distilled spirits plant” for “such distillery, or to or from any such rectifying, distilled spirits bottling”, and “to any distilled spirits plant” for “to any distillery”.

Subsec. (d). Pub. L. 96-39, §807(a)(58)(D), substituted “distilled spirits plant” for “distillery or rectifying establishment”.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1415(c), Aug. 5, 1997, 111 Stat. 1047, provided that: “The amendments made by this section [amending this section and repealing sec-

tion 5115 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 5682. Penalty for breaking locks or gaining access

Every person, who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any room, building, tank, vessel, or apparatus, by any authorized internal revenue officer or any approved lock or seal placed thereon by a distilled spirits plant proprietor, or who opens said lock, seal, room, building, tank, vessel, or apparatus, or in any manner gains access to the contents therein, in the absence of the proper officer, or otherwise than as authorized by law, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 96-39, title VIII, §807(a)(59), July 26, 1979, 93 Stat. 290.)

PRIOR PROVISIONS

A prior section 5682, act Aug. 16, 1954, ch. 736, 68A Stat. 698, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1979—Pub. L. 96-39 expanded penalty provisions to include persons tampering with locks or seals affixed by distilled spirits plant proprietors.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

§ 5683. Penalty and forfeiture for removal of liquors under improper brands

Whenever any person ships, transports, or removes any distilled spirits, wines, or beer, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, and shall forfeit such distilled spirits, wines, or beer, and casks or packages.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1410.)

PRIOR PROVISIONS

A prior section 5683, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5684. Penalties relating to the payment and collection of liquor taxes

(a) Failure to pay tax

Whoever fails to pay any tax imposed by part I of subchapter A at the time prescribed shall, in

addition to any other penalty provided in this title, be liable to a penalty of 5 percent of the tax due but unpaid.

(b) Applicability of section 6665

The penalties imposed by subsection (a) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(c) Cross references

(1) For provisions relating to interest in the case of taxes not paid when due, see section 6601.

(2) For penalty for failure to file tax return or pay tax, see section 6651.

(3) For additional penalties for failure to pay tax, see section 6653.

(4) For penalty for failure to make deposits or for overstatement of deposits, see section 6656.

(5) For penalty for attempt to evade or defeat any tax imposed by this title, see section 7201.

(6) For penalty for willful failure to file return, supply information, or pay tax, see section 7203.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 91-172, title IX, § 943(c)(4), Dec. 30, 1969, 83 Stat. 728; Pub. L. 97-34, title VII, §§ 722(a)(3), 724(b)(4), Aug. 13, 1981, 95 Stat. 342, 345; Pub. L. 98-369, div. A, title VII, §§ 714(h)(1), 722(a)(5), July 18, 1984, 98 Stat. 962, 973; Pub. L. 101-239, title VII, § 7721(c)(3), Dec. 19, 1989, 103 Stat. 2399.)

PRIOR PROVISIONS

A prior section 5684, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See section 5687 of this title and criminal and civil penalties of subtitle F of this title.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 substituted “6665” for “6662” in heading and “6665(a)” for “6662(a)” in text.
1984—Subsec. (b). Pub. L. 98-369, § 714(h)(1), substituted in heading “6662” for “6660” and in text “6662(a)” for “6660(a)”.

Pub. L. 98-369, § 722(a)(5), substituted “subsection (a)” for “subsections (a) and (b)”.

1981—Subsec. (b). Pub. L. 97-34, § 724(b)(4)(A), redesignated subsec. (c) as (b). Former subsec. (b), which related to penalties for failure to make deposit of taxes, was struck out.

Subsec. (c). Pub. L. 97-34, § 724(b)(4), redesignated subsec. (d) as (c), added par. (4), and redesignated pars. (5) and (6) as (4) and (5), respectively. Former subsec. (c) redesignated (b).

Pub. L. 97-34, § 722(a)(3), substituted “6660” for “6659” in heading and text.

Subsec. (d). Pub. L. 97-34, § 724(b)(4), redesignated subsec. (d) as (c).

1969—Subsec. (d)(2). Pub. L. 91-172 inserted “or pay tax” after “tax return”.

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 1984 AMENDMENT

Amendment by section 714(h)(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.

Amendment by section 722(a)(5) of Pub. L. 98-369 effective as if included in the provisions of the Technical

Corrections Act of 1984, Pub. L. 97-448, to which such amendment relates, see section 722(a)(6) of Pub. L. 98-369, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, § 722(a)(4), Aug. 13, 1981, 95 Stat. 342, provided that: “The amendments made by this subsection [enacting section 6659 of this title and amending this section and section 5761 of this title] shall apply to returns filed after December 31, 1981.”

Amendment by section 724(b)(4) of Pub. L. 97-34 applicable to returns filed after Aug. 13, 1981, see section 724(c) of Pub. L. 97-34, set out as a note under section 6656 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by 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.

§ 5685. Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws

(a) Penalty for possession of devices for emitting gas, smoke, etc.

Whoever, when violating any law of the United States, or of any possession of the United States, or of the District of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or beer, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of gas, smoke, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 5845), except a machine gun, or a shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be fined not more than \$5,000, or imprisoned not more than 10 years, or both, and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession or control of such device, firearm, or explosive.

(b) Penalty for possession of machine gun, etc.

Whoever, when violating any such law, has in his possession or in his control a machine gun, or any shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be imprisoned not more than 20 years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(c) Forfeiture of firearms, devices, etc.

Every such firearm or device for emitting gas, smoke, or fumes, and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law, shall be seized and shall be forfeited and disposed of in the manner provided by section 5872.

(d) Definition of machine gun

As used in this section the term “machine gun” means a machine gun as defined in section 5845(b).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1411; amended Pub. L. 86-478, §4, June 1, 1960, 74 Stat. 150; Pub. L. 94-455, title XIX, §1905(a)(23), (c)(6), Oct. 4, 1976, 90 Stat. 1821, 1823.)

PRIOR PROVISIONS

A prior section 5685, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1905(a)(23)(A), (c)(6), struck out “Territory or” after “United States, or of any” and substituted “section 5845” for “section 5848”.

Subsec. (c). Pub. L. 94-455, §1905(a)(23)(B), substituted “section 5872” for “section 5862”.

Subsec. (d). Pub. L. 94-455, §1905(a)(23)(C), substituted “means a machinegun as defined in section 5845(b)” for “means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger”.

1960—Subsecs. (a), (b). Pub. L. 86-478 substituted “shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length” for “shotgun or rifle having a barrel or barrels less than 18 inches in length”.

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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-478 effective on first day of first month which begins more than 10 days after June 1, 1960, see section 5 of Pub. L. 86-478, June 1, 1960, 74 Stat. 150.

§ 5686. Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter

(a) General

It shall be unlawful to have or possess any liquor or property intended for use in violating any provision of this chapter or regulations issued pursuant thereto, or which has been so used, and every person so having or possessing or using such liquor or property, shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both.

(b) Cross reference

For seizure and forfeiture of liquor and property had, possessed, or used in violation of subsection (a), see section 7302.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1411.)

PRIOR PROVISIONS

A prior section 5686, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted in subsecs. (b) and (c) of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5686(a) related to offenses as to operation of industrial alcohol or denaturing plants or unlawful withdrawal of taxable alcohol. See section 5687 of this title.

§ 5687. Penalty for offenses not specifically covered

Whoever violates any provision of this chapter or regulations issued pursuant thereto, for

which a specific criminal penalty is not prescribed by this chapter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1412.)

PRIOR PROVISIONS

A prior section 5687, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5687 also related to forfeitures applicable to distillers, rectifiers, and wholesale liquor dealers for offenses not specifically covered. See sections 7301 and 7302 of this title.

Provisions similar to those comprising this section were contained in prior sections 5602, 5608(c), 5612 to 5619, 5627, 5628, 5630, 5631, 5643, 5684(a) and 5686(a), act Aug. 16, 1954, ch. 736, 68A Stat. 683, 685, 686, 689, 692, 693, 699, 700, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5688. Disposition and release of seized property

(a) Forfeiture

(1) Delivery

All distilled spirits, wines, and beer forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Administrator of General Services to be disposed of as hereinafter provided.

(2) Disposal

The Administrator of General Services shall dispose of all distilled spirits, wines, and beer which have been delivered to him pursuant to paragraph (1)—

(A) by delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency; or

(B) by gifts to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal purposes; or

(C) by destruction.

(3) Limitation on disposal

Except as otherwise provided by law, no distilled spirits, wines, or beer which have been seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this subsection.

(4) Regulations

The Administrator of General Services is authorized to make all rules and regulations necessary to carry out the provisions of this subsection.

(5) Remission or mitigation of forfeitures

Nothing in this section shall affect the authority of the Secretary, under the customs or internal revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or beer, or the authority of the Secretary, to compromise any civil or criminal case in respect of such distilled

spirits, wines, or beer prior to commencement of suit thereon, or the authority of the Secretary to compromise any claim under the customs laws in respect to such distilled spirits, wines, or beer.

(b) Distraint or judicial process

Except as provided in section 5243, all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon, pursuant to the applicable provisions of this chapter and in accordance with regulations to be prescribed by the Secretary.

(c) Release of seized vessels or vehicles by courts

Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. As used in this subsection, the word “vessel” includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word “vehicle” includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1412; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5688, act Aug. 16, 1954, ch. 736, 68A Stat. 701, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Subsecs. (a)(5), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

[§ 5689. Repealed. Pub. L. 94-455, title XIX, § 1905(b)(2)(E)(i), Oct. 4, 1976, 90 Stat. 1822]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413, provided for penalty and forfeiture for tampering with a stamp machine.

A prior section 5689, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalty and forfeiture for tampering with a stamp machine, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 5005 of this title.

§ 5690. Definition of the term “person”

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.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413.)

PRIOR PROVISIONS

A prior section 5690, act Aug. 16, 1954, ch. 736, 68A Stat. 702, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

[PART V—REPEALED]

PRIOR PROVISIONS

A prior part V consisted of sections 5691 to 5693, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

[§ 5691. Repealed. Pub. L. 109-59, title XI, § 11125(b)(19)(A), Aug. 10, 2005, 119 Stat. 1956]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413; amended Pub. L. 96-39, title VIII, §807(a)(60), July 26, 1979, 93 Stat. 290; Pub. L. 98-369, div. A, title IV, §451(b)(3), July 18, 1984, 98 Stat. 819; Pub. L. 100-203, title X, §10512(a)(1)(B)(i), (ii), Dec. 22, 1987, 101 Stat. 1330-447, 1330-448, related to penalties for nonpayment of special taxes.

PRIOR PROVISIONS

A prior section 5691, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalties for willful nonpayment of special taxes and forfeitures for nonpayment of special taxes relating to liquors, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 2005 Amendment note under section 5002 of this title.

[§ 5692. Repealed. Pub. L. 90-618, title II, § 206(a), Oct. 22, 1968, 82 Stat. 1235]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413, set forth a cross reference to section 7273(a), relating to penalties for failure to post special tax stamps.

A prior section 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 703, related to penalty relating to records of retail liquor dealers, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

A prior section 5693, act Aug. 16, 1954, ch. 736, 68A Stat. 703, consisted of provisions similar to those comprising section 5692, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal 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.

CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Subchapter	Sec. ¹
A. Definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax	5701
B. Qualification requirements for manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors	5711
C. Operations by manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors	5721
D. Occupational tax	5731

¹ Section numbers editorially supplied.

E.	Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors	5741
F.	General provisions	5751
G.	Penalties and forfeitures	5761

AMENDMENTS

1997—Pub. L. 105-33, title IX, § 9302(g)(3)(C), (h)(2)(D), Aug. 5, 1997, 111 Stat. 673, 674, amended chapter heading generally, substituting “TOBACCO PRODUCTS” for “CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO,” and inserted “and importers” after “manufacturers” in item for subchapter B.

1988—Pub. L. 100-647, title V, § 5061(c)(3), Nov. 10, 1988, 102 Stat. 3680, inserted “PIPE TOBACCO,” after “SMOKELESS TOBACCO,” in chapter heading.

1987—Pub. L. 100-203, title X, § 10512(f)(2), Dec. 22, 1987, 101 Stat. 1330-449, added item for subchapter D and redesignated items for former subchapters D, E, and F as E, F, and G, respectively.

1986—Pub. L. 99-272, title XIII, § 13202(b)(1), Apr. 7, 1986, 100 Stat. 311, inserted “SMOKELESS TOBACCO,” after “CIGARETTES,” in chapter heading.

1976—Pub. L. 94-455, title XXI, § 2128(d)(2), Oct. 4, 1976, 90 Stat. 1921, substituted “manufacturers and importers” for “manufacturers” in item for subchapter D.

1965—Pub. L. 89-44, title V, § 502(b)(1), (2), June 21, 1965, 79 Stat. 150, struck out “TOBACCO,” from chapter heading, reference to dealers in tobacco materials from heading of subchapter B, heading of subchapter D and redesignated subchapters E, F and G as D, E and F respectively, and struck out in heading of subchapter D (as redesignated) a reference to dealers in tobacco materials.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, substituted “manufacturers of tobacco products and cigarette papers and tubes, export warehouse proprietors, and” for “manufacturers of articles and” in heading of subchapters B and E, “manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors” for “manufacturers of articles” in heading of subchapter C, and “Penalties and forfeitures” for “Fines, penalties and forfeitures” in heading of subchapter G.

Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax

Sec.	
5701.	Rate of tax.
5702.	Definitions.
5703.	Liability for tax and method of payment.
5704.	Exemption from tax.
5705.	Credit, refund, or allowance of tax.
5706.	Drawback of tax.
[5707.]	Repealed.]
5708.	Losses caused by disaster.

AMENDMENTS

1965—Pub. L. 89-44, title V, § 501(g), title VIII, § 808(c)(2), June 21, 1965, 79 Stat. 150, 165, struck out item 5707 “Floor stocks refund on cigarettes” and inserted “Credit” before “refund” in item 5705.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, added item 5708.

§ 5701. Rate of tax

(a) Cigars

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigars

On cigars, weighing not more than 3 pounds per thousand, \$50.33 per thousand;

(2) Large cigars

On cigars weighing more than 3 pounds per thousand, a tax equal to 52.75 percent of the

price for which sold but not more than 40.26 cents per cigar.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(b) Cigarettes

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigarettes

On cigarettes, weighing not more than 3 pounds per thousand, \$50.33 per thousand;

(2) Large cigarettes

On cigarettes, weighing more than 3 pounds per thousand, \$105.69 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(c) Cigarette papers

On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 3.15 cents for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(d) Cigarette tubes

On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 6.30 cents for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco

On smokeless tobacco, manufactured¹ in or imported into the United States, there shall be imposed the following taxes:

(1) Snuff

On snuff, \$1.51 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) Chewing tobacco

On chewing tobacco, 50.33 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(f) Pipe tobacco

On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of \$2.8311 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(g) Roll-your-own tobacco

On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of \$24.78 per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

¹ So in original. Probably should be “manufactured”.

(h) Imported tobacco products and cigarette papers and tubes

The taxes imposed by this section on tobacco products and cigarette papers and tubes imported into the United States shall be in addition to any import duties imposed on such articles, unless such import duties are imposed in lieu of internal revenue tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 705; Mar. 30, 1955, ch. 18, §3(a)(9), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(9), 70 Stat. 66; Pub. L. 85-12, §3(a)(7), Mar. 29, 1957, 71 Stat. 9; Pub. L. 85-475, §3(a)(7), June 30, 1958, 72 Stat. 259; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1414; Pub. L. 86-75, §3(a)(7), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, §202(a)(9), June 30, 1960, 74 Stat. 290; Pub. L. 86-779, §1, Sept. 14, 1960, 74 Stat. 998; Pub. L. 87-72, §3(a)(9), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, §3(a)(8), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, §3(a)(9), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(a)(9), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, §§501(f), 502(a), June 21, 1965, 79 Stat. 150; Pub. L. 90-240, §4(a), Jan. 2, 1968, 81 Stat. 776; Pub. L. 94-455, title XIX, §1905(a)(24), title XXI, §2128(a), Oct. 4, 1976, 90 Stat. 1821, 1921; Pub. L. 97-248, title II, §283(a), Sept. 3, 1982, 96 Stat. 568; Pub. L. 99-272, title XIII, §13202(a), Apr. 7, 1986, 100 Stat. 311; Pub. L. 100-647, title V, §5061(a), Nov. 10, 1988, 102 Stat. 3679; Pub. L. 101-508, title XI, §11202(a)-(f), Nov. 5, 1990, 104 Stat. 1388-419; Pub. L. 105-33, title IX, §9302(a)-(g)(1), (h)(3), Aug. 5, 1997, 111 Stat. 671, 672, 674; Pub. L. 111-3, title VII, §701(a)-(g), Feb. 4, 2009, 123 Stat. 106, 107.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-3, §701(a)(1), substituted “\$50.33 per thousand” for “\$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001)”.

Subsec. (a)(2). Pub. L. 111-3, §701(a)(2), (3), substituted “52.75 percent” for “20.719 percent (18.063 percent on cigars removed during 2000 or 2001)” and “40.26 cents per cigar” for “\$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001)”.

Subsec. (b)(1). Pub. L. 111-3, §701(b)(1), substituted “\$50.33 per thousand” for “\$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001)”.

Subsec. (b)(2). Pub. L. 111-3, §701(b)(2), substituted “\$105.69 per thousand” for “\$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001)”.

Subsec. (c). Pub. L. 111-3, §701(c), substituted “3.15 cents” for “1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)”.

Subsec. (d). Pub. L. 111-3, §701(d), substituted “6.30 cents” for “2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)”.

Subsec. (e)(1). Pub. L. 111-3, §701(e)(1), substituted “\$1.51” for “58.5 cents (51 cents on snuff removed during 2000 or 2001)”.

Subsec. (e)(2). Pub. L. 111-3, §701(e)(2), substituted “50.33 cents” for “19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)”.

Subsec. (f). Pub. L. 111-3, §701(f), substituted “\$2.8311 cents” for “\$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)”.

Subsec. (g). Pub. L. 111-3, §701(g), substituted “\$24.78” for “\$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)”.

1997—Subsec. (a)(1). Pub. L. 105-33, §9302(b)(1), substituted “\$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001)” for “\$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)”.

Subsec. (a)(2). Pub. L. 105-33, §9302(b)(2), substituted “equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than \$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001)” for “equal to—

“(A) 10.625 percent of the price for which sold but not more than \$25 per thousand on cigars removed during 1991 or 1992, and

“(B) 12.75 percent of the price for which sold but not more than \$30 per thousand on cigars removed after 1992.”

Subsec. (b)(1). Pub. L. 105-33, §9302(a)(1), substituted “\$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001)” for “\$12 per thousand (\$10 per thousand on cigarettes removed during 1991 or 1992)”.

Subsec. (b)(2). Pub. L. 105-33, §9302(a)(2), substituted “\$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001)” for “\$25.20 per thousand (\$21 per thousand on cigarettes removed during 1991 or 1992)”.

Subsec. (c). Pub. L. 105-33, §9302(h)(3), substituted “On cigarette papers,” for “On each book or set of cigarette papers containing more than 25 papers.”

Pub. L. 105-33, §9302(c), substituted “1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)” for “0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)”.

Subsec. (d). Pub. L. 105-33, §9302(d), substituted “2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)” for “1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)”.

Subsec. (e)(1). Pub. L. 105-33, §9302(e)(1), substituted “58.5 cents (51 cents on snuff removed during 2000 or 2001)” for “36 cents (30 cents on snuff removed during 1991 or 1992)”.

Subsec. (e)(2). Pub. L. 105-33, §9302(e)(2), substituted “19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)” for “12 cents (10 cents on chewing tobacco removed during 1991 or 1992)”.

Subsec. (f). Pub. L. 105-33, §9302(f), substituted “\$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)” for “67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)”.

Subsecs. (g), (h). Pub. L. 105-33, §9302(g)(1), added subsec. (g) and redesignated former subsec. (g) as (h).

1990—Subsec. (a)(1). Pub. L. 101-508, §11202(a)(1), substituted “\$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)” for “75 cents per thousand”.

Subsec. (a)(2). Pub. L. 101-508, §11202(a)(2), substituted “equal to—” and subpars. (A) and (B) for “equal to 8½ percent of the wholesale price, but not more than \$20 per thousand.”

Subsec. (b)(1). Pub. L. 101-508, §11202(b)(1), substituted “\$12 per thousand (\$10 per thousand on cigarettes removed during 1991 or 1992)” for “\$8 per thousand”.

Subsec. (b)(2). Pub. L. 101-508, §11202(b)(2), substituted “\$25.20 per thousand (\$21 per thousand on cigarettes removed during 1991 or 1992)” for “\$16.80 per thousand”.

Subsec. (c). Pub. L. 101-508, §11202(c), substituted “0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)” for “½ cent”.

Subsec. (d). Pub. L. 101-508, §11202(d), substituted “1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)” for “1 cent”.

Subsec. (e)(1). Pub. L. 101-508, §11202(e)(1), substituted “36 cents (30 cents on snuff removed during 1991 or 1992)” for “24 cents”.

Subsec. (e)(2). Pub. L. 101-508, §11202(e)(2), substituted “12 cents (10 cents on chewing tobacco removed during 1991 or 1992)” for “8 cents”.

Subsec. (f). Pub. L. 101-508, §11202(f), substituted “67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)” for “45 cents”.

1988—Subsecs. (f), (g). Pub. L. 100-647 added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsecs. (e), (f). Pub. L. 99-272 added subsec. (e) and redesignated former subsec. (e) as (f).

1982—Subsec. (b)(1). Pub. L. 97-248, §283(a)(1), substituted “\$8” for “\$4”.

Subsec. (b)(2). Pub. L. 97-248, §283(a)(2), substituted “\$16.80” for “\$8.40”.

1976—Subsec. (a). Pub. L. 94-455, §2128(a), substituted provisions setting a tax of $8\frac{1}{2}$ percent of the wholesale price, but not more than \$20 per thousand, on cigars weighing more than 3 pounds per thousand for provisions setting the tax according to a graduated table running from \$2.50 per thousand for large cigars if removed to retail at not more than $2\frac{1}{2}$ cents each to \$20 per thousand if removed to retail at more than 20 cents each, and struck out provisions that, in determining the retail price, for tax purposes, regard be had to the ordinary retail price of a single cigar in its principal market, exclusive of any State or local taxes imposed on cigars as a commodity, and that, for purposes of that determination, the amount of State or local tax excluded from the retail price be the actual tax imposed, except that, if the combined taxes resulted in a numerical figure ending in a fraction of a cent, the amount so excluded would be rounded to the next highest full cent unless such rounding would result in a tax lower than the tax which would be imposed in the absence of State or local tax.

Subsec. (e). Pub. L. 94-455, §1905(a)(24), inserted “, unless such import duties are imposed in lieu of internal revenue tax” after “such articles”.

1968—Subsec. (a). Pub. L. 90-240 provided that the amount of State and local tax excluded from the retail price be the actual tax imposed, except that, if the combined taxes result in a numerical figure ending in a fraction of a cent, the amount so excluded be rounded to the next highest full cent unless such rounding would result in a tax lower than the tax which would be imposed in the absence of State and local taxes.

1965—Pub. L. 89-44, §502(a), struck out subsec. (a) relating to tobacco and redesignated subsecs. (b) to (f) as subsecs. (a) to (e), respectively.

Subsec. (b)(1). Pub. L. 89-44, §501(f), removed the July 1, 1965, time limit for the \$4 per thousand rate as well as the provision for imposition of a \$3.50 rate on and after July 1, 1965.

1964—Subsec. (c)(1). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964” in two places.

1963—Subsec. (c)(1). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963” in two places.

1962—Subsec. (c)(1). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962” in two places.

1961—Subsec. (c)(1). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961” in two places.

1960—Subsec. (b). Pub. L. 86-779 substituted “imposed on cigars as a commodity” for “imposed on the retail sales of cigars”.

Subsec. (c)(1). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960” in two places.

1959—Subsec. (c)(1). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959” in two places.

1958—Subsec. (b). Pub. L. 85-859 provided that in determining the retail price, for tax purposes, regard shall be had to the ordinary retail price of a single cigar in its principal market, exclusive of any State or local taxes imposed on the retail sale of cigars, and required cigars not exempt from tax under this chapter which are removed but not intended for sale to be taxed at the same rate as similar cigars removed for sale.

Subsec. (c)(1). Pub. L. 85-475 substituted “July 1, 1959” for “July 1, 1958” in two places.

Subsec. (d). Pub. L. 85-859 substituted “On each book or set of cigarette papers containing more than 25 papers, manufactured in or imported into the United States, there shall be imposed” for “On cigarette papers, manufactured in or imported into the United States, there shall be imposed, on each package, book, or set containing more than 25 papers”.

Subsec. (f). Pub. L. 85-859 substituted “imposed by this section on tobacco products and cigarette papers and tubes imported into the United States” for “imposed on articles by this section”.

1957—Subsec. (c)(1). Pub. L. 85-12 substituted “July 1, 1958” for “April 1, 1957” in two places.

1956—Subsec. (c)(1). Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956” in two places.

1955—Subsec. (c)(1). Act Mar. 30, 1955, substituted “April 1, 1956” for “April 1, 1955” in two places.

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-3 effective Apr. 1, 2009, 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.

Pub. L. 111-3, title VII, §701(i), Feb. 4, 2009, 123 Stat. 108, provided that: “The amendments made by this section [amending this section] shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title IX, §9302(i), Aug. 5, 1997, 111 Stat. 674, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 5754 of this title and amending this section and sections 5702, 5704, 5712, 5713, 5721, 5722, and 5761 of this title] shall apply to articles removed (as defined in section 5702(k) [now section 5702(j)] of the Internal Revenue Code of 1986, as amended by this section) after December 31, 1999.

“(2) TRANSITIONAL RULE.—Any person who—

“(A) on the date of the enactment of this Act [Aug. 5, 1997] is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

“(B) before January 1, 2000, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11202(h), Nov. 5, 1990, 104 Stat. 1388-420, provided that: “The amendments made by this section [amending this section and section 5702 of this title] shall apply with respect to articles removed after December 31, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5061(d), Nov. 10, 1988, 102 Stat. 3680, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 5702 of this title] shall apply to pipe tobacco removed (within the meaning of section 5702(k) [now section 5702(j)] of the 1986 Code) after December 31, 1988.

“(2) TRANSITIONAL RULE.—Any person who—

“(A) on the date of the enactment of this Act [Nov. 10, 1988], is engaged in business as a manufacturer of pipe tobacco, and

“(B) before January 1, 1989, submits an application under subchapter B of chapter 52 of the 1986 Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the 1986 Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture pipe tobacco under such chapter 52.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title XIII, §13202(c), Apr. 7, 1986, 100 Stat. 312, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 5702 of this title] shall apply to smokeless tobacco removed after June 30, 1986.

“(2) TRANSITIONAL RULE.—Any person who—

“(A) on the date of the enactment of this Act [Apr. 7, 1986], is engaged in business as a manufacturer of smokeless tobacco, and

“(B) before July 1, 1986, submits an application under subchapter B of chapter 52 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of such Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture smokeless [sic] tobacco under such chapter 52.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title II, § 283(c), Sept. 3, 1982, 96 Stat. 569, as amended by Pub. L. 99-107, § 2, Sept. 30, 1985, 99 Stat. 479; Pub. L. 99-155, § 2(a), Nov. 14, 1985, 99 Stat. 814; Pub. L. 99-181, § 1, Dec. 13, 1985, 99 Stat. 1172; Pub. L. 99-189, § 1, Dec. 18, 1985, 99 Stat. 1184; Pub. L. 99-201, § 1, Dec. 23, 1985, 99 Stat. 1665; Pub. L. 99-272, title XIII, § 13201(a), Apr. 7, 1986, 100 Stat. 311, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to cigarettes removed after December 31, 1982.”

[Pub. L. 99-272, title XIII, § 13201(b), Apr. 7, 1986, 100 Stat. 311, provided that: “For purposes of all Federal and State laws, the amendment made by subsection (a) [amending section 283(c) of Pub. L. 97-248, set out above] shall be treated as having taken effect on March 14, 1986.”]

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(24) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

Pub. L. 94-455, title XXI, § 2128(e), Oct. 4, 1976, 90 Stat. 1921, provided that: “The amendments made by this section [amending this section and sections 5702 and 5741 of this title] shall take effect on the first month which begins more than 90 days after the date of the enactment of this Act [Oct. 4, 1976].”

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-240, § 4(b), Jan. 2, 1968, 81 Stat. 776, provided that: “The amendment made by subsection (a) [amending this section] shall apply to the removal of cigars on or after the first day of the first calendar quarter which begins more than 30 days after the date of the enactment of this Act [Jan. 2, 1968].”

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VII, § 701(d), June 21, 1965, 79 Stat. 157, provided that: “The amendments made by section 501 [repealing sections 5063 and 5707 of this title and provisions formerly set out below and amending this section and sections 5001, 5022, 5041, and 5051 of this title] shall apply on and after July 1, 1965. The amendments made by section 502 [striking out subchapter D of chapter 52 of this title and redesignating subchapters E, F, and G as subchapters D, E, and F respectively, and amending this section and sections 5702, 5704, 5711, 5741, 5753, 5762, and 5763 of this title] shall apply on and after January 1, 1966.”

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-779, § 2, Sept. 14, 1960, 74 Stat. 998, provided that: “The amendment made by the first section of this Act [amending this section] shall apply with respect to cigars removed on or after the ninth day of the first month which begins after the date of the enactment of this Act [Sept. 14, 1960].”

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 a note under section 5001 of this title.

COORDINATION WITH TOBACCO INDUSTRY SETTLEMENT AGREEMENT

Pub. L. 105-33, title IX, § 9302(k), as added by Pub. L. 105-34, title XVI, § 1604(f)(3), Aug. 5, 1997, 111 Stat. 1099, which provided that the increase in excise taxes collected as a result of the amendments made by subsections (a), (e), and (g) of section 9302 of Pub. L. 105-33 (amending this section and section 5702 of this title) were to be credited against the total payments made by parties pursuant to Federal legislation implementing the tobacco industry settlement agreement of June 20, 1997, was repealed by Pub. L. 105-78, title V, § 519, Nov. 13, 1997, 111 Stat. 1519.

FLOOR STOCKS TAXES

Pub. L. 111-3, title VII, § 701(h), Feb. 4, 2009, 123 Stat. 107, provided that:

“(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

“(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

“(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

“(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

“(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

“(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

“(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

“(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

“(B) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or the Secretary’s delegate.

“(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

“(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of

the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.”

Pub. L. 105-33, title IX, §9302(j), Aug. 5, 1997, 111 Stat. 675, as amended by Pub. L. 106-554, §1(a)(7) [title III, §315(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643, provided that:

“(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax increase date, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

“(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

“(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

“(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the \$500 amount in paragraph (3) with respect to such person.

“(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on any tax increase date, for which such person is liable.

“(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax increase date, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 1 following any tax increase date.

“(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax increase date, shall be subject to the tax imposed by paragraph (1) if—

“(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

“(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

“(B) TAX INCREASE DATE.—The term ‘tax increase date’ means January 1, 2000, and January 1, 2002.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or the Secretary’s delegate.

“(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

“(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.”

Pub. L. 101-508, title XI, §11202(i), Nov. 5, 1990, 104 Stat. 1388-420, provided that:

“(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

“(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, \$2 per thousand.

“(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, \$4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

“(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

“(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

“(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

“(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

“(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the \$60 amount in paragraph (3) with respect to such person.

“(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

“(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

“(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) TAX-INCREASE DATE.—The term ‘tax-increase date’ means January 1, 1991, and January 1, 1993.

“(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

“(C) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(6) CONTROLLED GROUPS.—Rules similar to the rules of section 11201(e)(6) [Pub. L. 101-508, set out in a note under section 5001 of this title] shall apply for purposes of this subsection.

“(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.”

Pub. L. 100-647, title V, §5061(e), Nov. 10, 1988, 102 Stat. 3680, provided that:

“(1) IMPOSITION OF TAX.—On pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1989, and held on such date for sale by any person, there is hereby imposed a tax of 45 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding pipe tobacco on January 1, 1989, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed by section 5701 of the 1986 Code and shall be due and payable on February 14, 1989, in the same manner as the tax imposed by such section is payable with respect to pipe tobacco removed on or after January 1, 1989.

“(C) TREATMENT OF PIPE TOBACCO IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, pipe tobacco which is located in a foreign trade zone on January 1, 1989, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

“(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such pipe tobacco before such date pursuant to a request made under the first proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

“(ii) such pipe tobacco is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

“Under regulations prescribed by the Secretary of the Treasury or his delegate, provisions similar to sections 5706 and 5708 of the 1986 Code shall apply to pipe tobacco with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.

“(3) PIPE TOBACCO.—For purposes of this subsection, the term ‘pipe tobacco’ shall have the meaning given to such term by subsection (o) [now subsection (n)] of section 5702 of the 1986 Code.

“(4) EXCEPTION WHERE LIABILITY DOES NOT EXCEED \$1,000.—No tax shall be imposed by paragraph (1) on any person if the tax which would but for this paragraph be imposed on such person does not exceed \$1,000. For purposes of the preceding sentence, all persons who are treated as a single taxpayer under section 5061(e)(3) of the 1986 Code shall be treated as 1 person.”

Pub. L. 97-248, title II, § 283(b), Sept. 3, 1982, 96 Stat. 568, as amended by Pub. L. 97-448, title III, § 306(a)(14), Jan. 12, 1983, 96 Stat. 2405; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by any person, there shall be imposed the following taxes:

“(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, \$4 per thousand;

“(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, \$8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

“(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

“(A) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1983, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

“(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 and shall be due and payable on February 17, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1983.

“(3) CIGARETTE.—For purposes of this subsection, the term ‘cigarette’ shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(4) EXCEPTION FOR RETAILERS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on January 1, 1983, at the place where intended to be sold at retail.”

§ 5702. Definitions

When used in this chapter—

(a) Cigar

“Cigar” means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (b)(2)).

(b) Cigarette

“Cigarette” means—

(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

(c) Tobacco products

“Tobacco products” means cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

(d) Manufacturer of tobacco products

“Manufacturer of tobacco products” means any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, except that such term shall not include—

(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and

(2) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Such term shall include any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal as defined by subsection (j) with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities.

(e) Cigarette paper

“Cigarette paper” means paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

(f) Cigarette tube

“Cigarette tube” means cigarette paper made into a hollow cylinder for use in making cigarettes.

(g) Manufacturer of cigarette papers and tubes

“Manufacturer of cigarette papers and tubes” means any person who manufactures cigarette

paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

(h) Export warehouse

“Export warehouse” means a bonded internal revenue warehouse for the storage of tobacco products or cigarette papers or tubes or any processed tobacco, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

(i) Export warehouse proprietor

“Export warehouse proprietor” means any person who operates an export warehouse.

(j) Removal or remove

“Removal” or “remove” means the removal of tobacco products or cigarette papers or tubes, or any processed tobacco, from the factory or from internal revenue bond under section 5704, as the Secretary shall by regulation prescribe, or release from customs custody, and shall also include the smuggling or other unlawful importation of such articles into the United States.

(k) Importer

“Importer” means any person in the United States to whom nontaxpaid tobacco products or cigarette papers or tubes, or any processed tobacco, manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings tobacco products or cigarette papers or tubes, or any processed tobacco, into the United States.

(l) Determination of price on cigars

In determining price for purposes of section 5701(a)(2)—

(1) there shall be included any charge incident to placing the article in condition ready for use,

(2) there shall be excluded—

(A) the amount of the tax imposed by this chapter or section 7652, and

(B) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

(3) rules similar to the rules of section 4216(b) shall apply.

(m) Definitions relating to smokeless tobacco

(1) Smokeless tobacco

The term “smokeless tobacco” means any snuff or chewing tobacco.

(2) Snuff

The term “snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

(3) Chewing tobacco

The term “chewing tobacco” means any leaf tobacco that is not intended to be smoked.

(n) Pipe tobacco

The term “pipe tobacco” means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

(o) Roll-your-own tobacco

The term “roll-your-own tobacco” means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars, or for use as wrappers thereof.

(p) Manufacturer of processed tobacco

(1) In general

The term “manufacturer of processed tobacco” means any person who processes any tobacco other than tobacco products.

(2) Processed tobacco

The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.

(Aug. 16, 1954, ch. 736, 68A Stat. 706; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1415; Pub. L. 89-44, title V, §502(b)(3), title VIII, §808(a), June 21, 1965, 79 Stat. 151, 164; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2128(b), Oct. 4, 1976, 90 Stat. 1834, 1921; Pub. L. 99-272, title XIII, §13202(b)(2)-(4), Apr. 7, 1986, 100 Stat. 312; Pub. L. 100-647, title V, §5061(b)-(c)(2), Nov. 10, 1988, 102 Stat. 3679; Pub. L. 101-508, title XI, §11202(g), Nov. 5, 1990, 104 Stat. 1388-419; Pub. L. 105-33, title IX, §9302(g)(2)-(3)(B), (h)(4), Aug. 5, 1997, 111 Stat. 672, 674; Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-644; Pub. L. 111-3, title VII, §702(a)(4), (5), (d)(1), Feb. 4, 2009, 123 Stat. 108, 110; Pub. L. 112-141, div. F, title I, §100122(a), July 6, 2012, 126 Stat. 914.)

AMENDMENTS

2012—Subsec. (d). Pub. L. 112-141 inserted concluding provisions.

2009—Subsec. (h). Pub. L. 111-3, §702(a)(5)(A), substituted “tobacco products or cigarette papers or tubes or any processed tobacco” for “tobacco products and cigarette papers and tubes”.

Subsec. (j). Pub. L. 111-3, §702(a)(5)(B), inserted “, or any processed tobacco,” after “tobacco products or cigarette papers or tubes”.

Subsec. (k). Pub. L. 111-3, §702(a)(5)(B), which directed insertion of “, or any processed tobacco,” after “tobacco products or cigarette papers or tubes”, was executed by making the insertion after “tobacco products or cigarette papers or tubes” both places it appeared to reflect the probable intent of Congress.

Subsec. (o). Pub. L. 111-3, §702(d)(1), inserted “or cigars, or for use as wrappers thereof” before period.

Subsec. (p). Pub. L. 111-3, §702(a)(4), added subsec. (p).

2000—Subsec. (f). Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)(B)], redesignated subsec. (g) as (f) and struck out former subsec. (f), which defined “cigarette papers”.

Subsec. (g). Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)(B)], redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)(B)], redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)(A)], amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “‘Manufacturer of cigarette papers and tubes’ means any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.”

Subsecs. (i) to (p). Pub. L. 106-554, §1(a)(7) [title III, §315(a)(2)(B)], redesignated subsecs. (i) to (p) as (h) to (o), respectively.

1997—Subsec. (c). Pub. L. 105-33, §9302(g)(3)(A), substituted “pipe tobacco, and roll-your-own tobacco” for “and pipe tobacco”.

Subsec. (d). Pub. L. 105-33, §9302(g)(3)(B)(i), substituted “pipe tobacco, or roll-your-own tobacco” for “or pipe tobacco” in introductory provisions.

Subsec. (d)(1). Pub. L. 105-33, §9302(g)(3)(B)(ii), added par. (1) and struck out former par. (1) which read as follows: “a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use; or”.

Subsec. (k). Pub. L. 105-33, §9302(h)(4), inserted “under section 5704” after “internal revenue bond”.

Subsec. (p). Pub. L. 105-33, §9302(g)(2), added subsec. (p).

1990—Subsec. (m). Pub. L. 101-508 substituted heading for one which read: “Wholesale price” and amended text generally. Prior to amendment, text read as follows: “‘Wholesale price’ means the manufacturer’s, or importer’s, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer’s or importer’s suggested delivered price to retailers is not adequately supported by bona fide arm’s length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary.”

1988—Subsec. (c). Pub. L. 100-647, §5061(c)(1), inserted reference to pipe tobacco.

Subsec. (d). Pub. L. 100-647, §5061(c)(2), inserted reference to pipe tobacco in introductory provisions and in par. (1).

Subsec. (o). Pub. L. 100-647, §5061(b), added subsec. (o).

1986—Subsec. (c). Pub. L. 99-272, §13202(b)(2), inserted reference to smokeless tobacco.

Subsec. (d). Pub. L. 99-272, §13202(b)(3), inserted references to smokeless tobacco.

Subsec. (n). Pub. L. 99-272, §13202(b)(4), added subsec. (n).

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

Subsec. (m). Pub. L. 94-455, §2128(b), added subsec. (m).

1965—Subsec. (a). Pub. L. 89-44, §§502(b)(3)(A), 808(a), redesignated subsec. (b) as (a), repealed former subsec. (a) which related to manufactured tobacco and, in subsec. (a) as so redesignated, allowed the use of any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsec. (b)(2) as a wrapper in addition to the leaf tobacco previously allowed.

Subsec. (b). Pub. L. 89-44, §§502(b)(3)(A), 808(a), redesignated subsec. (c) as (b) and permitted the use, as a wrapper for cigarettes in addition to paper and substances other than tobacco as previously allowed, any substance containing tobacco, which, because of the finished product’s appearance, tobacco type, labeling, and packaging, is likely to be offered to or purchased by consumers as cigarettes. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 89-44, §502(b)(3)(A), (B), redesignated subsec. (d) as (c) and struck out reference to manufactured tobacco. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 89-44, §502(b)(3)(A), (C), redesignated subsec. (e) as (d), and simplified the definition of manufacturer of tobacco products to include only persons who manufacture cigars or cigarettes and reduced the area of excluded activities so as to exclude only persons producing cigars and cigarettes solely for their own personal use and proprietors of customs bonded manufacturing warehouses with respect to the operation of such warehouses. Former subsec. (d) redesignated (c).

Subsecs. (e) to (k). Pub. L. 89-44, §502(b)(3)(A) redesignated subsecs. (f) to (k) and (n) as (e) to (j) and (k), respectively. Former subsec. (e) redesignated (d).

Subsec. (l). Pub. L. 89-44, §502(b)(3)(A), redesignated subsec. (o) as (l) and repealed former subsec. (l) which related to tobacco materials.

Subsec. (m). Pub. L. 89-44, §502(b)(3)(A), repealed subsec. (m) which related to tobacco dealers.

Subsecs. (n), (o). Pub. L. 89-44, §502(b)(3)(A), redesignated subsec. (n) and (o) as (k) and (l), respectively.

1958—Subsec. (a). Pub. L. 85-859 inserted the term “for removal, or merely removed”.

Subsecs. (b) to (d). Pub. L. 85-859 redesignated subsecs. (c), (d), and (f) as (b), (c), and (d), respectively. Former subsecs. (b), (c), and (d) redesignated (e), (b), and (c), respectively.

Subsec. (e). Pub. L. 85-859 consolidated the definitions “manufacturer of tobacco” and “manufacturer of cigars and cigarettes”, inserted the phrase “for removal, or merely removes”, excluded from the definition a proprietor of a customs bonded manufacturing warehouse with respect to the operation of the warehouse, and required bona fide associations of farmers or growers to maintain records of leaf tobacco.

Subsec. (f). Pub. L. 85-859 redesignated subsec. (g) as (f) and former subsec. (f) as (d).

Subsec. (g). Pub. L. 85-859 added subsec. (g) and redesignated former subsec. (g) as (f).

Subsec. (i). Pub. L. 85-859 substituted “into books or sets containing more than 25 papers each, or into tubes” for “into packages, books, sets, or tubes”.

Subsec. (j). Pub. L. 85-859 substituted provisions defining “export warehouse” for provisions which defined “article” as manufactured tobacco, cigars, cigarettes, and cigarette papers and tubes.

Subsec. (k). Pub. L. 85-859 added subsec. (k) and redesignated former subsec. (k) as (l).

Subsec. (l). Pub. L. 85-859 redesignated former subsec. (k) as (l) and substituted “other than manufactured tobacco, cigars, and cigarettes” for “in process, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, dust, stems, and waste”. Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 85-859 redesignated former subsec. (l) as (m) and included within the definition persons who receive tobacco materials, other than stems and waste, for use in the production of fertilizer, insecticide, or nicotine, required associations of farmers or growers of tobacco to maintain records of all leaf tobacco acquired or received and sold or otherwise disposed of, and excluded from the definition persons who buy leaf tobacco without taking physical possession of the tobacco and qualified manufacturers of tobacco products. Former subsec. (m) redesignated (n).

Subsec. (n). Pub. L. 85-859 redesignated former subsec. (m) as (n) and substituted “tobacco products or cigarette papers or tubes” for “articles”. Former subsec. (n) redesignated (o).

Subsec. (o). Pub. L. 85-859 redesignated former subsec. (n) as (o) and substituted “tobacco products or cigarette papers or tubes” for “articles” in two places, and inserted provisions to include within the definition persons who remove cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-141, div. F, title I, §100122(b), July 6, 2012, 126 Stat. 915, provided that: “The amendment made by this section [amending this section] shall apply to arti-

cles removed after the date of the enactment of this Act [July 6, 2012].”

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-3 effective Apr. 1, 2009, 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.

Pub. L. 111-3, title VII, §702(a)(6), Feb. 4, 2009, 123 Stat. 109, provided that: “The amendments made by this subsection [amending this section and sections 5712, 5713, 5721, 5722, 5723, and 5741 of this title] shall take effect on April 1, 2009.”

Pub. L. 111-3, title VII, §702(d)(2), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendment made by this subsection [amending this section] shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §315(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-644, provided that: “The amendments made by this section [amending this section, section 5761 of this title, and provisions set out as a note under section 5701 of this title] shall take effect as if included in section 9302 of the Balanced Budget Act of 1997 [Pub. L. 105-33].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in subsec. (k) of this section, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to articles removed after Dec. 31, 1990, see section 11202(h) of Pub. L. 101-508, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to pipe tobacco removed, within the meaning of subsec. (k) of this section, after Dec. 31, 1988, with transition rule, see section 5061(d) of Pub. L. 100-647, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to smokeless tobacco removed after June 30, 1986, see section 13202(c) of Pub. L. 99-272, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 2128(b) of Pub. L. 94-455 effective on first month which begins more than 90 days after Oct. 4, 1976, see section 2128(e) of Pub. L. 94-455, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 502(b)(3) of Pub. L. 89-44 applicable on and after Jan. 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

Pub. L. 89-44, title VIII, §808(d)(1), June 21, 1965, 79 Stat. 165, provided that: “The amendments made by subsections (a) and (b)(3) [amending this section and section 7652 of this title] shall take effect on July 1, 1965.”

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.

§ 5703. Liability for tax and method of payment

(a) Liability for tax

(1) Original liability

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability

When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax

(1) In general

The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes

(A) In general

Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day

after the last day of such semimonthly period.

(B) Imported articles

In the case of tobacco products and cigarette papers and tubes which are imported into the United States—

(i) In general

The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(ii) Special rule for entry for warehousing

Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(iii) Foreign trade zones

Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export

Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico

In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September

(i) In general

Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(ii) Safe harbor

The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{11}{15}$ of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by sub-

stituting “September 25” for “September 26”, “September 28” for “September 29”, and “ $\frac{2}{3}$ ” for “ $\frac{11}{15}$ ”.

(E) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(F) Special rule for unlawfully manufactured tobacco products

In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.

(3) Payment by electronic fund transfer

Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the \$5,000,000 amount specified in the preceding sentence.

(c) Use of government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) Assessment

Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment.

(Aug. 16, 1954, ch. 736, 68A Stat. 707; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1417;

Pub. L. 94-455, title XIX, §§1905(a)(25), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 97-448, title III, §308(a), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98-369, div. A, title I, §27(c)(2), July 18, 1984, 98 Stat. 509; Pub. L. 99-509, title VIII, §8011(a)(1), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99-514, title XVIII, §1801(c)(2), Oct. 22, 1986, 100 Stat. 2786; Pub. L. 100-647, title II, §2003(b)(1)(C), (D), Nov. 10, 1988, 102 Stat. 3598; Pub. L. 103-465, title VII, §712(c), Dec. 8, 1994, 108 Stat. 5000; Pub. L. 111-3, title VII, §702(e)(1), Feb. 4, 2009, 123 Stat. 110.)

AMENDMENTS

2009—Subsec. (b)(2)(F). Pub. L. 111-3 added subpar. (F).

1994—Subsec. (b)(2)(D). Pub. L. 103-465, §712(c)(1), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (b)(2)(E). Pub. L. 103-465, §712(c), redesignated subpar. (D) as (E), substituted “due date” for “14th day” in heading, and inserted “(or the immediately following day where the due date described in subparagraph (D) falls on a Sunday)” before period at end.

1988—Subsec. (b)(2)(B)(i), (ii), (C). Pub. L. 100-647 substituted “the 14th day after the last day of the semi-monthly period during which” for “the 14th day after the date on which”.

1986—Subsec. (b)(2). Pub. L. 99-509 amended par. (2) generally. Prior to amendment par. (2), time for making of return and payment of taxes, read as follows: “In the case of tobacco products and cigarette papers and tubes removed after December 31, 1982, under bond for deferred payment of tax, the last day for filing a return and paying any tax due for each return period shall be the last day of the first succeeding return period plus 10 days.”

Subsec. (b)(3). Pub. L. 99-514 inserted last sentence.

1984—Subsec. (b)(3). Pub. L. 98-369 added par. (3).

1983—Subsec. (b). Pub. L. 97-448 designated existing provisions as par. (1), struck out provisions that the Secretary prescribe the time for making a return and the time for the payment of taxes and that the Secretary prescribe by regulations the conditions for the filing of additional bonds, and added par. (2).

1976—Subsec. (a). Pub. L. 94-455, §1905(a)(25)(A), directed that all provisions of chapter 52 applicable to tobacco products and cigarette papers and tubes in bond be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

Subsec. (b). Pub. L. 94-455, §§1905(a)(25)(B), 1906(b)(13)(A), struck out provisions which had authorized payment of taxes by stamp until regulations could be promulgated to provide for payment by return and struck out “or his delegate” after “Secretary” in three places.

Subsec. (c). Pub. L. 94-455, §§1905(a)(25)(C), 1906(b)(13)(A), redesignated subsec. (d) as (c) and struck out “or his delegate” after “Secretary”. Former subsec. (c), relating to the use of stamps as evidence of the payment of taxes, was struck out.

Subsecs. (d), (e). Pub. L. 94-455, §§1905(a)(25)(C), 1906(b)(13)(A), redesignated subsec. (e) as (d) and struck out “or his delegate” after “Secretary”. Former subsec. (d) redesignated (c).

1958—Subsec. (a)(1). Pub. L. 85-859 designated part of first sentence of subsec. (a) as par. (1) thereof and redesignated the remainder of subsec. (a) as (b).

Subsec. (a)(2). Pub. L. 85-859 added par. (2).

Subsec. (b). Pub. L. 85-859 designated former subsec. (a), with exception of part of the first sentence, as subsec. (b) and substituted “tobacco products and cigarette papers and tubes” for “articles”, and inserted provisions relating to postponements, and to payment of the tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of the tax. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 85-859 designated former subsec. (b) as (c) and substituted “If the Secretary or his delegate shall by regulation provide for the payment of tax by return and require the use of” for “If the Secretary or his delegate shall, by regulation, require the use”, and “tobacco products” for “articles”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 85-859 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-859 designated former subsec. (d) as (e) and permitted assessments in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-3, title VII, §702(e)(2), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendment made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Feb. 4, 2009].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 712(e) of Pub. L. 103-465, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509, see section 2003(b)(2) of Pub. L. 100-647, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

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.

Amendment by Pub. L. 99-509 applicable to removals during semimonthly periods ending on or after Dec. 31, 1986, except as otherwise provided, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxes required to be paid on or after Sept. 30, 1984, see section 27(d)(2) of Pub. L. 98-369, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-448, title III, §308(b), Jan. 12, 1983, 96 Stat. 2407, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(25) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

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.

§ 5704. Exemption from tax

(a) Tobacco products furnished for employee use or experimental purposes

Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary shall by regulation prescribe.

(b) Tobacco products and cigarette papers and tubes transferred or removed in bond from domestic factories and export warehouses

A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States; and manufacturers may similarly remove such articles for use of the United States; in accordance with such regulations and under such bonds as the Secretary shall prescribe. Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

(c) Tobacco products and cigarette papers and tubes released in bond from customs custody

Tobacco products and cigarette papers and tubes, imported or brought into the United States, may be released from customs custody, without payment of tax, for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

(d) Tobacco products and cigarette papers and tubes exported and returned

Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax for delivery to the original manufacturer of such tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse authorized by such manufacturer to receive such articles, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.

(Aug. 16, 1954, ch. 736, 68A Stat. 708; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1418; Pub. L. 88-342, § 1(b), June 30, 1964, 78 Stat. 234;

Pub. L. 89-44, title V, § 502(b)(4), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XIX, §§ 1905(a)(26), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 99-509, title VIII, § 8011(a)(2), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 101-239, title VII, § 7508(a), Dec. 19, 1989, 103 Stat. 2370; Pub. L. 105-33, title IX, § 9302(h)(1)(A), Aug. 5, 1997, 111 Stat. 673; Pub. L. 106-476, title IV, § 4002(b), Nov. 9, 2000, 114 Stat. 2177.)

REFERENCES IN TEXT

Item 804.00 of title I of the Tariff Act of 1930, referred to in subsec. (d), was classified to item 804.00 of the Tariff Schedules of the United States. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States. The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106-476 substituted “the original manufacturer of such” for “a manufacturer of” and inserted “authorized by such manufacturer to receive such articles” after “proprietor of an export warehouse”.

1997—Subsec. (b). Pub. L. 105-33 inserted at end “Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.”

1989—Subsec. (c). Pub. L. 101-239 inserted “or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages,” after “export warehouse.”

1986—Subsec. (c). Pub. L. 99-509 struck out “to a manufacturer of tobacco products or cigarette papers and tubes or” after “for delivery”.

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

Subsecs. (c), (d). Pub. L. 94-455, §§ 1905(a)(26), 1906(b)(13)(A), inserted “or to the proprietor of an export warehouse” after “to a manufacturer of tobacco products or cigarette papers and tubes” and struck out “or his delegate” after “Secretary”.

1965—Subsec. (c). Pub. L. 89-44, § 502(b)(4), redesignated subsec. (d) as (c), struck out all references to tobacco materials, and repealed former subsec. (c) which related to tobacco materials shipped or delivered in bond.

Subsecs. (d), (e). Pub. L. 89-44, § 502(b)(4)(A), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1964—Subsec. (e). Pub. L. 88-342 added subsec. (e).

1958—Subsec. (b). Pub. L. 85-859 included transfers by export warehouse proprietors, and substituted “tobacco products and cigarette papers and tubes” for “articles”, before “without payment of tax”.

Subsec. (c). Pub. L. 85-859 authorized shipments without payment of tax of tobacco stems and waste only, to any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine.

Subsec. (d). Pub. L. 85-859 substituted “tobacco products, cigarette papers and tubes” for “articles” wherever appearing, and struck out provisions which related to delivery to bonded premises of manufacturers and dealers.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title IV, § 4002(d), Nov. 9, 2000, 114 Stat. 2177, provided that: “The amendments made by this section [amending this section and sections 5754 and 5761 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov 9, 2000].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after

Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7508(b), Dec. 19, 1989, 103 Stat. 2370, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles imported or brought into the United States after the date of the enactment of this Act [Dec. 19, 1989].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(26) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-342, §2, June 30, 1964, 78 Stat. 234, provided that the amendment made by section 2 of Pub. L. 88-342 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1964.

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.

REPORT

Pub. L. 106-476, title I, §4002(e), Nov. 9, 2000, 114 Stat. 2177, provided that: “The Secretary of the Treasury shall report to Congress on the impact of requiring export warehouses to be authorized by the original manufacturer to receive relanded export-labeled cigarettes.”

§ 5705. Credit, refund, or allowance of tax

(a) Credit or refund

Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made (without interest) to the manufacturer, importer, or export warehouse proprietor, on proof satisfactory to the Secretary that the claimant manufacturer, importer, or export warehouse proprietor has paid the tax on tobacco products and cigarette papers and tubes withdrawn by him from the market; or on such articles lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession of ownership of the claimant.

(b) Allowance

If the tax has not yet been paid on tobacco products and cigarette papers and tubes provided to have been withdrawn from the market or lost or destroyed as aforesaid, relief from the tax on such articles may be extended upon the filing of a claim for allowance therefor in accordance with such regulations as the Secretary shall prescribe.

(c) Limitation

Any claim for credit or refund of tax under this section shall be filed within 6 months after

the date of the withdrawal from the market, loss, or destruction of the articles to which the claim relates, and shall be in such form and contain such information as the Secretary shall by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 709; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1419; Pub. L. 89-44, title VIII, §808(b)(1), (2), (c)(1), June 21, 1965, 79 Stat. 164, 165; 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.

1965—Pub. L. 89-44, §808(c)(1), struck out “Refund or” and inserted in lieu thereof “Credit, refund, or” in section catchline.

Subsec. (a). Pub. L. 89-44, §808(b)(1), substituted “Credit or refund” for “Refund” in heading and struck out “Refund of any tax imposed by this chapter shall be made”, replacing it with “Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made”.

Subsec. (c). Pub. L. 89-44, §808(b)(2), inserted “credit or” before “refund”.

1958—Subsec. (a). Pub. L. 85-859 authorized refunds to export warehouse proprietors, provided for refunds to be made without interest, and eliminated provisions which authorized refunds where the tax has been paid in error.

Subsec. (b). Pub. L. 85-859 permitted relief where a tax has not yet been paid on tobacco products and cigarette papers and tubes proved to have been withdrawn from the market.

Subsec. (c). Pub. L. 85-859 substituted “under this section shall be filed within 6 months after the date of the withdrawal from the market, loss, or destruction of the articles to which the claim relates” for “imposed by this chapter shall be filed within 3 years of the date of payment of tax”.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §808(d)(2), June 21, 1965, 79 Stat. 165, provided that: “The amendments made by subsections (b)(1), (2), and (c) [amending this section] shall take effect on October 1, 1965.”

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.

§ 5706. Drawback of tax

There shall be an allowance of drawback of tax paid on tobacco products and cigarette papers and tubes, when shipped from the United States, in accordance with such regulations and upon the filing of such bond as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 709; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1419; 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”.

1958—Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes” for “articles”.

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.

[§ 5707. Repealed. Pub. L. 89-44, title V, § 501(g), June 21, 1965, 79 Stat. 150]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 709; Mar. 30, 1955, ch. 18, § 3(b)(3), 69 Stat. 15; Mar. 29, 1956, ch. 115, § 3(b)(3), 70 Stat. 67; Mar. 29, 1957, Pub. L. 85-12, § 3(b)(3), 71 Stat. 10; June 30, 1958, Pub. L. 85-475, § 3(b)(3), 72 Stat. 259; Sept. 2, 1958, Pub. L. 85-859, title II, § 202, 72 Stat. 1419; June 30, 1959, Pub. L. 86-75, § 3(b)(2), 73 Stat. 158; June 30, 1960, Pub. L. 86-564, title II, § 202(b)(2), 74 Stat. 291; June 30, 1961, Pub. L. 87-72, § 3(b)(2), 75 Stat. 193; June 28, 1962, Pub. L. 87-508, § 3(b)(2), 76 Stat. 114; June 29, 1963, Pub. L. 88-52, § 3(b)(1)(B), 77 Stat. 72; June 30, 1964, Pub. L. 88-348, § 2(b)(1)(B), 78 Stat. 237, made provision for floor stocks refunds on cigarettes, set limitations on eligibility for credit or refunds, and made applicable existing penalty and administrative procedures.

EFFECTIVE DATE OF REPEAL

Repeal applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 5701 of this title.

§ 5708. Losses caused by disaster

(a) Authorization

Where the President has determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a “major disaster” as defined in such Act has occurred in any part of the United States, the Secretary shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring in such part of the United States on and after the effective date of this section, if such tobacco products or cigarette papers or tubes were held and intended for sale at the time of such disaster. The payments authorized by this section shall be made to the person holding such tobacco products or cigarette papers or tubes for sale at the time of the disaster.

(b) Claims

No claim shall be allowed under this section unless—

(1) filed within 6 months after the date on which the President makes the determination that the disaster referred to in subsection (a) has occurred; and

(2) the claimant furnishes proof to the satisfaction of the Secretary that—

(A) he was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes covered by the claim, and

(B) he is entitled to payment under this section.

Claims under this section shall be filed under such regulations as the Secretary shall prescribe.

(c) Destruction of tobacco products or cigarette papers or tubes

Before the Secretary makes payment under this section in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes condemned by a duly authorized

official or rendered unmarketable, such tobacco products or cigarette papers or tubes shall be destroyed under such supervision as the Secretary may prescribe, unless such tobacco products or cigarette papers or tubes were previously destroyed under supervision satisfactory to the Secretary.

(d) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on tobacco products and cigarette papers and tubes shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

(Added Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1420; amended Pub. L. 91-606, title III, § 301(j), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93-288, title VII, § 702(j), formerly title VI, § 602(j), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(j), Pub. L. 103-337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-707, title I, § 109(l), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 108-311, title IV, § 408(a)(7)(E), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-311 inserted “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act”.

1988—Subsec. (a). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

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

1974—Subsec. (a). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Relief Act of 1970”.

1970—Subsec. (a). Pub. L. 91-606 substituted “Disaster Relief Act of 1970” for “Act of September 30, 1950 (42 U.S.C. 1855)”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of this title.

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.

LOSSES OF TOBACCO PRODUCTS CAUSED BY DISASTER

Pub. L. 85-859, title II, § 209, Sept. 2, 1958, 72 Stat. 1434, authorized payments, without interest, of amounts equal to internal revenue taxes and customs duties paid by persons suffering a major disaster, pursuant to former act Sept. 30, 1950, ch. 1125, 64 Stat. 1109, for disasters occurring in the United States after Dec. 31, 1954,

and before Sept. 2, 1958, in respect to tobacco products and cigarette papers and tubes; specified persons to whom the payments would be made and the procedure for allowance of claims; required the destruction of such tobacco products and cigarette papers and tubes under supervision; and made other laws applicable to such payments insofar as not inconsistent with section 209 of Pub. L. 85-859.

Subchapter B—Qualification Requirements for Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors

Sec.	
5711.	Bond.
5712.	Application for permit.
5713.	Permit.

AMENDMENTS

1997—Pub. L. 105-33, title IX, §9302(h)(2)(C), Aug. 5, 1997, 111 Stat. 674, inserted “and Importers” after “Manufacturers” in subchapter heading.

1965—Pub. L. 89-44, title V, §502(b)(5), June 21, 1965, 79 Stat. 151, struck out reference to dealers in tobacco materials from subchapter heading.

§ 5711. Bond

(a) When required

Every person, before commencing business as a manufacturer of tobacco products or cigarette papers and tubes, or as an export warehouse proprietor, shall file such bond, conditioned upon compliance with this chapter and regulations issued thereunder, in such form, amount, and manner as the Secretary shall by regulation prescribe. A new or additional bond may be required whenever the Secretary considers such action necessary for the protection of the revenue.

(b) Approval or disapproval

No person shall engage in such business until he receives notice of approval of such bond. A bond may be disapproved, upon notice to the principal on the bond, if the Secretary determines that the bond is not adequate to protect the revenue.

(c) Cancellation

Any bond filed hereunder may be canceled, upon notice to the principal on the bond, whenever the Secretary determines that the bond no longer adequately protects the revenue.

(Aug. 16, 1954, ch. 736, 68A Stat. 711; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 89-44, title V, §502(b)(6), June 21, 1965, 79 Stat. 151; 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.

1965—Subsec. (a). Pub. L. 89-44 struck out reference to dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85-859 included export warehouse proprietors, and substituted “manufacturer of tobacco products or cigarette papers and tubes” for “manufacturer of articles”.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 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.

TRANSITIONAL RULE

Pub. L. 111-3, title VII, §702(g), Feb. 4, 2009, 123 Stat. 111, provided that: “Any person who—

“(1) on April 1, 2009[,] is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

“(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code [this subchapter] to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 [this chapter] shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.”

§ 5712. Application for permit

Every person, before commencing business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in section 5713. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, find that—

(1) the premises on which it is proposed to conduct the business are not adequate to protect the revenue;

(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe,¹ or

(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

(C) has failed to disclose any material information required or made any material false statement in the application therefor.

(Aug. 16, 1954, ch. 736, 68A Stat. 712; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 94-455, title XIX, §§1905(a)(27), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 105-33, title IX, §9302(h)(2)(A), (5), Aug. 5, 1997,

¹ So in original. The comma probably should be a semicolon.

111 Stat. 674; Pub. L. 111-3, title VII, § 702(a)(1)(A), (b)(1), Feb. 4, 2009, 123 Stat. 108, 109.)

AMENDMENTS

2009—Pub. L. 111-3, § 702(a)(1)(A), inserted “or processed tobacco” after “tobacco products” in introductory provisions.

Par. (3). Pub. L. 111-3, § 702(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefor.”

1997—Pub. L. 105-33, § 9302(h)(5), struck out “or” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

Pub. L. 105-33, § 9302(h)(2)(A), inserted “or importer” after “manufacturer” in introductory provisions.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” and struck out provision that no person subject to this section, who was lawfully engaged in business on the date of the enactment of the Excise Tax Technical Changes Act of 1958, be denied the right to carry on that business pending reasonable opportunity to make applications for permit and final action thereon.

1958—Pub. L. 85-859 included export warehouse proprietors, and excluded dealers in tobacco materials.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 702(a)(1)(A) of Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

Pub. L. 111-3, title VII, § 702(b)(3), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendments made by this subsection [amending this section and section 5713 of this title] shall take effect on the date of the enactment of this Act [Feb. 4, 2009].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(27) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

§ 5713. Permit

(a) Issuance

A person shall not engage in business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor without a permit to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Secretary shall by regulation prescribe, to every person properly qualified under sections 5711 and 5712. A new permit may be required at such other time as the Secretary shall by regulation prescribe.

(b) Suspension or revocation

(1) Show cause hearing

If the Secretary has reason to believe that any person holding a permit—

(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

(B) has violated the conditions of such permit,

(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

(D) has failed to maintain his premises in such manner as to protect the revenue,

(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

(2) Action following hearing

If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.

(Aug. 16, 1954, ch. 736, 68A Stat. 712; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-33, title IX, § 9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, § 702(a)(1)(B), (b)(2), Feb. 4, 2009, 123 Stat. 108, 109.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-3, § 702(a)(1)(B), inserted “or processed tobacco” after “tobacco products”.

Subsec. (b). Pub. L. 111-3, § 702(b)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “If the Secretary has reason to believe that any person holding a permit has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud, or has violated the conditions of such permit, or has failed to disclose any material information required or made any material false statement in the application for such permit, or has failed to maintain his premises in such manner as to protect the revenue, the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked. If, after hearing, the Secretary finds that such person has not in good faith complied with this chapter or with any other provision of this title involving intent to defraud, has violated the conditions of such permit, has failed to disclose any material information required or made any material false statement in the application therefor, or has failed to maintain his premises in such manner as to protect the revenue, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.”

1997—Subsec. (a). Pub. L. 105-33 inserted “or importer” after “manufacturer”.

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

1958—Subsec. (a). Pub. L. 85-859 substituted “manufacturer of tobacco products” for “manufacturer of articles”, included export warehouse proprietors, and struck out provisions which related to dealers in tobacco materials.

Subsecs. (b), (c). Pub. L. 85-859 redesignated subsec. (c) as (b) and struck out former subsec. (b) that required permits to be posted.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 702(b)(2) of Pub. L. 111-3 effective Feb. 4, 2009, see section 702(b)(3) of Pub. L. 111-3, set out as a note under section 5712 of this title.

Amendment by section 702(a)(1)(B) of Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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.

Subchapter C—Operations by Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes and Export Warehouse Proprietors

Sec.	
5721.	Inventories.
5722.	Reports.
5723.	Packages, marks, labels, and notices.

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1905(b)(7)(D), Oct. 4, 1976, 90 Stat. 1823, substituted “and notices” for “notices, and stamps” in item 5723.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422, substituted “Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes and Export Warehouse Proprietors” for “Manufacturers of Articles” in heading of subchapter and inserted “marks,” in item 5723.

§ 5721. Inventories

Every manufacturer or importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse proprietor, shall make a true and accurate inventory at the time of commencing business, at the time of concluding business, and at such other times, in such manner and form, and to include such items, as the Secretary shall by regulation prescribe. Such inventories shall be subject to verification by any internal revenue officer.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, §702(a)(2)(A), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1997—Pub. L. 105-33 inserted “or importer” after “manufacturer”.

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

1958—Pub. L. 85-859 substituted “manufacturer of tobacco products or cigarette papers and tubes” for “manufacturer of articles” and “internal revenue officer” for “revenue officer”, and inserted provisions to include export warehouse proprietors.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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.

§ 5722. Reports

Every manufacturer or importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse proprietor, shall make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, §702(a)(2)(B), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1997—Pub. L. 105-33 inserted “or importer” after “manufacturer”.

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

1958—Pub. L. 85-859 substituted “manufacturer of tobacco products or cigarette papers and tubes, and every export warehouse proprietor” for “manufacturer of articles”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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.

§ 5723. Packages, marks, labels, and notices

(a) Packages

All tobacco products, processed tobacco, and cigarette papers and tubes shall, before removal,

be put up in such packages as the Secretary shall by regulation prescribe.

(b) Marks, labels, and notices

Every package of tobacco products, processed tobacco, or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices if any, that the Secretary by regulation prescribes.

(c) Lottery features

No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products, processed tobacco, or cigarette papers or tubes.

(d) Indecent or immoral material prohibited

No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products, processed tobacco, or cigarette papers or tubes.

(e) Exceptions

Tobacco products furnished by manufacturers of such products for use or consumption by their employees, or for experimental purposes, and tobacco products, processed tobacco, and cigarette papers and tubes transferred to the bonded premises of another manufacturer or export warehouse proprietor or released in bond from customs custody for deliver to a manufacturer of tobacco products, processed tobacco, or cigarette papers and tubes, may be exempted from subsection (a) and (b) in accordance with such regulations as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §§ 1905(a)(28), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 111-3, title VII, § 702(a)(2)(C), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products” wherever appearing.

1976—Pub. L. 94-455, § 1905(a)(28)(A), substituted “and notices” for “notices, and stamps” in section catchline. Subsecs. (a), (e). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§ 1905(a)(28)(B), 1906(b)(13)(A), struck out references to stamps in heading and in text and struck out “or his delegate” after “Secretary”.

1958—Subsec. (a). Pub. L. 85-859 substituted “Packages” for “Packages, labels, notices, and stamps” in heading, and substituted “All tobacco products and cigarette papers and tubes shall, before removal, be put up in such packages as” for “All articles shall, before removal, be put up in packages having such labels, notices, and stamps as” in text.

Subsec. (b). Pub. L. 85-859 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 85-859 redesignated former subsec. (b) as (c) and substituted “tobacco products or cigarette papers or tubes” for “articles”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 85-859 redesignated former subsec. (c) as (d) and substituted “tobacco products or cigarette papers or tubes” for “articles”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-859 redesignated former subsec. (d) as (e), and permitted exemption of tobacco products

and cigarette papers and tubes transferred to the bonded premises of another manufacturer or export warehouse proprietor or released in bond from customs custody for delivery to a manufacturer of tobacco products or cigarette papers and tubes, and eliminated provisions which authorized exemption of articles removed for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, and so shipped.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(28) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

Subchapter D—Occupational Tax

Sec. 5731.	Imposition and rate of tax.
5732.	Payment of tax.
5733.	Provisions relating to liability for occupational taxes.
5734.	Application of State laws.

PRIOR PROVISIONS

A prior subchapter D, relating to records of manufacturers and importers of tobacco products, etc., was redesignated subchapter E by Pub. L. 100-203, title X, § 10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449.

Another prior subchapter D, which consisted of sections 5731 and 5732 of this title, was repealed by Pub. L. 89-44, title V, § 502(b)(7), June 21, 1965, 79 Stat. 151, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(20)(D), Aug. 10, 2005, 119 Stat. 1957, added items 5732 to 5734.

§ 5731. Imposition and rate of tax

(a) General rule

Every person engaged in business as—

- (1) a manufacturer of tobacco products,
- (2) a manufacturer of cigarette papers and tubes, or
- (3) an export warehouse proprietor,

shall pay a tax of \$1,000 per year in respect of each premises at which such business is carried on.

(b) Reduced rates for small proprietors

(1) In general

Subsection (a) shall be applied by substituting “\$500” for “\$1,000” with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(c) Penalty for failure to register

Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

(Added Pub. L. 100-203, title X, §10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449; amended Pub. L. 109-59, title XI, §11125(b)(20)(E), Aug. 10, 2005, 119 Stat. 1957.)

PRIOR PROVISIONS

A prior section 5731, acts Aug. 16, 1954, ch. 736, 68A Stat. 714; Sept. 2, 1958, Pub. L. 85-859, title II, §202, 72 Stat. 1423, restricted shipment and delivery of tobacco materials to shipment and delivery pursuant to regulations, prior to repeal by Pub. L. 89-44, title V, §502(b)(7), title VII, §701(d), June 21, 1965, 79 Stat. 151, 157, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109-59 redesignated subsec. (d) as (c) and struck out former subsec. (c). Text read as follows: “Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.”

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

Section effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as an Effective Date of 1987 Amendment note under section 5111 of this title.

§ 5732. Payment of tax**(a) Condition precedent to carrying on business**

No person shall be engaged in or carry on any trade or business subject to tax under this subchapter until he has paid the special tax therefor.

(b) Computation

All special taxes under this subchapter shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) How paid**(1) Payment by return**

The special taxes imposed by this subchapter shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

(2) Stamp denoting payment of tax

After receiving a properly executed return and remittance of any special tax imposed by this subchapter, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1346, §5142; amended Pub. L. 94-455, title

XIX, §1905(a)(12), Oct. 4, 1976, 90 Stat. 1820; renumbered §5732 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), (B), Aug. 10, 2005, 119 Stat. 1956; Pub. L. 110-172, §11(a)(32), Dec. 29, 2007, 121 Stat. 2487.)

PRIOR PROVISIONS

A prior section 5732, acts Aug. 16, 1954, ch. 736, 68A Stat. 714; Sept. 2, 1958, Pub. L. 85-859, title II, §202, 72 Stat. 1423, required that a dealer in tobacco materials make a statement of shipments and deliveries or give an inventory upon demand, prior to repeal by Pub. L. 89-44, title V, §502(b)(7), title VII, §701(d), June 21, 1965, 79 Stat. 151, 157, applicable on and after Jan. 1, 1966.

AMENDMENTS

2007—Subsec. (c)(2). Pub. L. 110-172, which directed amendment of section 5732 of this title, as redesignated by Pub. L. 109-59, §11125(b)(20)(A), by substituting “this subchapter” for “this subpart” in subsec. (c)(2) effective Dec. 29, 2007, was executed to this section to reflect the probable intent of Congress even though the redesignation of section 5142 of this title as this section was not effective until July 1, 2008. See 2005 Amendment and Effective Date of 2005 Amendment notes below.

2005—Pub. L. 109-59, §11125(b)(20)(A), renumbered section 5142 of this title as this section and transferred section to this subchapter.

Subsecs. (a), (b). Pub. L. 109-59, §11125(b)(20)(B), struck out “(except the tax imposed by section 5131)” before “until he has paid” in subsec. (a) and before “shall be imposed” in subsec. (b).

Pub. L. 109-59, §11125(b)(20)(A), substituted “this subchapter” for “this part”.

Subsec. (c)(1). Pub. L. 109-59, §11125(b)(20)(A), substituted “this subchapter” for “this part”.

1976—Subsec. (c). Pub. L. 94-455 substituted provisions under which the special taxes would be paid on the basis of a return for provisions under which the special taxes were paid by stamps denoting the tax.

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 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5733. Provisions relating to liability for occupational taxes**(a) Partners**

Any number of persons doing business in partnership at any one place shall be required to pay but one special tax.

(b) Different businesses of same ownership and location

Whenever more than one of the pursuits or occupations described in this subchapter are carried on in the same place by the same person at the same time, except as otherwise provided in this subchapter, the tax shall be paid for each according to the rates severally prescribed.

(c) Businesses in more than one location**(1) Liability for tax**

The payment of a special tax imposed by this subchapter shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that

stated in the register kept in the office of the official in charge of the internal revenue district.

(2) Storage

Nothing contained in paragraph (1) shall require a special tax for the storage of tobacco products and cigarette papers and tubes at a location other than the place where tobacco products and cigarette papers and tubes are sold or offered for sale.

(3) Definition of place

The term “place” as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises, shall not be deemed sufficient separation to require additional special tax, if the various divisions are otherwise contiguous.

(d) Death or change of location

Certain persons, other than the person who has paid the special tax under this subchapter for the carrying on of any business at any place, may secure the right to carry on, without incurring additional special tax, the same business at the same place for the remainder of the taxable period for which the special tax was paid. The persons who may secure such right are:

- (1) the surviving spouse or child, or executor or administrator or other legal representative, of a deceased taxpayer;
- (2) a husband or wife succeeding to the business of his or her living spouse;
- (3) a receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and
- (4) the partner or partners remaining after death or withdrawal of a member of a partnership.

When any person moves to any place other than the place for which special tax was paid for the carrying on of any business, he may secure the right to carry on, without incurring additional special tax, the same business at his new location for the remainder of the taxable period for which the special tax was paid. To secure the right to carry on the business without incurring additional special tax, the successor, or the person relocating his business, must register the succession or relocation with the Secretary in accordance with regulations prescribed by the Secretary.

(e) Federal agencies or instrumentalities

Any tax imposed by this subchapter shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1347, §5143; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5733 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), (C), Aug. 10, 2005, 119 Stat. 1956, 1957.)

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(20)(A), renumbered section 5143 of this title as this section, transferred sec-

tion to this subchapter, and substituted “this subchapter” for “this part” wherever appearing.

Subsec. (c)(2). Pub. L. 109-59, §11125(b)(20)(C), substituted “tobacco products and cigarette papers and tubes” for “liquors” in two places.

1976—Subsec. (d)(4). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

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.

§ 5734. Application of State laws

The payment of any tax imposed by this subchapter for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1348, §5145; renumbered §5734 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), Aug. 10, 2005, 119 Stat. 1956.)

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5145 of this title as this section, transferred section to this subchapter, and substituted “this subchapter” for “this part” in text.

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.

Subchapter E—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors

Sec.
5741. Records to be maintained.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449, redesignated subchapter D as E.

1976—Pub. L. 94-455, title XXI, §2128(d)(1), Oct. 4, 1976, 90 Stat. 1921, inserted “and Importers” in subchapter heading.

1965—Pub. L. 89-44, title V, §502(b)(7), (8), June 21, 1965, 79 Stat. 151, struck out former subchapter D, consisting of §§5731 and 5732 relating to operations by dealers in tobacco materials, redesignated subchapter E as D and, in heading for subchapter D, as redesignated, struck out reference to dealers in tobacco materials.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1423, substituted “Manufacturers of Tobacco Products and Cigarette Papers and Tubes, Export Warehouse proprietors, and” for “Manufacturers of Articles and” in heading of subchapter.

§ 5741. Records to be maintained

Every manufacturer of tobacco products, processed tobacco, or cigarette papers and tubes, every importer, and every export warehouse pro-

prietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours.

(Aug. 16, 1954, ch. 736, 68A Stat. 715; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1423; Pub. L. 89-44, title V, § 502(b)(9), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XXI, § 2128(c), Oct. 4, 1976, 90 Stat. 1921; Pub. L. 111-3, title VII, § 702(a)(3), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1976—Pub. L. 94-455 inserted reference to importers, struck out “or his delegate” after “Secretary”, and provided that the required records be available for inspection by any internal revenue officer during business hours.

1965—Pub. L. 89-44 struck out reference to every dealer in tobacco materials.

1958—Pub. L. 85-859 substituted “tobacco products or cigarette papers and tubes, every warehouse proprietor, and every dealer” for “articles and dealer”, and “such manner” for “such form”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 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.

Subchapter F—General Provisions

Sec.	
5751.	Purchase, receipt, possession, or sale of tobacco products and cigarette papers and tubes, after removal.
5752.	Restrictions relating to marks, labels, notices, and packages.
5753.	Disposal of forfeited, condemned, and abandoned tobacco products, and cigarette papers and tubes.
5754.	Restriction on importation of previously exported tobacco products.

AMENDMENTS

1997—Pub. L. 105-33, title IX, § 9302(h)(1)(E)(ii), Aug. 5, 1997, 111 Stat. 674, added item 5754.

1987—Pub. L. 100-203, title X, § 10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449, redesignated subchapter E as F.

1976—Pub. L. 94-455, title XIX, § 1905(b)(7)(B)(iii), Oct. 4, 1976, 90 Stat. 1823, substituted “and packages” for “stamps, and packages” in item 5752.

1965—Pub. L. 89-44, title V, § 502(b)(7), (10), June 21, 1965, 79 Stat. 151, 152, redesignated subchapter F as E and, in the table of sections for subchapter E as so redesignated, struck out reference to tobacco materials in item 5753. Former subchapter E redesignated D.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1423, substituted “sale of tobacco products and cigarette papers and tubes, after removal” for “sale of articles, after removal not exempt from tax” in item 5751, included marks and notices in item 5752, and substituted “tobacco products, cigarette papers and tubes, and” for “articles and” in item 5753.

§ 5751. Purchase, receipt, possession, or sale of tobacco products and cigarette papers and tubes, after removal

(a) Restriction

No person shall—

(1) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes—

(A) upon which the tax has not been paid or determined in the manner and at the time prescribed by this chapter or regulations thereunder; or

(B) which, after removal without payment of tax pursuant to section 5704, have been diverted from the applicable purpose or use specified in that section; or

(2) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes, which are not put up in packages as required under section 5723 or which are put up in packages not bearing the marks, labels, and notices, as required under such section; or

(3) otherwise than with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes, which are not put up in packages as required under section 5723 or which are put up in packages not bearing the marks, labels, and notices, as required under such section. This paragraph shall not prevent the sale or delivery of tobacco products or cigarette papers or tubes directly to consumers from proper packages, nor apply to such articles when so sold or delivered.

(b) Liability to tax

Any person who possesses tobacco products or cigarette papers or tubes in violation of subsection (a)(1) or (a)(2) shall be liable for a tax equal to the tax on such articles.

(Aug. 16, 1954, ch. 736, 68A Stat. 716; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1424; Pub. L. 94-455, title XIX, § 1905(b)(7)(A), Oct. 4, 1976, 90 Stat. 1823.)

AMENDMENTS

1976—Subsec. (a)(2), (3). Pub. L. 94-455 substituted “and notices” for “notices, and stamps”.

1958—Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes, after removal” for “articles, after removal, not exempt from tax” in section catchline.

Subsec. (a) amended generally by Pub. L. 85-859, which included within the restrictions, purchase, receipt, possession, offer for sale, or sale of other disposition of tobacco products or cigarette papers or tubes, after removal, upon which the tax has not been paid or determined, or which after removal without payment of tax have been diverted from the applicable purpose or use specified in section 5704, and to provide that par. (3) shall not prevent the delivery of tobacco products or cigarette papers or tubes directly to consumers from proper packages, nor apply to such articles when so delivered.

Subsec. (b). Pub. L. 85-859 substituted “tobacco products or cigarette papers or tubes in violation of subsection (a)(1) or (a)(2) shall be liable for a tax equal to

the tax on such articles” or “articles in violation of subsection (a) of this section, shall incur liability to the tax thereon in addition to the penalties prescribed elsewhere in 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

§ 5752. Restrictions relating to marks, labels, notices, and packages

No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied.

(Aug. 16, 1954, ch. 736, 68A Stat. 716; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1424; Pub. L. 94-455, title XIX, § 1905(b)(7)(B)(i), Oct. 4, 1976, 90 Stat. 1823.)

AMENDMENTS

1976—Pub. L. 94-455 struck out reference to stamps in the section catchline and in the text and struck out provisions which had enumerated violations involving the misuse of tax stamps.

1958—Pub. L. 85-859 included marks and notices in the catchline, limited the penalties to cases where there is intent to defraud the United States, and prohibited the destruction, obliteration, or detachment of any mark, label, notice or stamp before a package of tobacco products or cigarette papers or tubes is emptied.

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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

§ 5753. Disposal of forfeited, condemned, and abandoned tobacco products, and cigarette papers and tubes

If it appears that any forfeited, condemned, or abandoned tobacco products, or cigarette papers and tubes, when offered for sale, will not bring a price equal to the tax due and payable thereon, and the expenses incident to the sale thereof, such articles shall not be sold for consumption in the United States but shall be disposed of in accordance with such regulations as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 716; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1425; Pub. L. 89-44, title V, § 502(b)(11), June 21, 1965, 79 Stat. 152; 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”.

1965—Pub. L. 89-44 struck out references to tobacco materials wherever appearing in heading and text.

1958—Pub. L. 85-859 substituted “tobacco products, cigarette papers and tubes” for “articles” wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 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.

§ 5754. Restriction on importation of previously exported tobacco products

(a) Export-labeled tobacco products

(1) In general

Tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation under this chapter—

(A) may be transferred to or removed from the premises of a manufacturer or an export warehouse proprietor only if such articles are being transferred or removed without tax in accordance with section 5704;

(B) may be imported or brought into the United States, after their exportation, only if such articles either are eligible to be released from customs custody with the partial duty exemption provided in section 5704(d) or are returned to the original manufacturer of such article as provided in section 5704(c); and

(C) may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label.

(2) Alterations by persons other than original manufacturer

This section shall apply to articles labeled for export even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original manufacturer so as to remove or conceal or attempt to remove or conceal (including by the placement of a sticker over) any export label.

(3) Exports include shipments to Puerto Rico

For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

(b) Export label

For purposes of this section, an article is labeled for export or contains an export label if it bears the mark, label, or notice required under section 5704(b).

(c) Cross references

(1) For exception to this section for personal use, see section 5761(d).

(2) For civil penalties related to violations of this section, see section 5761(c).

(3) **For a criminal penalty applicable to any violation of this section, see section 5762(b).**

(4) **For forfeiture provisions related to violations of this section, see section 5761(c).**

(Added Pub. L. 105-33, title IX, §9302(h)(1)(E)(i), Aug. 5, 1997, 111 Stat. 673; amended Pub. L. 106-476, title IV, §4002(a), Nov. 9, 2000, 114 Stat. 2176; Pub. L. 109-432, div. C, title IV, §401(f)(2)(B), Dec. 20, 2006, 120 Stat. 3050.)

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109-432 substituted “5761(d)” for “5761(c)”.

2000—Pub. L. 106-476 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

“(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

“(b) CROSS REFERENCE.—

“**For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).**”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109-432, set out as a note under section 1681 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-476 effective 90 days after Nov. 9, 2000, see section 4002(d) of Pub. L. 106-476, set out as a note under section 5704 of this title.

EFFECTIVE DATE

Section applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 5701 of this title.

Subchapter G—Penalties and Forfeitures

Sec.	
5761.	Civil penalties.
5762.	Criminal penalties.
5763.	Forfeitures.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449, redesignated subchapter F as G.

1965—Pub. L. 89-44, title V, §502(b)(7), June 21, 1965, 79 Stat. 151, redesignated subchapter G as F. Former subchapter F redesignated E.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1425, substituted “Penalties and Forfeitures” for “Fines, Penalties, and Forfeitures” in subchapter heading.

§ 5761. Civil penalties

(a) Omitting things required or doing things forbidden

Whoever willfully omits, neglects, or refuses to comply with any duty imposed upon him by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall in addition to any other penalty provided in this

title, be liable to a penalty of \$1,000, to be recovered, with costs of suit, in a civil action, except where a penalty under subsection (b) or (c) or under section 6651 or 6653 or part II of subchapter A of chapter 68 may be collected from such person by assessment.

(b) Failure to pay tax

Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or regulations, shall, in addition to any other penalty provided in this title, be liable to a penalty of 5 percent of the tax due but unpaid.

(c) Sale of tobacco products and cigarette papers and tubes for export

Except as provided in subsections (b) and (d) of section 5704—

(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of \$1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States and destroyed. All vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States. This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity.

(d) Personal use quantities

(1) In general

No quantity of tobacco products other than the quantity referred to in paragraph (2) may be relanded or received as a personal use quantity.

(2) Exception for personal use quantity

Subsection (c) and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under subsection (c).

(3) Special rule for delivery sales

(A) In general

Paragraph (2) shall not apply to any tobacco product sold in connection with a delivery sale.

(B) Delivery sale

For purposes of subparagraph (A), the term “delivery sale” means any sale of a tobacco product to a consumer if—

(i) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made, or

(ii) the tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the tobacco product.

(e) Applicability of section 6665

The penalties imposed by subsections (b) and (c) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(f) Cross references

For penalty for failure to make deposits or for overstatement of deposits, see section 6656.

(Aug. 16, 1954, ch. 736, 68A Stat. 717; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1425; Pub. L. 97-34, title VII, §§ 722(a)(3), 724(b)(5), Aug. 13, 1981, 95 Stat. 342, 345; Pub. L. 97-448, title I, § 107(b), Jan. 12, 1983, 96 Stat. 2391; Pub. L. 98-369, div. A, title VII, § 714(h)(2), July 18, 1984, 98 Stat. 962; Pub. L. 101-239, title VII, § 7721(c)(4), (5), Dec. 19, 1989, 103 Stat. 2399; Pub. L. 105-33, title IX, § 9302(h)(1)(B)-(D), Aug. 5, 1997, 111 Stat. 673; Pub. L. 106-476, title IV, §§ 4002(c), 4003(a), Nov. 9, 2000, 114 Stat. 2177; Pub. L. 106-554, § 1(a)(7) [title III, § 315(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-644; Pub. L. 109-432, div. C, title IV, § 401(f)(1), (2)(A), Dec. 20, 2006, 120 Stat. 3049, 3050.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsections (c) and (d)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-432, § 401(f)(2)(A), struck out at end “This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under this subsection. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity.”

Subsecs. (d) to (f). Pub. L. 109-432, § 401(f)(1), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

2000—Subsec. (c). Pub. L. 106-554 inserted at end “This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under this subsection. No quantity of tobacco products other than the

quantity referred to in the preceding sentence may be relanded or received as a personal use quantity.”

Pub. L. 106-476, § 4003(a), inserted at end “This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity.”

Pub. L. 106-476, § 4002(c), which directed amendment of the last sentence of subsec. (c) by substituting “the jurisdiction of the United States shall be forfeited to the United States and destroyed. All vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.” for “the jurisdiction of the United States” and all that followed through the end period, was executed by making the substitution for “the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.” in the second sentence of subsec. (c) to reflect the probable intent of Congress and the intervening retroactive amendments by Pub. L. 106-476, § 4003(a), and Pub. L. 106-554. See above.

1997—Subsec. (a). Pub. L. 105-33, § 9302(h)(1)(C), substituted “subsection (b) or (c)” for “subsection (b)”.

Subsec. (c). Pub. L. 105-33, § 9302(h)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-33, § 9302(h)(1)(D), substituted “The penalties imposed by subsections (b) and (c)” for “The penalty imposed by subsection (b)”.

Pub. L. 105-33, § 9302(h)(1)(B), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 105-33, § 9302(h)(1)(B), redesignated subsec. (d) as (e).

1989—Subsec. (a). Pub. L. 101-239, § 7721(c)(4), inserted “or part II of subchapter A of chapter 68” after “or 6653”.

Subsec. (c). Pub. L. 101-239, § 7721(c)(5), substituted “6665” for “6662” in heading and “6665(a)” for “6662(a)” in text.

1984—Subsec. (c). Pub. L. 98-369 substituted “section 6662” for “section 6660” in heading and “section 6662(a)” for “section 6660(a)” in text.

1983—Subsec. (c). Pub. L. 97-448 substituted “section 6660” for “section 6659” in heading, and substituted “section 6660(a)” for “section 6659(a)” in text.

1981—Subsec. (c). Pub. L. 97-34, § 724(b)(5), added subsec. (c). Former subsec. (c), which related to applicability of section 6656 to failure to make deposit of taxes imposed under subchapter A on the prescribed date and imposition of penalty, was struck out.

Subsec. (d). Pub. L. 97-34, § 722(a)(3), 724(b)(5), added subsec. (d). Former subsec. (d), which related to applicability of section 6660 and penalties imposed by subsections (b) and (c) to be assessed, collected, and paid in the manner as taxes provided in section 6660(a), was struck out. See subsec. (c).

1958—Subsec. (a). Pub. L. 85-859 struck out reference to section 6652 of this title.

Subsec. (b). Pub. L. 85-859 substituted provisions relating to failure to pay tax for provisions which made persons willfully failing to pay a tax liable, in addition to any other penalty provided in this title, to a penalty of the amount of the tax evaded, or not paid.

Subsec. (c). Pub. L. 85-859 substituted provisions relating to failure to make deposit of taxes for provisions which authorized a penalty of 5 percent of the tax due but unpaid where a person failed to pay tax at the time prescribed, and required the penalties to be added to the tax and assessed and collected at the same time, in the same manner, and as a part of the tax.

Subsec. (d). Pub. L. 85-859 added subsec. (d). Similar provisions were formerly contained in subsec. (c) of this section.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109-432, set out as a note under section 1681 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106-554 effective as if included in section 9302 of the Balanced Budget Act of 1997, Pub. L. 105-33, see section 1(a)(7) [title III, §315(b)] of Pub. L. 106-554, set out as a note under section 5702 of this title.

Amendment by section 4002 of Pub. L. 106-476 effective 90 days after Nov. 9, 2000, see section 4002(d) of Pub. L. 106-476, set out as a note under section 5704 of this title.

Pub. L. 106-476, title IV, §4003(b), Nov. 9, 2000, 114 Stat. 2178, provided that: "The amendment made by this section [amending this section] shall take effect as if included in section 9302 of the Balanced Budget Act of 1997 [Pub. L. 105-33]."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

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 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 722(a)(3) of Pub. L. 97-34 applicable to returns filed after Dec. 31, 1981, see section 722(a)(4) of Pub. L. 97-34, set out as a note under section 5684 of this title.

Amendment by section 724(b)(5) of Pub. L. 97-34 applicable to returns filed after Aug. 13, 1981, see section 724(c) of Pub. L. 97-34, set out as a note under section 6656 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.

§ 5762. Criminal penalties**(a) Fraudulent offenses**

Whoever, with intent to defraud the United States—

(1) Engaging in business unlawfully

Engages in business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or as an export warehouse proprietor, without filing the bond and obtaining

the permit where required by this chapter or regulations thereunder; or

(2) Failing to furnish information or furnishing false information

Fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter or regulations thereunder; or

(3) Refusing to pay or evading tax

Refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or

(4) Removing tobacco products or cigarette papers or tubes unlawfully

Removes, contrary to this chapter or regulations thereunder, any tobacco products or cigarette papers or tubes subject to tax under this chapter; or

(5) Purchasing, receiving, possessing, or selling tobacco products or cigarette papers or tubes unlawfully

Violates any provision of section 5751(a)(1) or (a)(2); or

(6) Destroying, obliterating, or detaching marks, labels, or notices before packages are emptied

Violates any provision of section 5752;

shall, for each such offense, be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(b) Other offenses

Whoever, otherwise than as provided in subsection (a), violates any provision of this chapter, or of regulations prescribed thereunder, shall, for each such offense, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 717; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1425; Pub. L. 89-44, title V, §502(b)(12), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, §1905(b)(7)(B)(ii), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674.)

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-33 inserted "or importer" after "manufacturer".

1976—Subsec. (a)(6). Pub. L. 94-455 redesignated par. (7) as (6), and in par. (6) as so redesignated substituted "or notices" for "notices, or stamps" and "section 5752;" for "section 5752(a); or". Former par. (6), relating to the affixing of improper stamps, was struck out.

Subsec. (a)(7). Pub. L. 94-455 redesignated par. (7) as (6).

Subsec. (a)(8) to (11). Pub. L. 94-455 struck out pars. (8) to (11) which related to emptying packages without destroying stamps, possessing emptied packages bearing stamps, refilling packages bearing stamps, and detaching stamps or possessing used stamps.

1965—Subsec. (a)(1). Pub. L. 89-44, §502(b)(12)(A), struck out reference to a dealer in tobacco materials.

Subsec. (a)(2). Pub. L. 89-44, §502(b)(12)(B), struck out reference to statements.

1958—Subsec. (a). Pub. L. 85-859 included export warehouse proprietors in par. (1), struck out provisions in pars. (6) and (9) to (11) which related to labels and notices, and added pars. (7) and (8).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 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.

§ 5763. Forfeitures**(a) Tobacco products and cigarette papers and tubes unlawfully possessed****(1) Tobacco products and cigarette papers and tubes possessed with intent to defraud**

All tobacco products and cigarette papers and tubes which, after removal, are possessed with intent to defraud the United States shall be forfeited to the United States.

(2) Tobacco products and cigarette papers and tubes not property packaged

All tobacco products and cigarette papers and tubes not in packages as required under section 5723 or which are in packages not bearing the marks, labels, and notices, as required under such section, which, after removal, are possessed otherwise than with intent to defraud the United States, shall be forfeited to the United States. This paragraph shall not apply to tobacco products or cigarette papers or tubes sold or delivered directly to consumers from proper packages.

(b) Personal property of qualified manufacturers, qualified importers, and export warehouse proprietors, acting with intent to defraud

All tobacco products and cigarette papers and tubes, packages, machinery, fixtures, equipment, and all other materials and personal property on the premises of any qualified manufacturer or importer of tobacco products or cigarette papers and tubes, or export warehouse proprietor, who, with intent to defraud the United States, fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter; or refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or removes, contrary to any provision of this chapter, any article subject to tax under this chapter, shall be forfeited to the United States.

(c) Real and personal property of illicit operators

All tobacco products, cigarette papers and tubes, machinery, fixtures, equipment, and

other materials and personal property on the premises of any person engaged in business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or export warehouse proprietor, without filing the bond or obtaining the permit, as required by this chapter, together with all his right, title, and interest in the building in which such business is conducted, and the lot or tract of ground on which the building is located, shall be forfeited to the United States.

(d) General

All property intended for use in violating the provisions of this chapter, or regulations thereunder, or which has been so used, shall be forfeited to the United States as provided in section 7302.

(Aug. 16, 1954, ch. 736, 68A Stat. 718; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1426; Pub. L. 89-44, title V, § 502(b)(13), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, § 1905(b)(7)(C), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 105-33, title IX, § 9302(h)(2)(A), (B), Aug. 5, 1997, 111 Stat. 674.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-33 inserted “qualified importers,” after “manufacturers,” in heading and “or importer” after “manufacturer” in text.

Subsec. (c). Pub. L. 105-33, § 9302(h)(2)(A), inserted “or importer” after “manufacturer”.

1976—Subsec. (a)(2). Pub. L. 94-455, § 1905(b)(7)(C)(i), substituted “and notices” for “notices, and stamps”.

Subsec. (b). Pub. L. 94-455, § 1905(b)(7)(C)(ii), struck out “internal revenue stamps,” after “packages.”

1965—Subsec. (b). Pub. L. 89-44, § 502(b)(13)(A), struck out references to tobacco materials, dealers in tobacco materials, and statements.

Subsec. (c). Pub. L. 89-44, § 502(b)(13)(B), struck out references to tobacco materials and dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes” for “articles” wherever appearing and inserted provisions making par. (2) inapplicable to tobacco products or cigarette papers for tubes delivered directly to consumers from proper packages.

Subsecs. (b), (c). Pub. L. 85-859 included property of export warehouse proprietors.

Subsec. (d). Pub. L. 85-859 included property intended for use, or used, in violating regulations under this chapter.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after Jan. 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on 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.

CHAPTER 53—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Subchapter	Sec. ¹
A. Taxes	5801
B. General provisions and exemptions	5841
C. Prohibited acts	5861
D. Penalties and forfeitures	5871

PRIOR PROVISIONS

A prior chapter 53, act Aug. 16, 1954, ch. 736, 68A Stat. 721, was generally revised by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227. The analysis reflects changes:

“Machine Guns, Destructive Devices, and Certain Other Firearms” for “Machine Guns and Certain Other Firearms” in the chapter heading;

“General provisions and exemptions” for “General provisions” in subchapter B;

“Prohibited acts” for “Unlawful acts” in subchapter C.

Subchapter A—Taxes

Part	
I.	Special (occupational) taxes.
II.	Tax on transferring firearms.
III.	Tax on making firearms.

PRIOR PROVISIONS

A prior subchapter A consisted of parts I to IV, prior to the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227.

PART I—SPECIAL (OCCUPATIONAL) TAXES

Sec.	
5801.	Imposition of tax.
5802.	Registration of importers, manufacturers, and dealers.

PRIOR PROVISIONS

A prior part I, act Aug. 16, 1964, ch. 736, 68A Stat. 721, and amended thereafter, consisted of sections 5801 to 5803, prior to the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228.

AMENDMENTS

1987—Pub. L. 100-203, title X, § 10512(g)(2), Dec. 22, 1987, 101 Stat. 1330-450, substituted “Imposition of tax” for “Tax” in item 5801.

§ 5801. Imposition of tax

(a) General rule

On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- (1) Importers and manufacturers: \$1,000 a year or fraction thereof.
- (2) Dealers: \$500 a year or fraction thereof.

(b) Reduced rates of tax for small importers and manufacturers

(1) In general

Paragraph (1) of subsection (a) shall be applied by substituting “\$500” for “\$1,000” with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

¹ Section numbers editorially supplied.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 100-203, title X, § 10512(g)(1), Dec. 22, 1987, 101 Stat. 1330-449.)

PRIOR PROVISIONS

A prior section 5801, acts Aug. 16, 1954, ch. 736, 68A Stat. 721; Sept. 2, 1958, Pub. L. 85-859, title II, § 203(a), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, § 1, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1987—Pub. L. 100-203 substituted “Imposition of tax” for “Tax” in section catchline and amended text generally. Prior to amendment, text read as follows: “On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

“(1) Importers.—\$500 a year or fraction thereof;

“(2) Manufacturers.—\$500 a year or fraction thereof;

“(3) Dealers.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as ‘any other weapon’ under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as a note under section 5111 of this title.

EFFECTIVE DATE

Pub. L. 90-618, title II, § 207, Oct. 22, 1968, 82 Stat. 1235, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Section 201 of this title [enacting this chapter] shall take effect on the first day of the first month following the month in which it is enacted [October 1968].

“(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act [see subsec. (a) of this section]. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1986 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

“(c) The amendments made by sections 202 through 206 of this title [amending sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as a note under this sec-

tion] shall take effect on the date of enactment [Oct. 22, 1968].

“(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such period of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title [adding this chapter, and sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as notes under this section].”

§ 5802. Registration of importers, manufacturers, and dealers

On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary of the application.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103-322, title XI, §110301(b), Sept. 13, 1994, 108 Stat. 2012.)

PRIOR PROVISIONS

A prior section 5802, act Aug. 16, 1954, ch. 736, 68A Stat. 721, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5803, act Aug. 16, 1954, ch. 736, 68A Stat. 722, made a cross reference to section 5812 exempting certain transfers, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1994—Pub. L. 103-322 inserted after first sentence “An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.”

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

PART II—TAX ON TRANSFERRING FIREARMS

Sec.	
5811.	Transfer tax.
5812.	Transfers.

PRIOR PROVISIONS

A prior part II consisted of sections 5811 to 5814, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5811. Transfer tax

(a) Rate

There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for

each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

(b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the transferor.

(c) Payment

The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5811, acts Aug. 16, 1954, ch. 736, 68A Stat. 722; Sept. 2, 1958, Pub. L. 85-859, title II, §203(b), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §2, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5812. Transfers

(a) Application

A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; and (6) the application form shows that the Secretary has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

(b) Transfer of possession

The transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5812, act Aug. 16, 1954, ch. 736, 68A Stat. 722, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5813, act Aug. 16, 1954, ch. 736, 68A Stat. 723, related to the affixing of the required stamps to the order form for the firearm, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5814, acts Aug. 16, 1954, ch. 736, 68A Stat. 723; Sept. 2, 1958, Pub. L. 85-859, title II, §203(c), 72 Stat. 1427, related to the order forms required for the transfer of a firearm, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

PART III—TAX ON MAKING FIREARMS

Sec.

5821. Making tax.

5822. Making.

PRIOR PROVISIONS

A prior part III consisted of section 5821, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

A prior part IV consisted of section 5831, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5821. Making tax

(a) Rate

There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

(b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

(c) Payment

The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5821, acts Aug. 16, 1954, ch. 736, 68A Stat. 724; Sept. 2, 1958, Pub. L. 85-859, title II, §203(d), 72 Stat. 1427, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5822. Making

No person shall make a firearm unless he has (a) filed with the Secretary a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application

form in such manner as the Secretary may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5831, act Aug. 16, 1954, ch. 736, 68A Stat. 724, made a cross reference to section 4181 of this title relating to an excise tax on pistols, revolvers, and firearms, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

AMENDMENTS

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

Subchapter B—General Provisions and Exemptions

Part

I. General provisions.

II. Exemptions.

PRIOR PROVISIONS

A prior subchapter B consisted of sections 5841 to 5848, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

PART I—GENERAL PROVISIONS

Sec.

5841. Registration of firearms.

5842. Identification of firearms.

5843. Records and returns.

5844. Importation.

5845. Definitions.

5846. Other laws applicable.

5847. Effect on other law.¹

5848. Restrictive use of information.

5849. Citation of chapter.

§ 5841. Registration of firearms

(a) Central registry

The Secretary shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

- (1) identification of the firearm;
- (2) date of registration; and
- (3) identification and address of person entitled to possession of the firearm.

(b) By whom registered

Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

(c) How registered

Each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner

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

as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

(d) Firearms registered on effective date of this Act

A person shown as possessing a firearm by the records maintained by the Secretary pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968¹ shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

(e) Proof of registration

A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary upon request.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1229; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

The National Firearms Act in force prior to the effective date of the National Firearms Act of 1968, referred to in subsec. (d), probably means the National Firearms Act in force prior to the effective date of the National Firearms Act Amendments of 1968, which is act Aug. 16, 1954, ch. 736, 68A Stat. 721, as amended, and which was classified generally to prior chapter 53 (prior § 5801 et seq.) of this title.

The effective date of this Act and the effective date of the National Firearms Act of 1968, referred to in subsec. (d) catchline and text, probably means the effective date of the National Firearms Act Amendments of 1968, which is Nov. 1, 1968. See section 207(a) of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

PRIOR PROVISIONS

A prior section 5841, act Aug. 16, 1954, ch. 736, 68A Stat. 725, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (a), (c) to (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5842. Identification of firearms

(a) Identification of firearms other than destructive devices

Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which

may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary may by regulations prescribe.

(b) Firearms without serial number

Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the Secretary may by regulations prescribe.

(c) Identification of destructive device

Any firearm classified as a destructive device shall be identified in such manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5842, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to books, records, and returns, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5843, act Aug. 16, 1954, ch. 736, 68A Stat. 725, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, § 203(e), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

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

§ 5843. Records and returns

Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5843, act Aug. 16, 1954, ch. 736, 68A Stat. 725, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, § 203(e), 72 Stat. 1427, related to identification of firearms prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5842, act Aug. 16, 1954, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

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

§ 5844. Importation

No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary, that the firearm to be imported or brought in is—

(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or

¹ So in original. See References in Text notes below.

any State or possession or any political subdivision thereof; or

(2) being imported or brought in for scientific or research purposes; or

(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5844, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to exportation, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5845, act Aug. 16, 1954, ch. 736, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

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

§ 5845. Definitions

For the purpose of this chapter—

(a) Firearm

The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term “firearm” shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.

(b) Machinegun

The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) Rifle

The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be

fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) Shotgun

The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) Any other weapon

The term “any other weapon” means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) Destructive device

The term “destructive device” means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) Antique firearm

The term “antique firearm” means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) Unserviceable firearm

The term “unserviceable firearm” means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) Make

The term “make”, and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) Transfer

The term “transfer” and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) Dealer

The term “dealer” means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) Importer

The term “importer” means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) Manufacturer

The term “manufacturer” means any person who is engaged in the business of manufacturing firearms.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), (J), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 99-308, §109, May 19, 1986, 100 Stat. 460.)

PRIOR PROVISIONS

A prior section 5845, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to the importation of firearms into the United States or its territory, prior to the general revisions of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5848, act Aug. 16, 1954, ch. 736, 68A Stat. 727, as amended by acts Sept. 2, 1958, Pub. L. 85-859, title II, §203(f), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §3, 74 Stat. 149, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1986—Subsec. (a)(7). Pub. L. 99-308, §109(b), substituted “any silencer (as defined in section 921 of title 18, United States Code)” for “a muffler or a silencer for any firearm whether or not such firearm is included within this definition”.

Subsec. (b). Pub. L. 99-308, §109(a), substituted “any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun,” for “any combination of parts designed and intended for use in converting a weapon into a machinegun.”.

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

Subsec. (f). Pub. L. 94-455, §1906(b)(13)(A), (J), struck out “or his delegate” after “shotgun or shotgun shell which the Secretary” and “of the Treasury or his delegate” after “or any other device which the Secretary”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, except as to persons possessing firearms as defined in subsec. (a) of this section which are not registered to such persons in the National Firearms Registration and Transfer Record, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5846. Other laws applicable

All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232.)

PRIOR PROVISIONS

A prior section 5846, act Aug. 16, 1954, ch. 736, 68A Stat. 726, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

§ 5847. Effect on other laws

Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232.)

REFERENCES IN TEXT

Section 414 of the Mutual Security Act of 1954, as amended, referred to in text, was classified to section 1934 of Title 22, Foreign Relations and Intercourse, and was repealed by section 212(b)(1) of Pub. L. 94-329, title II, 90 Stat. 745. Section 212(b)(1) of Pub. L. 94-329, also provided that any reference to section 414 of the Mutual Security Act of 1954 shall be deemed to be a reference to section 38 of the Arms Export Control Act. Section 38 of the Arms Export Control Act is classified to section 2778 of Title 22.

PRIOR PROVISIONS

A prior section 5847, act Aug. 16, 1954, ch. 736, 68A Stat. 726, related to regulations which the Secretary or his delegate may prescribe, prior to the general revision of this chapter by Pub. L. 90-618.

§ 5848. Restrictive use of information**(a) General rule**

No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

(b) Furnishing false information

Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1232.)

PRIOR PROVISIONS

A prior section 5848, act Aug. 16, 1954, ch. 736, 68A Stat. 727, as amended by acts Sept. 2, 1958, Pub. L. 85-859, title II, § 203(f), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, § 3, 74 Stat. 149, related to definition of a firearm, machine gun, rifle, shotgun, other weapon, importer, manufacturer, dealer, interstate commerce, transfer and person, prior to the general revision of this chapter by Pub. L. 90-618.

§ 5849. Citation of chapter

This chapter may be cited as the “National Firearms Act” and any reference in any other provision of law to the “National Firearms Act” shall be held to refer to the provisions of this chapter.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1232.)

PRIOR PROVISIONS

A prior section 5849, Pub. L. 85-859, title II, § 203(g)(1), Sept. 2, 1958, 72 Stat. 1427, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

SHORT TITLE

Pub. L. 90-618, title II, § 202, Oct. 22, 1968, 82 Stat. 1235, provided that: “The amendments made by section 201 of this title [enacting this chapter] shall be cited as the ‘National Firearms Act Amendments of 1968’.”

PART II—EXEMPTIONS

Sec.	
5851.	Special (occupational) tax exemption.
5852.	General transfer and making exemption. ¹
5853.	Exemption from transfer and making tax available to certain governmental entities and officials. ¹
5854.	Exportation of firearms exempt from transfer tax.

§ 5851. Special (occupational) tax exemption**(a) Business with United States**

Any person required to pay special (occupational) tax under section 5801 shall be relieved

from payment of that tax if he establishes to the satisfaction of the Secretary that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

(b) Application

The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary an application on such form and containing such information as may by regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary shall entitle the applicant to the exemptions stated on the approved application.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5851, act Aug. 16, 1954, ch. 736, 68A Stat. 728, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, § 203(h)(1), (2), 72 Stat. 1428, related to possessing firearms illegally, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(b) of this title.

Provisions similar to those comprising this section were contained in prior section 5812, act Aug. 16, 1954, ch. 736, 68A Stat. 722, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5852. General transfer and making tax exemption**(a) Transfer**

Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

(b) Making by a person other than a qualified manufacturer

Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

(c) Making by a qualified manufacturer

A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

(d) Transfers between special (occupational) taxpayers

A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be trans-

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

ferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

(e) Unserviceable firearm

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary may by regulations prescribe.

(f) Right to exemption

No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5852, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to removing or changing identification marks, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(g) of this title and section 922(k) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5814, act Aug. 16, 1954, ch. 736, 68A Stat. 723, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(c), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (e), (f). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5853. Transfer and making tax exemption available to certain governmental entities

(a) Transfer

A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) Making

A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(c) Right to exemption

No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5853, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to importing firearms illegally, prior

to the general revision of this chapter by Pub. L. 90-618. See section 5861(k) of this title and section 922(a) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5821, act Aug. 16, 1954, ch. 736, 68A Stat. 724, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(d), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5854. Exportation of firearms exempt from transfer tax

A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5854, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, related to failure to register and pay special tax, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(a), (d) of this title and section 923 of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5844, act Aug. 16, 1954, ch. 736, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, made it unlawful for any person required to comply with the provisions of sections 5814, 5821, and 5841 of this title, to ship, carry or deliver any firearm in interstate commerce if such sections had not been complied with, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

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

Subchapter C—Prohibited Acts

Sec.
5861. Prohibited acts.¹

PRIOR PROVISIONS

A prior subchapter C consisted of sections 5851 to 5854, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5861. Prohibited acts

It shall be unlawful for any person—

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

¹ Editorially supplied. Subchapter added by Pub. L. 90-618 without a subchapter analysis.

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234.)

PRIOR PROVISIONS

A prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to penalties, was omitted in the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising subsecs. (a), (b), (d), (g), (j), and (k) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 90-618, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a)	5854.
(b)	5851.
(d)	5854.
(g)	5852.
(j)	5855.
(k)	5853.

The prior sections 5851 to 5853, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 728.

The prior sections 5854 and 5855, Pub. L. 85-859, title II, § 203(i)(1), Sept. 2, 1958, are set out in 72 Stat. 1428.

A prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to the forfeiture and disposal of any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder, was omitted in the general revision of this chapter by Pub. L. 90-618. The provisions of prior section 5862 of this title are covered by section 5872 of this title.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Subchapter D—Penalties and Forfeitures

Sec.	
5871.	Penalties.
5872.	Forfeitures.

PRIOR PROVISIONS

A prior subchapter D, consisted of sections 5861 and 5862, prior to the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227.

§ 5871. Penalties

Any person who violates or fails to comply with any provision of this chapter shall, upon

conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 98-473, title II, § 227, Oct. 12, 1984, 98 Stat. 2030.)

PRIOR PROVISIONS

A prior section 5871, act Aug. 16, 1954, ch. 736, 68A Stat. 729, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1984—Pub. L. 98-473 struck out “, and shall become eligible for parole as the Board of Parole shall determine” after “or both”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-473, title II, § 235(a)(1)(B)(ii)(IV), Oct. 12, 1984, 98 Stat. 2032, provided that the amendment made by section 227 of Pub. L. 98-473 is effective Oct. 12, 1984.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5872. Forfeitures

(a) Laws applicable

Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) Disposal

In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

(Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1235; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

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

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

CHAPTER 54—GREENMAIL

Sec.
5881. Greenmail.

§ 5881. Greenmail**(a) Imposition of tax**

There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain or other income of such person by reason of such receipt.

(b) Greenmail

For purposes of this section, the term “greenmail” means any consideration transferred by a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation from any shareholder if—

- (1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,
- (2) at some time during the 2-year period ending on the date of such acquisition—
 - (A) such shareholder,
 - (B) any person acting in concert with such shareholder, or
 - (C) any person who is related to such shareholder or person described in subparagraph (B),

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

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

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

(c) Other definitions

For purposes of this section—

(1) Public tender offer

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

(2) Related person

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

(d) Tax applies whether or not amount recognized

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

(e) Administrative provisions

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

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

AMENDMENTS

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

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

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

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

Pub. L. 100-647, title II, §2004(o)(1)(B)(ii), Nov. 10, 1988, 102 Stat. 3608, provided that: “The amendment made by clause (i) [amending this section] shall apply to transactions occurring on or after March 31, 1988.”

EFFECTIVE DATE

Pub. L. 100-203, title X, §10228(d), Dec. 22, 1987, 101 Stat. 1330-418, provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.”

CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Sec.
5891. Structured settlement factoring transactions.

§ 5891. Structured settlement factoring transactions**(a) Imposition of tax**

There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

(b) Exception for certain approved transactions**(1) In general**

The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

(2) Qualified order

For purposes of this section, the term “qualified order” means a final order, judgment, or decree which—

- (A) finds that the transfer described in paragraph (1)—

(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

(B) is issued—

(i) under the authority of an applicable State statute by an applicable State court, or

(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(3) Applicable State statute

For purposes of this section, the term “applicable State statute” means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

(A) the State in which the payee of the structured settlement is domiciled, or

(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

(4) Applicable State court

For purposes of this section—

(A) In general

The term “applicable State court” means, with respect to any applicable State statute, a court of the State which enacted such statute.

(B) Special rule

In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

(5) Qualified order dispositive

A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

(c) Definitions

For purposes of this section—

(1) Structured settlement

The term “structured settlement” means an arrangement—

(A) which is established by—

(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

(B) under which the periodic payments are—

(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

(2) Structured settlement payment rights

The term “structured settlement payment rights” means rights to receive payments under a structured settlement.

(3) Structured settlement factoring transaction

(A) In general

The term “structured settlement factoring transaction” means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

(B) Exception

Such term shall not include—

(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

(4) Factoring discount

The term “factoring discount” means an amount equal to the excess of—

(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

(5) Responsible administrative authority

The term “responsible administrative authority” means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(6) State

The term “State” includes the Commonwealth of Puerto Rico and any possession of the United States.

(d) Coordination with other provisions

(1) In general

If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a

structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

(2) No withholding of tax

The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.

(Added Pub. L. 107-134, title I, §115(a), Jan. 23, 2002, 115 Stat. 2436.)

EFFECTIVE DATE

Pub. L. 107-134, title I, §115(c), Jan. 23, 2002, 115 Stat. 2438, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this chapter] (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act [Jan. 23, 2002].

“(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

“(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

“(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

“(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority); and

“(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee; and

“(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.”

Subtitle F—Procedure and Administration

Chapter	Sec. ¹
61. Information and returns	6001
62. Time and place for paying tax	6151
63. Assessment	6201
64. Collection	6301

¹ Section numbers editorially supplied.

65. Abatements, credits, and refunds	6401
66. Limitations	6501
67. Interest	6601
68. Additions to the tax, additional amounts, and assessable penalties	6651
69. General provisions relating to stamps	6801
70. Jeopardy, receiverships, etc.	6851
71. Transferees and fiduciaries	6901
72. Licensing and registration	7001
73. Bonds	7101
74. Closing agreements and compromises ...	7121
75. Crimes, other offenses, and forfeitures	7201
76. Judicial proceedings	7401
77. Miscellaneous provisions	7501
78. Discovery of liability and enforcement of title	7601
79. Definitions	7701
80. General Rules	7801

AMENDMENTS

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

CHAPTER 61—INFORMATION AND RETURNS

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

Subchapter A—Returns and Records

Part	
I.	Records, statements, and special returns.
II.	Tax returns or statements.
III.	Information returns.
IV.	Signing and verifying of returns and other documents.
V.	Time for filing returns and other documents.
VI.	Extension of time for filing returns.
VII.	Place for filing returns or other documents.
VIII.	Designation of income tax payments to Presidential Election Campaign Fund.

AMENDMENTS

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

PART I—RECORDS, STATEMENTS, AND SPECIAL RETURNS

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

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

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

¹ Section numbers editorially supplied.

and copies of statements furnished by employees under section 6053(a).

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1982 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, §501(c), Nov. 6, 1978, 92 Stat. 2878, provided that: “The amendments made by this section [amending this section and section 6041 of this title] shall apply to payments made after December 31, 1978.”

PART II—TAX RETURNS OR STATEMENTS

Subpart

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

AMENDMENTS

2010—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)(B), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(b)(5)(B), June 7, 2001, 115 Stat. 84, substituted “Returns relating to transfers during life or at death” for “Estate and gift tax returns” in item for subpart C.

SUBPART A—GENERAL REQUIREMENT

Sec.

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

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

(a) General rule

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

(b) Identification of taxpayer

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

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

(1) Records and information

A DISC, former DISC, or former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000) shall for the taxable year—

- (A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and
- (B) keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

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

(d) Authority to require information concerning section 912 allowances

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

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

(1) In general

The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. Except as provided in paragraph (3), the Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) Requirements of regulations

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

- (A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and
- (B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

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

(3) Special rule for tax return preparers

(A) In general

The Secretary shall require that any individual income tax return prepared by a tax return preparer be filed on magnetic media if—

- (i) such return is filed by such tax return preparer, and
- (ii) such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.

(B) Specified tax return preparer

For purposes of this paragraph, the term “specified tax return preparer” means, with

respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year.

(C) Individual income tax return

For purposes of this paragraph, the term “individual income tax return” means any return of the tax imposed by subtitle A on individuals, estates, or trusts.

(4) Special rule for returns filed by financial institutions with respect to withholding on foreign transfers

The numerical limitation under paragraph (2)(A) shall not apply to any return filed by a financial institution (as defined in section 1471(d)(5)) with respect to tax for which such institution is made liable under section 1461 or 1474(a).

(f) Promotion of electronic filing

(1) In general

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

(2) Incentives

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

(g) Disclosure of reportable transaction to tax-exempt entity

Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.

(h) Income, estate, and gift taxes

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

(Aug. 16, 1954, ch. 736, 68A Stat. 732; Pub. L. 85-859, title I, §161, Sept. 2, 1958, 72 Stat. 1305; Pub. L. 88-563, §3(a), Sept. 2, 1964, 78 Stat. 843; Pub. L. 89-44, title I, §101(b)(6), June 21, 1965, 79 Stat. 136; Pub. L. 90-59, §4(b), July 31, 1967, 81 Stat. 154; Pub. L. 91-128, §4 (f), (g), Nov. 26, 1969, 83 Stat. 267; Pub. L. 92-178, title V, §504(a), Dec. 10, 1971, 85 Stat. 550; Pub. L. 94-455, title XIX, §§1904(b)(10)(A)(ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1817, 1834; Pub. L. 95-615, §207(c), Nov. 8, 1978, 92 Stat. 3108; Pub. L. 97-248, title III, §319, Sept. 3, 1982, 96 Stat. 610; Pub. L. 98-67, title I, §109(a), Aug. 5, 1983, 97 Stat. 383; Pub. L. 98-369, div. A, title VIII, §801(d)(12), July 18, 1984, 98 Stat. 997; Pub. L. 99-514, title XVIII, §1899A(52), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 100-647, title I, §1015(q)(1), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 101-239, title VII, §7713(a), Dec. 19, 1989, 103 Stat. 2394; Pub. L. 105-34, title XII, §1224, Aug. 5, 1997, 111 Stat. 1019; Pub. L. 105-206, title II, §2001(c), July 22, 1998, 112 Stat. 723; Pub. L. 109-222, title V, §516(b)(2), May 17, 2006, 120 Stat. 371; Pub. L. 110-172, §11(g)(19), Dec. 29, 2007, 121 Stat. 2491; Pub. L. 111-92, §17(a), (b), Nov. 6, 2009, 123 Stat. 2996; Pub. L. 111-147, title V, §522(a), Mar. 18,

2010, 124 Stat. 112; Pub. L. 113-295, div. A, title II, §220(t), Dec. 19, 2014, 128 Stat. 4036.)

REFERENCES IN TEXT

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (c)(1), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

AMENDMENTS

2014—Subsec. (e)(3)(A). Pub. L. 113-295 substituted “shall require that” for “shall require than” in introductory provisions.

2010—Subsec. (e)(4). Pub. L. 111-147 added par. (4).

2009—Subsec. (e)(1). Pub. L. 111-92, §17(b), substituted “Except as provided in paragraph (3), the Secretary may not” for “The Secretary may not” in second sentence.

Subsec. (e)(3). Pub. L. 111-92, §17(a), added par. (3).

2007—Subsec. (c). Pub. L. 110-172, §11(g)(19)(B), struck out “and FSC’s” after “former DISCS” in heading.

Subsec. (c)(1). Pub. L. 110-172, §11(g)(19)(A), in introductory provisions, substituted “, former DISC, or former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)” for “or former DISC or a FSC or former FSC”.

2006—Subsecs. (g), (h). Pub. L. 109-222 added subsec. (g) and redesignated former subsec. (g) as (h).

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

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

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

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

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

1984—Subsec. (c). Pub. L. 98-369 inserted “and FSC’s and former FSC’s” in heading and “or a FSC or former FSC” in par. (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §522(c), Mar. 18, 2010, 124 Stat. 113, provided that: "The amendment made by this section [amending this section and section 6724 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 [Mar. 18, 2010]."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §17(c), Nov. 6, 2009, 123 Stat. 2996, provided that: "The amendments made by this section [amending this section] shall apply to returns filed after December 31, 2010."

EFFECTIVE DATE OF 2006 AMENDMENT

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 1997 AMENDMENT

Pub. L. 105-34, title XII, §1226, Aug. 5, 1997, 111 Stat. 1020, as amended by Pub. L. 105-206, title VI, §6012(e), July 22, 1998, 112 Stat. 819, provided that: "The amendments made by this part [part I (§§1221-1226) of subtitle C of title XII of Pub. L. 105-34, enacting part IV of subchapter K of chapter 1 of this title and subchapter D of chapter 63 of this title, and amending this section and sections 6012, 6031, 6724, 7421, 7459, 7482, and 7485 of this title] shall apply to partnership taxable years beginning after December 31, 1997."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7713(b), Dec. 19, 1989, 103 Stat. 2394, provided that: "The amendment made by subsection (a) [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(q)(2), Nov. 10, 1988, 102 Stat. 3572, provided that: "The amendment made by

paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1971 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-128, §4(i)(4), Nov. 26, 1969, 83 Stat. 269, provided that: "The amendments made by this section [amending this section and sections 4912, 4914, 4915, 4919, 4920, and 6680 of this title] shall apply with respect to acquisitions of debt obligations made after the date of the enactment of this Act [Nov. 26, 1969]."

EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90-59, §4(h), July 31, 1967, 81 Stat. 156, provided that: "The amendments made by this section [amending this section and sections 4918, 4920, and 6076 of this title] (other than by subsections (d) and (e)) shall apply with respect to acquisitions of stock and debt obligations made after July 14, 1967. The amendments made by subsections (d) and (e) [amending sections 6681 and 7241 of this title] shall take effect on the date of the enactment of this Act [July 31, 1967]."

EFFECTIVE DATE OF 1965 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-59, §1(a), July 31, 1967, 81 Stat. 145, provided that: "This Act [amending this section and sections 4912, 4914 to 4920, 4931, 6076, 6681, and 7241 of this title] may be cited as the 'Interest Equalization Tax Extension Act of 1967.'"

ELECTRONIC FILING OF TAX AND INFORMATION RETURNS

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

“(a) IN GENERAL.—It is the policy of Congress that—
 “(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns;

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

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

“(b) STRATEGIC PLAN.—

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

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

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

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

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

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

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

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

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

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

Pub. L. 98-67, title I, §109(b), Aug. 5, 1983, 97 Stat. 384, required Secretary of the Treasury, in consultation with Secretary of Health and Human Services, to conduct a study of feasibility of requiring persons to file, on magnetic media, returns under section 6011 of the Internal Revenue Code containing information described in section 6051(a) of such Code (relating to W-2s), and that not later than July 1, 1984, Secretary of the Treasury was to submit to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate results of study.

REPORT ON FORMS

Pub. L. 97-248, title III, §353, Sept. 3, 1982, 96 Stat. 640, required Secretary of the Treasury to study and report to Congress, not later than June 30, 1983, methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed.

STUDY OF SIMPLIFICATION OF TAX RETURNS

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

FIRST RETURN PERIOD FOR INTEREST EQUALIZATION TAX RETURNS

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

Pub. L. 88-563, §3(e), Sept. 2, 1964, 78 Stat. 845, provided that the first period for which returns were to be made under subsec. (d)(1) of this section was the period commencing July 19, 1963, and ending at the close of the calendar quarter in which the enactment of Pub. L. 88-563 [Sept. 2, 1964] occurred.

SUBPART B—INCOME TAX RETURNS

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

AMENDMENTS

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

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

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

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

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

§ 6012. Persons required to make returns of income

(a) General rule

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) For purposes of this subsection—

(i) The terms “standard deduction”, “basic standard deduction” and “additional stand-

ard deduction” have the respective meanings given such terms by section 63(c).

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

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

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

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

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

(6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year; and¹

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

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

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

(b) Returns made by fiduciaries and receivers

(1) Returns of decedents

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

(2) Persons under a disability

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

(3) Receivers, trustees and assignees for corporations

In a case where a receiver, trustee in a case under title 11 of the United States Code, or as-

¹ So in original.

² See References in Text note below.

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

(4) Returns of estates and trusts

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

(5) Joint fiduciaries

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

(6) IRA share of partnership income

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

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

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

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

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

(e) Consolidated returns

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

(f) Special rule for taxable years 2018 through 2025

In the case of a taxable year beginning after December 31, 2017, and before January 1, 2026, subsection (a)(1) shall not apply, and every individual who has gross income for the taxable year shall be required to make returns with respect to income taxes under subtitle A, except that a return shall not be required of—

(1) an individual who is not married (determined by applying section 7703) and who has

gross income for the taxable year which does not exceed the standard deduction applicable to such individual for such taxable year under section 63, or

(2) an individual entitled to make a joint return if—

(A) the gross income of such individual, when combined with the gross income of such individual's spouse, for the taxable year does not exceed the standard deduction which would be applicable to the taxpayer for such taxable year under section 63 if such individual and such individual's spouse made a joint return,

(B) such individual and such individual's spouse have the same household as their home at the close of the taxable year,

(C) such individual's spouse does not make a separate return, and

(D) neither such individual nor such individual's spouse is an individual described in section 63(c)(5) who has income (other than earned income) in excess of the amount in effect under section 63(c)(5)(A).

(Aug. 16, 1954, ch. 736, 68A Stat. 732; Pub. L. 85-866, title I, §72(a), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 88-272, title II, §206(b)(1), Feb. 26, 1964, 78 Stat. 40; Pub. L. 91-172, title IX, §941(a), (d), Dec. 30, 1969, 83 Stat. 726; Pub. L. 92-178, title II, §204(a), Dec. 10, 1971, 85 Stat. 511; Pub. L. 93-443, title IV, §407, Oct. 15, 1974, 88 Stat. 1297; Pub. L. 93-625, §10(b), Jan. 3, 1975, 88 Stat. 2119; Pub. L. 94-12, title II, §201(b), Mar. 29, 1975, 89 Stat. 29; Pub. L. 94-164, §2(a)(2), Dec. 23, 1975, 89 Stat. 970; Pub. L. 94-455, title IV, §401(b)(3), title XIX, §1906(b)(13)(A), title XXI, §2101(c), Oct. 4, 1976, 90 Stat. 1556, 1834, 1899; Pub. L. 95-30, title I, §104, May 23, 1977, 91 Stat. 139; Pub. L. 95-600, title I, §§101(c), 102(b)(1), 105(d), title IV, §404(c)(8), Nov. 6, 1978, 92 Stat. 2770, 2771, 2776, 2870; Pub. L. 95-615, §202(g)(5), formerly §202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered §202(g)(5), Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 96-589, §§3(b), 6(i)(5), Dec. 24, 1980, 94 Stat. 3400, 3410; Pub. L. 97-34, title I, §§104(d)(1), 111(b)(3), Aug. 13, 1981, 95 Stat. 189, 194; Pub. L. 98-369, div. A, title IV, §412(b)(3), July 18, 1984, 98 Stat. 792; Pub. L. 99-514, title I, §104(a)(1), title XV, §1525(a), Oct. 22, 1986, 100 Stat. 2103, 2749; Pub. L. 100-647, title I, §1001(b)(2), Nov. 10, 1988, 102 Stat. 3349; Pub. L. 105-34, title III, §312(d)(11), title XII, §1225, Aug. 5, 1997, 111 Stat. 840, 1019; Pub. L. 106-230, §3(a)(1), July 1, 2000, 114 Stat. 482; Pub. L. 107-276, §3(a), Nov. 2, 2002, 116 Stat. 1931; Pub. L. 111-226, title II, §219(b)(1), Aug. 10, 2010, 124 Stat. 2403; Pub. L. 115-97, title I, §11041(e), Dec. 22, 2017, 131 Stat. 2085.)

REFERENCES IN TEXT

Section 63(c)(2)(D), referred to in subsec. (a)(8), was repealed by Pub. L. 107-16, title III, §301(a)(4), June 7, 2001, 115 Stat. 53. Subsequently, section 63(c)(2)(C) was redesignated as section 63(c)(2)(D) by Pub. L. 107-147, title IV, §411(e)(1)(C), Mar. 9, 2002, 116 Stat. 46.

AMENDMENTS

2017—Subsec. (f). Pub. L. 115-97 added subsec. (f).

2010—Subsec. (a)(8), (9). Pub. L. 111-226 redesignated par. (9) as (8) and struck out former par. (8) which read as follows: "Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit)."

2002—Subsec. (a)(6). Pub. L. 107-276 struck out “or which has gross receipts of \$25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section)” after “(within the meaning of section 527(c)(1)) for the taxable year”.

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

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

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

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

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

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

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

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

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

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

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

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

“(i) a nonresident alien individual;

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

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

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

“(v) an estate or trust.

“(D) For purposes of this paragraph—

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

“(ii) The term ‘exemption amount’ has the meaning given to such term by section 151(f).”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pub. L. 94-12 substituted “(determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income

of less than \$2,350” for “determined by applying section 143(a) and for the taxable year has a gross income of less than \$2,050, or” in cl. (i), added cl. (ii), redesignated existing cl. (ii) as (iii), in cl. (iii) as so redesignated substituted “\$3,400” for “\$2,800”, and in provisions following cl. (iii) substituted “Clause (iii)” for “Clause (ii)”.

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11041(f)(1) of Pub. L. 115-97, set out as a note under section 151 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-226 applicable to taxable years beginning after Dec. 31, 2010, see section 219(c) of Pub. L. 111-226, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-276, §3(d), Nov. 2, 2002, 116 Stat. 1932, provided that: “The amendments made by this section [amending this section and sections 6033 and 6104 of this title] shall take effect as if included in the amendments made by Public Law 106-230.”

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

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

Amendment by section 1225 of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec.

31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

Pub. L. 99-514, title XV, §1525(b), Oct. 22, 1986, 100 Stat. 2749, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

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

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

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

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 401(b)(3) of Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, see

section 401(e) of Pub. L. 94-455, set out as a note under section 32 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975
AMENDMENTS

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

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

EFFECTIVE DATE OF 1974 AMENDMENTS

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

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1971, see section 410(c)(2) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title II, § 204(a), Dec. 10, 1971, 85 Stat. 511, provided that the amendment made by section 204(a) is effective with respect to taxable years beginning after Dec. 31, 1971.

EFFECTIVE DATE OF 1969 AMENDMENT

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

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

EFFECTIVE DATE OF 1964 AMENDMENT

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

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, § 72(c), Sept. 2, 1958, 72 Stat. 1660, provided that: “The amendments [amending this section and section 911 of this title] made by this section shall apply to taxable years beginning after December 31, 1957.”

RETURN-FREE TAX SYSTEM

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

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

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

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

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

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

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

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

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

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

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

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

Pub. L. 93-625, § 10(f), Jan. 3, 1975, 88 Stat. 2119, provided for exemption from filing requirement for a taxable year beginning after Dec. 31, 1971, and before Jan. 1, 1975, of any section 527(e)(1) organization where income of political organization was \$100 or less.

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

(a) Joint returns

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

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

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

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

(b) Joint return after filing separate return

(1) In general

Except as provided in paragraph (2), if an individual has filed a separate return for a tax-

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

(2) Limitations for making of election

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

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

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

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

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

(3) When return deemed filed

(A) Assessment and collection

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

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

(ii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than the exemption amount of gross in-

come for such taxable year—on the date of the filing of such separate return (but not earlier than the last date prescribed by law for the filing of such separate return); or

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

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

(B) Credit or refund

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

(4) Additional time for assessment

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

(5) Additions to the tax and penalties

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

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

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

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

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

(B) Criminal penalty

For purposes of section 7206(1) and (2) and section 7207 (relating to criminal penalties in the case of fraudulent returns) the term “return” includes a separate return filed by a spouse with respect to a taxable year for which a joint return is made under this subsection after the filing of such separate return.

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

For purposes of sections 15, 443, and 7851(a)(1)(A), where the husband and wife have

different taxable years because of the death of either spouse, the joint return shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year.

(d) Special rules

For purposes of this section—

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

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

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

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

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

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

(f) Joint return where individual is in missing status

For purposes of this section and subtitle A—

(1) Election by spouse

If—

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

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

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

(2) Effect of election

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

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

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

(3) Missing status

For purposes of this subsection—

(A) Uniformed services

A member of a uniformed service (within the meaning of section 101(3) of title 37 of

the United States Code) is in a missing status for any period for which he is entitled to pay and allowances under section 552 of such title 37.

(B) Civilian employees

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

(4) Making of election; revocation

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

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

(1) In general

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

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

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

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

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

(3) Duration of election

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

(4) Termination of election

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

(A) Revocation by taxpayers

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

(B) Death

In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the tax-

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

(C) Legal separation

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

(D) Termination by Secretary

At the time provided in paragraph (5).

(5) Termination by Secretary

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

- (A) to keep such books and records,
- (B) to grant such access to such books and records, or
- (C) to supply such other information,

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

(6) Only one election

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

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

(1) In general

If—

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

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

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

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

(2) Only one election

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

(Aug. 16, 1954, ch. 736, 68A Stat. 733; Pub. L. 85-866, title I, § 73, Sept. 2, 1958, 72 Stat. 1660;

Pub. L. 91-172, title VIII, § 801(a)(2), (b)(2), (c)(2), (d)(2), Dec. 30, 1969, 83 Stat. 675, 676; Pub. L. 91-679, § 1, Jan. 12, 1971, 84 Stat. 2063; Pub. L. 92-178, title II, § 201(a)(2), (b)(2), (c), Dec. 10, 1971, 85 Stat. 510, 511; Pub. L. 93-597, § 3(a), Jan. 2, 1975, 88 Stat. 1950; Pub. L. 94-455, title X, § 1012(a)(1), title XIX, § 1906(a)(1), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1612, 1824, 1834; Pub. L. 94-569, § 3(d), Oct. 20, 1976, 90 Stat. 2699; Pub. L. 95-600, title I, § 102(b)(2), title VII, § 701(u)(15)(A)-(C), (16)(A), Nov. 6, 1978, 92 Stat. 2771, 2919, 2920; Pub. L. 97-34, title I, § 104(d)(2), Aug. 13, 1981, 95 Stat. 189; Pub. L. 97-248, title III, §§ 307(a)(4), (5), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 97-448, title III, § 307(c), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, §§ 424(a), 474(b)(2), July 18, 1984, 98 Stat. 801, 830; Pub. L. 99-514, title I, § 104(a)(2), title XVII, § 1708(a)(3), Oct. 22, 1986, 100 Stat. 2104, 2782; Pub. L. 100-647, title I, § 1015(b)(1), Nov. 10, 1988, 102 Stat. 3568; Pub. L. 101-239, title VII, § 7721(c)(6), Dec. 19, 1989, 103 Stat. 2399; Pub. L. 101-508, title XI, § 11704(a)(22), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 104-168, title IV, § 402(a), July 30, 1996, 110 Stat. 1459; Pub. L. 105-206, title III, § 3201(e)(1), title VI, § 6011(e)(2), July 22, 1998, 112 Stat. 740, 818; Pub. L. 107-134, title I, § 101(b)(2), Jan. 23, 2002, 115 Stat. 2428; Pub. L. 108-121, title I, § 110(a)(2)(B), Nov. 11, 2003, 117 Stat. 1342.)

AMENDMENTS

2003—Subsec. (f)(2)(B). Pub. L. 108-121 inserted “, astronauts,” after “Forces”.

2002—Subsec. (f)(2)(B). Pub. L. 107-134 inserted “and victims of certain terrorist attacks” before “on death”.

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

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

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

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

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

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

1986—Subsec. (b)(3)(A). Pub. L. 99-514, § 104(a)(2), struck out “(twice the exemption amount in case such spouse was 65 or over)” before “for such taxable year” in cls. (ii) and (iii), substituted “section 151(d)” for “section 151(f)” in concluding provisions, and inserted last sentence.

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

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

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

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

Subsec. (f)(1). Pub. L. 97-448 substituted “December 31, 1982” for “January 2, 1978”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1958—Subsec. (b)(2)(C). Pub. L. 85-866 substituted “section 6213” for “such section”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-121 applicable with respect to any astronaut whose death occurs after Dec. 31, 2002, see section 110(a)(4) of Pub. L. 108-121, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to taxable years ending before, on, or after Sept. 11, 2001, with provisions relating to waiver of limitations, see section 101(d) of Pub. L. 107-134, set out as a note under section 692 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

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

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title IV, §402(b), July 30, 1996, 110 Stat. 1459, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of

Pub. L. 101-239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(b)(4), Nov. 10, 1988, 102 Stat. 3569, provided that: "The amendments made by this subsection (other than paragraph (3)) [amending this section and sections 6601 and 6653 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988."

EFFECTIVE DATE OF 1986 AMENDMENT

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

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

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title IV, §424(c), July 18, 1984, 98 Stat. 803, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-647, title VI, §6004, Nov. 10, 1988, 102 Stat. 3685, provided that:

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

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

"(3) TRANSITIONAL RULE.—If—

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

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

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

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

"(E) the marriage between such spouses terminated and immediately after such termination the net worth of the other spouse was less than \$10,000, notwithstanding any law or rule of law (including res judicata), the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement, and, to the extent the liability so attributable has been collected from such other spouse, it shall be refunded or credited to such other spouse. No credit or refund shall be made under the preceding sentence unless claim therefor has been submitted to the Secretary of the Treasury or his delegate before the date 1 year after the date of the enactment of this paragraph [Nov. 10, 1988], and no interest on such credit or refund shall be allowed for any period before such date of enactment."

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

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1984, see section 104(e) of

Pub. L. 97-34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

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

Pub. L. 95-600, title VII, §701(u)(15)(E), Nov. 6, 1978, 92 Stat. 2919, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this paragraph [amending this section and section 6401 of this title]—

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

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

Pub. L. 95-600, title VII, §701(u)(16)(B), Nov. 6, 1978, 92 Stat. 2920, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after December 31, 1975."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title X, §1012(d), Oct. 4, 1976, 90 Stat. 1614, provided that: "The amendments made by subsection (a) [enacting this section and section 871 of this title] shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) [enacting section 879 of this title, amending section 6073 of this title, and repealing section 981 of this title] shall apply to taxable years beginning after December 31, 1976."

Pub. L. 94-455, title XIX, §1906(d), Oct. 4, 1976, 90 Stat. 1835, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

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

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

Pub. L. 94-455, title XXI, §2114(b), Oct. 4, 1976, 90 Stat. 1907, provided that: "The application permitted under the amendment made by subsection (a) of this section [amending section 3 of Pub. L. 91-679, set out as an Effective Date of 1971 Amendment note below] must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 93-597, §3(c), Jan. 2, 1975, 88 Stat. 1952, provided that: "The amendments made by this section [amending this section and section 2 of this title] shall apply to taxable years ending on or after February 28, 1961."

EFFECTIVE DATE OF 1971 AMENDMENTS

Pub. L. 92-178, title II, §201(a), (b), Dec. 10, 1971, 85 Stat. 510, provided in part that the increases in exemptions from \$650 to \$675 and from \$1,300 to \$1,350, respectively, were effective with respect to taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972, and to \$750 and \$1,500, respectively, with respect to taxable years beginning after Dec. 31, 1971.

Pub. L. 91-679, §3, Jan. 12, 1971, 84 Stat. 2064, as amended by Pub. L. 94-455, title XXI, §2114(a), Oct. 4,

1976, 90 Stat. 1907; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by the first two sections of this Act [amending this section and section 6653 of this title] shall apply to all taxable years to which the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies. Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely to a taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1986, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer.”

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title VIII, §801(a)(2), (b)(2), Dec. 30, 1969, 83 Stat. 675, 676, provided in part that the increases in exemptions from \$600 and \$1,200 to \$625 and \$1,250, respectively, were effective with respect to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971; and to \$650 and \$1,300, respectively, with respect to taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972. Pub. L. 91-172, title VIII, §801(c)(2), (d)(2), Dec. 30, 1969, 83 Stat. 676, which provided for increases in exemptions to \$700 and \$1,400, respectively, with respect to taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973, and to \$750 and \$1,500, respectively, with respect to taxable years beginning after Dec. 31, 1972, was repealed by Pub. L. 92-178, title II, §201(c), Dec. 10, 1971, 85 Stat. 511.

EFFECTIVE DATE OF 1958 AMENDMENT

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

SEPARATE NOTICE TO EACH FILER

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

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

(a) Election by taxpayer

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

(b) Regulations

The Secretary shall prescribe regulations for carrying out this section, and such regulations

may provide for the application of the rules of this section—

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

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

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

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

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

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

AMENDMENTS

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

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

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

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

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

Subsec. (b). Pub. L. 94-455, §§501(b)(9), 503(b)(3), 1906(b)(13)(A), struck out an introductory provision, “or his delegate” after “Secretary”, redesignated former par. (5) as (4), and as so redesignated, inserted reference to where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relat-

ing to limitations in case of certain dependent taxpayers). Former par. (4), which related to cases where the taxpayer is entitled to credit provided by section 37 of this title, was struck out.

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

Subsec. (b). Pub. L. 91-172, § 942(a), substituted provisions authorizing the Secretary to promulgate regulations to compute the tax in cases where the gross income is \$10,000 or more, where the gross income from sources other than wages on which the tax has been withheld at the source is more than \$100, where the taxpayer is entitled to a credit under section 37 of this title, or where the taxpayer does not elect the standard deduction, for provisions authorizing the computation of the tax in cases where the gross income is \$5,000 but not more than \$5,200, or where the gross income from sources other than wages on which the tax has been withheld at the source is more than \$100, but not more than \$200.

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

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

Pub. L. 91-172, title IX, § 942(b), Dec. 30, 1969, 83 Stat. 727, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1969.”

EFFECTIVE DATE OF 1964 AMENDMENT

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

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

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

(a) In general

Notwithstanding section 6013(d)(3)—

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

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

joint return in the manner prescribed under subsection (c).

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

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

(1) In general

Under procedures prescribed by the Secretary, if—

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

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

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

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

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

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

(2) Apportionment of relief

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

(3) Understatement

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

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

(1) In general

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

(2) Burden of proof

Except as provided in subparagraph (A)(ii) or (C) of paragraph (3), each individual who elects

the application of this subsection shall have the burden of proof with respect to establishing the portion of any deficiency allocable to such individual.

(3) Election

(A) Individuals eligible to make election

(i) In general

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

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

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

(ii) Certain taxpayers ineligible to elect

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

(B) Time for election

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

(C) Election not valid with respect to certain deficiencies

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

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

(A) In general

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

(B) Disqualified asset

For purposes of this paragraph—

(i) In general

The term “disqualified asset” means any property or right to property transferred

to an individual making the election under this subsection with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) Presumption

(I) In general

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

(II) Exceptions

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

(d) Allocation of deficiency

For purposes of subsection (c)—

(1) In general

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

(2) Separate treatment of certain items

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

(A) the disallowance of a credit; or

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

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

(3) Allocation of items giving rise to the deficiency

For purposes of this subsection—

(A) In general

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

(B) Exception where other spouse benefits

Under rules prescribed by the Secretary, an item otherwise allocable to an individual

under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) Exception for fraud

The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of one or both individuals.

(4) Limitations on separate returns disregarded

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

(5) Child's liability

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

(e) Petition for review by Tax Court

(1) In general

In the case of an individual against whom a deficiency has been asserted and who elects to have subsection (b) or (c) apply, or in the case of an individual who requests equitable relief under subsection (f)—

(A) In general

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

(i) at any time after the earlier of—

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

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

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

(B) Restrictions applicable to collection of assessment

(i) In general

Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subsection (b) or (c) or requesting equitable relief under subsection (f) for collection of any assessment to which such election or request relates until the close of the 90th day referred to in subparagraph (A)(ii), or, if a petition has been filed with the Tax Court under subparagraph (A),

until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

(ii) Authority to enjoin collection actions

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

(2) Suspension of running of period of limitations

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

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

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

(3) Limitation on Tax Court jurisdiction

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

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

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

(4) Notice to other spouse

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

(5) Waiver

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

(6) Suspension of running of period for filing petition in title 11 cases

In the case of a person who is prohibited by reason of a case under title 11, United States

Code, from filing a petition under paragraph (1)(A) with respect to a final determination of relief under this section, the running of the period prescribed by such paragraph for filing such a petition with respect to such final determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 60 days thereafter.

(f) Equitable relief

Under procedures prescribed by the Secretary, if—

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

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

the Secretary may relieve such individual of such liability.

(g) Credits and refunds

(1) In general

Except as provided in paragraphs (2) and (3), notwithstanding any other law or rule of law (other than section 6511, 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

(2) Res judicata

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

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

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

(h) Regulations

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

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

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

(Added Pub. L. 105-206, title III, §3201(a), July 22, 1998, 112 Stat. 734; amended Pub. L. 105-277, div. J, title IV, §4002(c)(2), Oct. 21, 1998, 112 Stat. 2681-906; Pub. L. 106-554, §1(a)(7) [title III, §313(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-640; Pub. L. 109-432, div. C, title IV, §408(a), (b), Dec. 20, 2006, 120 Stat. 3061, 3062; Pub. L. 114-113, div.

Q, title IV, §424(a)(1), Dec. 18, 2015, 129 Stat. 3124.)

PRIOR PROVISIONS

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

AMENDMENTS

2015—Subsec. (e)(6). Pub. L. 114-113 added par. (6).

2006—Subsec. (e)(1). Pub. L. 109-432, §408(a), inserted “, or in the case of an individual who requests equitable relief under subsection (f)” after “apply” in introductory provisions.

Subsec. (e)(1)(A)(i)(II). Pub. L. 109-432, §408(b)(1), inserted “or request is made” after “filed”.

Subsec. (e)(1)(B)(i). Pub. L. 109-432, §408(b)(2), inserted “or requesting equitable relief under subsection (f)” after “subsection (b) or (c)” and “or request” after “such election”.

Subsec. (e)(1)(B)(ii). Pub. L. 109-432, §408(b)(3), inserted “or to which the request under subsection (f) relates” before period at end.

Subsec. (e)(4). Pub. L. 109-432, §408(b)(4), inserted “or the request for equitable relief under subsection (f)” after “subsection (b) or (c)”.

Subsec. (e)(5). Pub. L. 109-432, §408(b)(5), inserted “or who requests equitable relief under subsection (f)” after “subsection (b) or (c)”.

Subsec. (g)(2). Pub. L. 109-432, §408(b)(6), inserted “or of any request for equitable relief under subsection (f)” after “subsection (b) or (c)”.

Subsec. (h)(2). Pub. L. 109-432, §408(b)(7), inserted “or a request for equitable relief made under subsection (f)” after “subsection (b) or (c)”.

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

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

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

Subsec. (e)(1)(B)(i). Pub. L. 106-554, §1(a)(7) [title III, §313(a)(3)(C)], substituted “until the close of the 90th

day referred to in subparagraph (A)(ii)” for “until the expiration of the 90-day period described in subparagraph (A)” and inserted “under subparagraph (A)” after “filed with the Tax Court”.

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

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

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

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

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

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §424(a)(2), Dec. 18, 2015, 129 Stat. 3124, provided that: “The amendment made by this subsection [amending this section] shall apply to petitions filed under section 6015(e) of the Internal Revenue Code of 1986 after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title IV, §408(c), Dec. 20, 2006, 120 Stat. 3062, provided that: “The amendments made by this section [amending this section] shall apply with respect to liability for taxes arising or remaining unpaid on or after the date of the enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE

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

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

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

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

SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF

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

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

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

EFFECTIVE DATE OF REPEAL

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

§ 6017. Self-employment tax returns

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

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

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

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

EFFECTIVE DATE OF REPEAL

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

SUBPART C—ESTATE AND GIFT TAX RETURNS

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

AMENDMENTS

2010—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)(1), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(b)(1), June 7, 2001, 115 Stat. 81, substituted “Returns Relating to Transfers During Life or at Death” for “Estate and Gift Tax Returns” in subpart heading and “Returns relating to large transfers at death” for “Estate tax returns” in item 6018.

§ 6018. Estate tax returns**(a) Returns by executor****(1) Citizens or residents**

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

(2) Nonresidents not citizens of the United States

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

(3) Adjustment for certain gifts

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

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

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

(b) Returns by beneficiaries

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

(Aug. 16, 1954, ch. 736, 68A Stat. 739; Pub. L. 89-809, title I, §108(g), Nov. 13, 1966, 80 Stat. 1574; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XX, §2001(c)(1)(J), Oct. 4, 1976, 90 Stat. 1834, 1852; Pub. L. 97-34, title IV, §401(a)(2)(B), Aug. 13, 1981, 95 Stat. 299; Pub. L. 98-369, div. A, title V, §544(b)(3), July 18, 1984, 98 Stat. 894; Pub. L. 100-647, title I, §1011A(g)(12), Nov. 10, 1988, 102 Stat. 3482; Pub. L. 101-239, title VII, §7304(b)(2)(B), Dec. 19, 1989, 103 Stat. 2353; Pub. L. 101-508, title XI, §11801(a)(43), (c)(19)(C), Nov. 5, 1990, 104 Stat. 1388-521, 1388-528; Pub. L. 105-34, title V, §501(a)(1)(C), title X, §1073(b)(4), Aug. 5, 1997, 111 Stat. 845, 948; Pub. L. 107-16, title V, §542(b)(1), June 7, 2001, 115 Stat. 81; Pub. L. 111-312, title III, §§301(a), 303(b)(3), Dec. 17, 2010, 124 Stat. 3300, 3303.)

REFERENCES IN TEXT

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

The Tax Reform Act of 1976, referred to in subsec. (a)(3)(B), is Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1520. For complete classification of this Act to the Code, see Short Title of 1976 Amendments note set out under section 1 of this title and Tables.

AMENDMENTS

2010—Pub. L. 111-312, §301(a), amended section to read as if amendment by Pub. L. 107-16, §542(b)(1), had never been enacted. See 2001 Amendment note below.

Subsec. (a)(1). Pub. L. 111-312, §303(b)(3), substituted “basic exclusion amount” for “applicable exclusion amount”.

2001—Pub. L. 107-16, §542(b)(1), amended section generally, substituting provisions related to tax returns for certain large transfers at death for provisions related to estate tax returns.

1997—Subsec. (a)(1). Pub. L. 105-34, §501(a)(1)(C), substituted “the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death” for “\$600,000”.

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (a)(2). Pub. L. 94-455, §2001(c)(1)(J)(ii), substituted “\$60,000” for “\$30,000”.

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

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

1966—Subsec. (a)(2). Pub. L. 89-809 substituted “\$30,000” for “\$2,000”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 301(a) of 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 section 303(b)(3) of Pub. L. 111-312 applicable to estates of decedents dying and gifts made after Dec. 31, 2010, see section 303(c)(1) of Pub. L. 111-312, set out as a note under section 2010 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

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

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

EFFECTIVE DATE OF 1989 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1966 AMENDMENT

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

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 6019. Gift tax returns

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

- (1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year,
- (2) a transfer of an interest with respect to which a deduction is allowed under section 2523, or
- (3) a transfer with respect to which a deduction is allowed under section 2522 but only if—
 - (A)(i) such transfer is of the donor's entire interest in the property transferred, and
 - (ii) no other interest in such property is or has been transferred (for less than adequate

and full consideration in money or money's worth) from the donor to a person, or for a use, not described in subsection (a) or (b) of section 2522, or

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

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

(Aug. 16, 1954, ch. 736, 68A Stat. 739; Pub. L. 91-614, title I, § 102(d)(3), Dec. 31, 1970, 84 Stat. 1841; Pub. L. 97-34, title IV, §§ 403(b)(3)(A), (c)(3)(B), 442(d)(2), Aug. 13, 1981, 95 Stat. 301, 302, 322; Pub. L. 105-34, title XIII, § 1301(a), Aug. 5, 1997, 111 Stat. 1039; Pub. L. 107-16, title V, § 542(b)(2), June 7, 2001, 115 Stat. 82; Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300.)

AMENDMENTS

2010—Pub. L. 111-312 amended section to read as if amendment by Pub. L. 107-16, § 542(b)(2), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, § 542(b)(2), designated existing provisions as subsec. (a), inserted subsec. (a) heading “In general”, and added subsec. (b), which related to statements to be furnished to certain persons.

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

1981—Pub. L. 97-34 struck out subsec. “(a) In general” designation, substituted “calendar year” for “calendar quarter” and “year” for “quarter” wherever appearing, inserted in provision designated par. (1) reference to subsec. (e) of section 2503, added par. (2), and deleted provision respecting transfers by gift other than qualified charitable transfers, repealed subsec. (b) setting forth return requirement and definition of qualified charitable transfer, and repealed subsec. (c) setting forth cross reference to section 2515(c) relating to tenancy by the entirety.

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

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

EFFECTIVE DATE OF 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.

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 XIII, § 1301(b), Aug. 5, 1997, 111 Stat. 1039, provided that: “The amendment made by this section [amending this section] shall apply to gifts made after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to gifts made after Dec. 31, 1981, see sections 403(e)(2) and 442(e) of

Pub. L. 97-34, set out as a note under sections 2056 and 2501 of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

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

SUBPART D—MISCELLANEOUS PROVISIONS

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

§ 6020. Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

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

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

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

(2) Status of returns

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

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

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

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

(Aug. 16, 1954, ch. 736, 68A Stat. 740; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

PART III—INFORMATION RETURNS

Subpart

- A. Information concerning persons subject to special provisions.
- B. Information concerning transactions with other persons.
- C. Information regarding wages paid employees.
- D. Information regarding health insurance coverage.
- E. Registration of and information concerning pension, etc., plans.
- F. Information concerning tax return preparers.

AMENDMENTS

2010—Pub. L. 111-148, title I, §1502(d), Mar. 23, 2010, 124 Stat. 251, added item relating to subpart D.

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(A)(v), May 25, 2007, 121 Stat. 201, substituted “tax return preparers” for “income tax return preparers” in item relating to subpart F.

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

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

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

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

INFORMATION RETURNS IN ELECTRONIC FORMAT

Pub. L. 108-7, div. H, title II, §211, Feb. 20, 2003, 117 Stat. 384, provided that:

“(a) Each office in the legislative branch, except the House and the Senate, which is responsible for preparing any written statement furnished under part 3 of subchapter A of chapter 61 of the Internal Revenue Code of 1986 on behalf of a person shall make the statement available to the person in an electronic format (at the direction of the person) which will enable the person to provide the statement electronically to a tax preparer or other provider of financial services.

“(b) Subsection (a) shall apply with respect to statements prepared for taxable years ending on or after December 31, 2004.”

SUBPART A—INFORMATION CONCERNING PERSONS SUBJECT TO SPECIAL PROVISIONS

Sec.	
6031.	Return of partnership income.

- Sec.
 6032. Returns of banks with respect to common trust funds.
 6033. Returns by exempt organizations.
 6034. Returns by certain trusts.
 6034A. Information to beneficiaries of estates and trusts.
 6035. Basis information to persons acquiring property from decedent.
 6036. Notice of qualification as executor or receiver.
 6037. Return of S corporation.
 6038. Information reporting with respect to certain foreign corporations and partnerships.
 6038A. Information with respect to certain foreign-owned corporations.
 6038B. Notice of certain transfers to foreign persons.
 6038C. Information with respect to foreign corporations engaged in U.S. business.
 6038D. Information with respect to foreign financial assets.
 6039. Returns required in connection with certain options.
 [6039A, 6039B. Repealed.]
 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests.
 6039D. Returns and records with respect to certain fringe benefit plans.¹
 6039D. Returns and records with respect to certain fringe benefit plans.¹
 6039E. Information concerning resident status.
 6039F. Notice of large gifts received from foreign persons.
 6039G. Information on individuals losing United States citizenship.
 6039H. Information With Respect to Alaska Native Settlement Trusts and Native Corporations.²
 6039I. Returns and records with respect to employer-owned life insurance contracts.
 6039J. Information reporting with respect to Commodity Credit Corporation transactions.
 6040. Cross references.

AMENDMENTS

2017—Pub. L. 115-97, title I, § 13821(c)(2), Dec. 22, 2017, 131 Stat. 2182, substituted “Information With Respect to Alaska Native Settlement Trusts and Native Corporations” for “Information with respect to Alaska Native Settlement Trusts and sponsoring Native Corporations” in item 6039H.

2015—Pub. L. 114-41, title II, § 2004(b)(3), July 31, 2015, 129 Stat. 456, added item 6035.

2010—Pub. L. 111-147, title V, § 511(b), Mar. 18, 2010, 124 Stat. 110, added item 6038D.

2008—Pub. L. 110-234, title XV, § 15353(b), May 22, 2008, 122 Stat. 1527, and Pub. L. 110-246, title XV, § 15353(b), June 18, 2008, 122 Stat. 2289, made identical amendments, adding item 6039J. The amendment by Pub. L. 110-234 was repealed by Pub. L. 110-246, § 4(a), June 18, 2008, 122 Stat. 1664.

2006—Pub. L. 109-432, div. A, title IV, § 403(c)(3), Dec. 20, 2006, 120 Stat. 2955, substituted “Returns” for “Information” in item 6039.

Pub. L. 109-280, title XII, § 1201(b)(4), Aug. 17, 2006, 120 Stat. 1066, which directed the amendment of the analysis for subpart A of part III of subchapter A of chapter 61 by amending item 6034 to read “Returns by certain trusts” without specifying the act to be amended, was executed to this analysis which is part of the Internal Revenue Code of 1986 which is classified to this title, to reflect the probable intent of Congress. Prior to amend-

ment, item 6034 read as follows: “Returns by trusts claiming charitable deductions under section 642(c)”.

Pub. L. 109-280, title VIII, § 863(c)(2), Aug. 17, 2006, 120 Stat. 1024, added item 6039I.

2004—Pub. L. 108-357, title IV, § 413(c)(33), Oct. 22, 2004, 118 Stat. 1510, struck out item 6035 “Returns of officers, directors, and shareholders of foreign personal holding companies”.

2001—Pub. L. 107-16, title VI, § 671(c)(2), June 7, 2001, 115 Stat. 147, added item 6039H.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 6031. Return of partnership income

(a) General rule

Every partnership (as defined in section 761(a)) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, and such other information, for the purpose of carrying out the provisions of subtitle A as the Sec-

¹ So in original. Pub. L. 98-611 and Pub. L. 98-612 enacted identical items designated “6039D”. Pub. L. 99-514, § 1879(d)(2), repealed the section 6039D enacted by Pub. L. 98-612 without corresponding amendment of subpart analysis.

² So in original. The words “With Respect” probably should not be capitalized.

retary may by forms and regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual.

(b) Copies to partners

Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was required to be filed) furnish to each person who is a partner or who holds an interest in such partnership as a nominee for another person at any time during such taxable year a copy of such information required to be shown on such return as may be required by regulations. Except as provided in the procedures under section 6225(c), with respect to statements under section 6226, or as otherwise provided by the Secretary, information required to be furnished by the partnership under this subsection may not be amended after the due date of the return under subsection (a) to which such information relates.

(c) Nominee reporting

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

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

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

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

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

(e) Foreign partnerships

(1) Exception for foreign partnership

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

(2) Certain foreign partnerships required to file return

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

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

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

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

(f) Electing investment partnerships

In the case of any electing investment partnership (as defined in section 743(e)(6)),¹ the information required under subsection (b) to be furnished to any partner to whom section 743(e)(2) applies shall include such information as is necessary to enable the partner to compute the amount of losses disallowed under section 743(e).

(Aug. 16, 1954, ch. 736, 68A Stat. 741; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title IV, § 403, Sept. 3, 1982, 96 Stat. 669; Pub. L. 99-514, title XV, § 1501(c)(16), title XVIII, § 1811(b)(1)(A), Oct. 22, 1986, 100 Stat. 2740, 2832; Pub. L. 100-647, title V, § 5074(a), Nov. 10, 1988, 102 Stat. 3682; Pub. L. 105-34, title XI, § 1141(a), title XII, § 1223(a), Aug. 5, 1997, 111 Stat. 980, 1019; Pub. L. 108-357, title VIII, § 833(b)(4)(B), Oct. 22, 2004, 118 Stat. 1590; Pub. L. 114-74, title XI, § 1101(e), (f)(1), Nov. 2, 2015, 129 Stat. 637; Pub. L. 114-113, div. Q, title IV, § 411(d), Dec. 18, 2015, 129 Stat. 3122.)

REFERENCES IN TEXT

Section 743(e)(6), referred to in subsec. (f), was redesignated section 743(e)(5) by Pub. L. 115-97, title I, § 13504(b)(2), Dec. 22, 2017, 131 Stat. 2142.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-113 substituted “Except as provided in the procedures under section 6225(c), with respect to statements under section 6226, or as otherwise provided by the Secretary, information required to be furnished by the partnership under this subsection may not be amended after the due date of the return under subsection (a) to which such information relates.” for “In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.”

Pub. L. 114-74, § 1101(e), (f)(1), which directed amendment of subsec. (b) by first inserting at end “Except as provided in the procedures under section 6225(c), with respect to statements under section 6226, or as otherwise provided by the Secretary, information required to be furnished by the partnership under this subsection may not be amended after the due date of the return under subsection (a) to which such information relates.” and then by striking the last sentence, was not executed in view of the amendment by Pub. L. 114-113, which made identical amendments but in the reverse order, effective as if included in section 1101 of Pub. L. 114-74. See note above.

2004—Subsec. (f). Pub. L. 108-357 added subsec. (f).

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

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

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

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

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

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

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

¹ See References in Text note below.

Subsec. (b). Pub. L. 97-248, § 403(a), added subsec. (b). 1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 411(e), Dec. 18, 2015, 129 Stat. 3122, provided that: “The amendments made by this section [amending this section and sections 6225, 6226, 6234, and 6235 of this title] shall take effect as if included in section 1101 of the Bipartisan Budget Act of 2015 [Pub. L. 114-74].”

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 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to transfers after Oct. 22, 2004, with transition rule in the case of an electing investment partnership which is in existence on June 4, 2004, see section 833(d)(2) of Pub. L. 108-357, set out as a note under section 743 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, § 1141(c), Aug. 5, 1997, 111 Stat. 981, provided that: “The amendments made by this section [amending this section and section 6231 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

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

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, § 5074(b), Nov. 10, 1988, 102 Stat. 3682, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.”

EFFECTIVE DATE OF 1986 AMENDMENT

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

Pub. L. 99-514, title XVIII, § 1811(b)(1)(B), Oct. 22, 1986, 100 Stat. 2832, provided that: “The amendments made by this subsection [amending this section and section 6050K of this title] shall apply to partnership taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS

Pub. L. 97-248, title IV, § 404, Sept. 3, 1982, 96 Stat. 669, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat.

2095, provided that: “Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year.”

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

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

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

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

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

§ 6033. Returns by exempt organizations

(a) Organizations required to file

(1) In general

Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) Being a party to certain reportable transactions

Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

(B) the identity of any other party to such transaction which is known by such tax-exempt entity.

(3) Exceptions from filing

(A) Mandatory exceptions

Paragraph (1) shall not apply to—

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

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

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

(B) Discretionary exceptions

The Secretary may relieve any organization required under paragraph (1) (other than an organization described in section 509(a)(3)) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) Certain organizations

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

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

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

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

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

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

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

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

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

(1) its gross income for the year,

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) misallocation of revenues or expenses,

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

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

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

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

(D) section 4959 (relating to taxes on failures by hospital organizations),

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

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

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

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

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

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

(14) such information as the Secretary may require with respect to disaster relief activi-

ties, including the amount and use of qualified contributions to which section 1400S(a) applies,

(15) in the case of an organization to which the requirements of section 501(r) apply for the taxable year—

(A) a description of how the organization is addressing the needs identified in each community health needs assessment conducted under section 501(r)(3) and a description of any such needs that are not being addressed together with the reasons why such needs are not being addressed, and

(B) the audited financial statements of such organization (or, in the case of an organization the financial statements of which are included in a consolidated financial statement with other organizations, such consolidated financial statement).¹

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

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

(c) Additional provisions relating to private foundations

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

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

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

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

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

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

(1) Nonexempt charitable trusts

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

(2) Nonexempt private foundations

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

(e) Special rules relating to lobbying activities

(1) Reporting requirements

(A) In general

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

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

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

(B) Organizations to which subsection applies

(i) In general

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

(ii) Special rule for in-house expenditures

This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(4)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed \$2,000. In determining whether a taxpayer exceeds the \$2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) Coordination with section 527(f)

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

(C) Allocation

For purposes of this paragraph—

(i) In general

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

(ii) Carryover of lobbying expenditures in excess of dues

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

(2) Tax imposed where organization does not notify

(A) In general

If an organization—

¹ So in original. The period probably should be “, and”.

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

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

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

(B) Waiver where future adjustments made

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

(C) Tax treated as income tax

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

(3) Exception where dues generally nondeductible

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

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

Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization, and

(2) in the case of the first such return filed by such an organization after submitting a notice to the Secretary under section 506(a), such information as the Secretary shall by regulation require in support of the organization's treatment as an organization described in section 501(c)(4).

(g) Returns required by political organizations

(1) In general

This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of \$25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting "\$100,000" for "\$25,000".

(2) Annual returns

Political organizations described in paragraph (1) shall file an annual return—

(A) containing the information required, and complying with the other requirements,

under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

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

(3) Mandatory exceptions from filing

Paragraph (2) shall not apply to an organization—

(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

(B) which is a caucus or association of State or local officials,

(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

(4) Discretionary exception

The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(h) Controlling organizations

Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

(2) any loans made to each such controlled entity, and

(3) any transfers of funds between such controlling organization and each such controlled entity.

(i) Additional notification requirements

Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

(A) the legal name of the organization,

(B) any name under which such organization operates or does business,

(C) the organization's mailing address and Internet web site address (if any),

(D) the organization's taxpayer identification number,

(E) the name and address of a principal officer, and

(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

(2) upon the termination of the existence of the organization, shall furnish notice of such termination.

(j) Loss of exempt status for failure to file return or notice

(1) In general

If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

(2) Application necessary for reinstatement

Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

(3) Retroactive reinstatement if reasonable cause shown for failure

If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.

(k) Additional provisions relating to sponsoring organizations

Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.

(l) Additional provisions relating to supporting organizations

Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

(3) certify that the organization meets the requirements of section 509(a)(3)(C).

(m) Additional information required from CO-OP insurers

An organization described in section 501(c)(29) shall include on the return required under subsection (a) the following information:

(1) The amount of the reserves required by each State in which the organization is licensed to issue qualified health plans.

(2) The amount of reserves on hand.

(n) Cross references

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

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

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

(Aug. 16, 1954, ch. 736, 68A Stat. 741; Pub. L. 85-866, title I, § 75(b), Sept. 2, 1958, 72 Stat. 1661; Pub. L. 91-172, title I, § 101(d)(1), (2), (j)(30), (31), Dec. 30, 1969, 83 Stat. 519, 520, 529; Pub. L. 93-406, title II, § 1031(c)(2), Sept. 2, 1974, 88 Stat. 946; Pub. L. 94-455, title XIII, § 1307(a)(4), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1722, 1834; Pub. L. 96-603, § 1(a), Dec. 28, 1980, 94 Stat. 3503; Pub. L. 99-514, title XV, § 1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 100-203, title X, § 10703(a), Dec. 22, 1987, 101 Stat. 1330-460; Pub. L. 103-66, title XIII, § 13222(c), Aug. 10, 1993, 107 Stat. 480; Pub. L. 104-168, title XIII, § 1312(a), (b), July 30, 1996, 110 Stat. 1479; Pub. L. 104-188, title I, § 1703(g), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-34, title XVI, § 1603(b), Aug. 5, 1997, 111 Stat. 1096; Pub. L. 105-277, div. J, title I, § 1004(b)(2)(A), Oct. 21, 1998, 112 Stat. 2681-889; Pub. L. 106-230, § 3(a)(2), July 1, 2000, 114 Stat. 482; Pub. L. 107-276, § 3(c), Nov. 2, 2002, 116 Stat. 1931; Pub. L. 109-222, title V, § 516(b)(1), May 17, 2006, 120 Stat. 371; Pub. L. 109-280, title XII, §§ 1205(b)(1), 1223(a), (b), 1235(a)(1), 1245(a), (b), Aug. 17, 2006, 120 Stat. 1067, 1090, 1101, 1108; Pub. L. 110-343, div. C, title VII, § 703(a), Oct. 3, 2008, 122 Stat. 3919; Pub. L. 111-148, title I, § 1322(h)(2), title IX, § 9007(d), Mar. 23, 2010, 124 Stat. 192, 857; Pub. L. 114-113, div. Q, title IV, § 405(b), Dec. 18, 2015, 129 Stat. 3119; Pub. L. 115-97, title I, § 13308(b), Dec. 22, 2017, 131 Stat. 2129.)

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

The Federal Election Campaign Act of 1971, referred to in subsec. (g)(3)(F), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, which was formerly classified principally to chapter 14 (§ 431 et seq.) of Title 2, The Congress, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified prin-

cipally to chapter 301 (§30101 et seq.) of Title 52. Section 301 of the Act is now classified to section 30101 of Title 52. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Sections 1205(b)(1), 1223(a), (b), 1235(a)(1), and 1245(a), (b) of Pub. L. 109-280, which directed the amendment of section 6033 without specifying the act to be amended, were executed to this section, which is section 6033 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2017—Subsec. (e)(1)(B)(ii). Pub. L. 115-97 substituted “section 162(e)(4)(B)(ii)” for “section 162(e)(5)(B)(ii)”.

2015—Subsec. (f). Pub. L. 114-113 substituted “under subsection (a)—” for “under subsection (a)”, inserted par. (1) designation before “the information”, substituted “to such organization, and” for “to such organization.”, and added par. (2).

2010—Subsec. (b)(10)(D). Pub. L. 111-148, §9007(d)(2), added subpar. (D).

Subsec. (b)(15), (16). Pub. L. 111-148, §9007(d)(1), added par. (15) and redesignated former par. (15) as (16).

Subsecs. (m), (n). Pub. L. 111-148, §1322(h)(2), added subsec. (m) and redesignated former subsec. (m) as (n).

2008—Subsec. (b)(14), (15). Pub. L. 110-343 added par. (14) and redesignated former par. (14) as (15).

2006—Subsec. (a)(1). Pub. L. 109-222, §516(b)(1)(B), substituted “paragraph (3)” for “paragraph (2)”.

Subsec. (a)(2). Pub. L. 109-222, §516(b)(1)(A), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 109-222, §516(b)(1)(A), redesignated par. (2) as (3).

Subsec. (a)(3)(B). Pub. L. 109-280, §1245(a), inserted “(other than an organization described in section 509(a)(3))” after “paragraph (1)”. See Codification note above.

Subsec. (h). Pub. L. 109-280, §1205(b)(1), added subsec. (h). Former subsec. (h) redesignated (i). See Codification note above.

Subsec. (i). Pub. L. 109-280, §1223(a), added subsec. (i). Former subsec. (i) redesignated (j). See Codification note above.

Pub. L. 109-280, §1205(b)(1), redesignated subsec. (h) as (i). See Codification note above.

Subsec. (j). Pub. L. 109-280, §1223(b), added subsec. (j). Former subsec. (j) redesignated (k). See Codification note above.

Pub. L. 109-280, §1223(a), redesignated subsec. (i) as (j). See Codification note above.

Subsec. (k). Pub. L. 109-280, §1235(a)(1), added subsec. (k). Former subsec. (k) redesignated (l). See Codification note above.

Pub. L. 109-280, §1223(b), redesignated subsec. (j) as (k). See Codification note above.

Subsec. (l). Pub. L. 109-280, §1245(b), added subsec. (l). Former subsec. (l) redesignated (m). See Codification note above.

Pub. L. 109-280, §1235(a)(1), redesignated subsec. (k) as (l). See Codification note above.

Subsec. (m). Pub. L. 109-280, §1245(b), redesignated subsec. (l) as (m). See Codification note above.

2002—Subsec. (g). Pub. L. 107-276 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “In the case of a political organization required to file a return under section 6012(a)(6)—

“(1) such organization shall file a return—

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

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

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

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

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

1997—Subsec. (b)(10). Pub. L. 105-34, §1603(b)(1)(A), in introductory provisions, substituted “the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):” for “the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:”.

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

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

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

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

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

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

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

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

1986—Subsec. (e). Pub. L. 99-514 substituted “section 6652(c)” for “section 6652(d)”.

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

1976—Subsec. (a)(1), (2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” whenever appearing.

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

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

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

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

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

Subsec. (b)(5). Pub. L. 91-172, §101(d)(2)(B), (C), substituted total of contributions and gifts received during year and contributors’ names and addresses for aggre-

gate accumulation of income at beginning of year as item of information to be furnished.

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

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

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

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

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

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to amounts paid or incurred on or after Dec. 22, 2017, see section 13308(c) of Pub. L. 115-97, set out as a note under section 162 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 2010 AMENDMENT

Amendment by section 9007(d) of Pub. L. 111-148 applicable to taxable years beginning after Mar. 23, 2010, see section 9007(f)(1) of Pub. L. 111-148, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title VII, §703(b), Oct. 3, 2008, 122 Stat. 3919, provided that: "The amendments made by this section [amending this section] shall apply to returns the due date for which (determined without regard to any extension) occurs after December 31, 2008."

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1205(c)(2), Aug. 17, 2006, 120 Stat. 1068, provided that: "The amendments made by subsection (b) [amending this section] shall apply to returns the due date (determined without regard to extensions) of which is after the date of the enactment of this Act [Aug. 17, 2006]."

Pub. L. 109-280, title XII, §1223(f), Aug. 17, 2006, 120 Stat. 1091, provided that: "The amendments made by this section [amending this section and sections 6652 and 7428 of this title] shall apply to notices and returns with respect to annual periods beginning after 2006."

Pub. L. 109-280, title XII, §1235(a)(2), Aug. 17, 2006, 120 Stat. 1101, provided that: "The amendments made by this subsection [amending this section] shall apply to returns filed for taxable years ending after the date of the enactment of this Act [Aug. 17, 2006]."

Pub. L. 109-280, title XII, §1245(c), Aug. 17, 2006, 120 Stat. 1108, provided that: "The amendments made by this section [amending this section] shall apply to returns filed for taxable years ending after the date of the enactment of this Act [Aug. 17, 2006]."

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 2002 AMENDMENT

Amendment by Pub. L. 107-276 effective as if included in the amendments made by Pub. L. 106-230, see section 3(d) of Pub. L. 107-276, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-230 applicable to returns for taxable years beginning after June 30, 2000, see sec-

tion 3(d) of Pub. L. 106-230, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENTS

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

Pub. L. 104-168, title XIII, §1312(c), July 30, 1996, 110 Stat. 1479, provided that: "The amendments made by this section [amending this section] shall apply to returns for taxable years beginning after the date of the enactment of this Act [July 30, 1996]."

EFFECTIVE DATE OF 1993 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, §10703(b), Dec. 22, 1987, 101 Stat. 1330-461, provided that: "The amendments made by subsection (a) [amending this section] shall apply to returns for years beginning after December 31, 1987."

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-603, §1(f), Dec. 28, 1980, 94 Stat. 3505, provided that: "The amendments made by this section [amending this section and sections 6034, 6104, 6652, 6685, and 7207 of this title and repealing section 6056 of this title] shall apply to taxable years beginning after December 31, 1980."

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as an Effective Date note under section 6057 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as a note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years ending on or after Dec. 31, 1958, see section 75(c)

of Pub. L. 85-866, set out as a note under section 6104 of this title.

SECRETARIAL OUTREACH REQUIREMENTS

Pub. L. 109-280, title XII, §1223(e), Aug. 17, 2006, 120 Stat. 1091, provided that:

“(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j) of such Code—

“(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

“(B) by Internet or other means of outreach, in the case of any other organization.

“(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize, in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under subsection (a)(1) or (i) of section 6033 of such Code.”

§ 6034. Returns by certain trusts

(a) Split-interest trusts

Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

(b) Trusts claiming certain charitable deductions

(1) In general

Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

(A) the amount of the deduction taken under section 642(c) within such year,

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

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

(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

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

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

(2) Exceptions

Paragraph (1) shall not apply to a trust for any taxable year if—

(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

(B) the trust is described in section 4947(a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 742; Pub. L. 91-172, title I, §101(j)(32)–(34), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94-455, title XIX,

§1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-603, §1(d)(1), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 99-514, title XV, §1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 109-280, title XII, §1201(b)(1), Aug. 17, 2006, 120 Stat. 1064.)

AMENDMENTS

2006—Pub. L. 109-280, which directed the general amendment of section 6034 without specifying the act to be amended, was executed to this section, which is section 6034 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. Prior to amendment, this section consisted of subsecs. (a) to (c) stating a general rule requiring certain trusts to furnish information as the Secretary may by forms and regulations prescribe, allowing for exceptions to the rule, and providing a cross reference relating to penalties for failure to file a return.

1986—Subsec. (c). Pub. L. 99-514 substituted “section 6652(c)” for “section 6652(d)”.

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

Subsec. (a). Pub. L. 96-603, §1(d)(1)(A), substituted “section 4947(a)(2)” for “section 4947(a)”.

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

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

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

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

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1201(c)(2), Aug. 17, 2006, 120 Stat. 1066, provided that: “The amendments made by subsection (b) [amending this section and sections 6104 and 6652 of this title] shall apply to returns for taxable years beginning after December 31, 2006.”

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

§ 6034A. Information to beneficiaries of estates and trusts

(a) General rule

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

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

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

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

(b) Nominee reporting

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

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

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

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

(1) In general

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

(2) Notification of inconsistent treatment

(A) In general

In the case of any reported item, if—

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

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

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

paragraph (1) shall not apply to such item.

(B) Beneficiary receiving incorrect information

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

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

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

(3) Effect of failure to notify

In any case—

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

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

any adjustment required to make the treatment of the items by such beneficiary consist-

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

(4) Definitions

For purposes of this subsection—

(A) Reported item

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

(B) Applicable entity

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

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

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

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

AMENDMENTS

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

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

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

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

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, § 1027(c), Aug. 5, 1997, 111 Stat. 926, provided that: "The amendments made by this section [amending this section and section 6048 of this title] shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1986 AMENDMENT

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

Pub. L. 99-514, title XVIII, § 1875(d)(3)(B), Oct. 22, 1986, 100 Stat. 2897, provided that: "The amendments made by this paragraph [amending this section] shall apply to taxable years of estates and trusts beginning after the date of the enactment of this Act [Oct. 22, 1986]."

EFFECTIVE DATE

Pub. L. 98-369, div. A, title VII, § 714(q)(5), July 18, 1984, 98 Stat. 966, provided that: "The amendments made by this subsection [enacting this section and amending sections 6037 and 6678 of this title] shall apply to taxable years beginning after December 31, 1984."

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

§ 6035. Basis information to persons acquiring property from decedent

(a) Information with respect to property acquired from decedents

(1) In general

The executor of any estate required to file a return under section 6018(a) shall furnish to the Secretary and to each person acquiring any interest in property included in the decedent's gross estate for Federal estate tax purposes a statement identifying the value of each interest in such property as reported on such return and such other information with respect to such interest as the Secretary may prescribe.

(2) Statements by beneficiaries

Each person required to file a return under section 6018(b) shall furnish to the Secretary and to each other person who holds a legal or beneficial interest in the property to which such return relates a statement identifying the information described in paragraph (1).

(3) Time for furnishing statement

(A) In general

Each statement required to be furnished under paragraph (1) or (2) shall be furnished at such time as the Secretary may prescribe, but in no case at a time later than the earlier of—

- (i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any), or
- (ii) the date which is 30 days after the date such return is filed.

(B) Adjustments

In any case in which there is an adjustment to the information required to be included on a statement filed under paragraph (1) or (2) after such statement has been filed, a supplemental statement under such paragraph shall be filed not later than the date which is 30 days after such adjustment is made.

(b) Regulations

The Secretary shall prescribe such regulations as necessary to carry out this section, including regulations relating to—

- (1) the application of this section to property with regard to which no estate tax return is required to be filed, and
- (2) situations in which the surviving joint tenant or other recipient may have better information than the executor regarding the basis or fair market value of the property.

(Added Pub. L. 114–41, title II, § 2004(b)(1), July 31, 2015, 129 Stat. 455.)

EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 1014 of this title.

PRIOR PROVISIONS

A prior section 6035, act Aug. 16, 1954, ch. 736, 68A Stat. 743; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 340(a), Sept. 3, 1982, 96 Stat. 633, related to information returns of officers, directors, and shareholders of foreign personal holding companies, prior to repeal by Pub. L. 108–357, title IV, § 413(c)(26), (d)(1), Oct. 22, 2004, 118 Stat. 1509, 1510, 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.

§ 6036. Notice of qualification as executor or receiver

Every receiver, trustee in a case under title 11 of the United States Code, assignee for benefit of creditors, or other like fiduciary, and every executor (as defined in section 2203), shall give notice of his qualification as such to the Secretary in such manner and at such time as may be required by regulations of the Secretary. The Secretary may by regulation provide such exemptions from the requirements of this section as the Secretary deems proper.

(Aug. 16, 1954, ch. 736, 68A Stat. 744; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6(i)(6), Dec. 24, 1980, 94 Stat. 3410.)

AMENDMENTS

1980—Pub. L. 96–589 substituted “trustee in a case under title 11 of the United States Code” for “trustee in bankruptcy”.

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

§ 6037. Return of S corporation

(a) In general

Every S corporation shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

(b) Copies to shareholders

Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations.

(c) Shareholder's return must be consistent with corporate return or Secretary notified of inconsistency**(1) In general**

A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

(2) Notification of inconsistent treatment**(A) In general**

In the case of any subchapter S item, if—

(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

(II) the corporation has not filed a return, and

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

paragraph (1) shall not apply to such item.

(B) Shareholder receiving incorrect information

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

(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

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

(3) Effect of failure to notify

In any case—

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

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

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

(4) Subchapter S item

For purposes of this subsection, the term "subchapter S item" means any item of an S corporation to the extent that regulations pre-

scribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

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

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

(Added Pub. L. 85-866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; amended Pub. L. 94-455, title XIX, § 1906(a)(3), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97-354, § 5(a)(39)(A), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98-369, div. A, title VII, § 714(q)(2), July 18, 1984, 98 Stat. 965; Pub. L. 104-188, title I, § 1307(c)(2), Aug. 20, 1996, 110 Stat. 1781.)

PRIOR PROVISIONS

A prior section 6037 was renumbered section 6040 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-188 added subsec. (c).

1984—Pub. L. 98-369 designated existing provisions as subsec. (a) and added subsec. (a) heading and subsec. (b).

1982—Pub. L. 97-354 substituted "S corporation" for "electing small business corporation" in section catchline, substituted "Every S corporation" for "Every electing small business corporation (as defined in section 1371(b))", and substituted "each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information" for "and such other information".

1976—Pub. L. 94-455 substituted "section 1371(b)" for "section 1371(a)(2)" and struck out "or his delegate" after "Secretary".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104-188, set out as a note under section 641 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 714(q)(5) of Pub. L. 98-369, set out as an Effective Date note under section 6034A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE

Section applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 64(e) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 172 of this title.

§ 6038. Information reporting with respect to certain foreign corporations and partnerships**(a) Requirement****(1) In general**

Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

(A) the name, the principal place of business, and the nature of business of such en-

tity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));¹

(C) a balance sheet for such entity listing assets, liabilities, and capital;

(D) transactions between such entity and—

- (i) such person,
- (ii) any corporation or partnership which such person controls, and
- (iii) any United States person owning, at the time the transaction takes place—

(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.

(2) Period for which information is to be furnished, etc.

The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign business entity ending with or within the United States person's taxable year. The information so required shall be furnished at such time and in such manner as the Secretary shall prescribe.

(3) Limitation

No information shall be required to be furnished under this subsection with respect to any foreign business entity for any annual accounting period unless the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.

(4) Information required from certain shareholders in certain cases

If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1).

(5) Information required from 10-percent partner of controlled foreign partnership

In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.

(b) Dollar penalty for failure to furnish information

(1) In general

If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign business entity required under paragraph (1) of subsection (a), such person shall pay a penalty of \$10,000 for each annual accounting period with respect to which such failure exists.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$50,000.

(c) Penalty of reducing foreign tax credit

(1) In general

If a United States person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign business entity required under paragraph (1) of subsection (a), then—

(A) in applying section 901 (relating to taxes of foreign countries and possessions of the United States) to such United States person for the taxable year, the amount of taxes (other than taxes reduced under subparagraph (B)) paid or deemed paid (other than those deemed paid under section 904(c)) to any foreign country or possession of the United States for the taxable year shall be reduced by 10 percent, and

(B) in the case of a foreign business entity which is a foreign corporation, in applying section 960 to any such United States person which is a corporation (or to any person who acquires from any other person any portion of the interest of such other person in any such foreign corporation, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation with respect to which such person is required to furnish information during the annual accounting period or periods with respect to which such

¹ See References in Text note below.

information is required under paragraph (2) of subsection (a) shall be reduced by 10 percent.

If such failure continues 90 days or more after notice of such failure by the Secretary to the United States person, then the amount of the reduction under this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period.

(2) Limitation

The amount of the reduction under paragraph (1) for each failure to furnish information with respect to a foreign business entity required under subsection (a)(1) shall not exceed whichever of the following amounts is the greater:

(A) \$10,000, or

(B) the income of the foreign business entity for its annual accounting period with respect to which the failure occurs.

(3) Coordination with subsection (b)

The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period.

(4) Special rules

(A) No taxes shall be reduced under this subsection more than once for the same failure.

(B) For purposes of this subsection and subsection (b), the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish such information.

(d) Two or more persons required to furnish information with respect to same foreign corporation

Where, but for this subsection, two or more United States persons would be required to furnish information under subsection (a) with respect to the same foreign business entity for the same period, the Secretary may by regulations provide that such information shall be required only from one person. To the extent practicable, the determination of which person shall furnish the information shall be made on the basis of actual ownership of stock.

(e) Definitions

For purposes of this section—

(1) Foreign business entity

The term “foreign business entity” means a foreign corporation and a foreign partnership.

(2) Control of corporation

A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of

all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that—

(A) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

(B) in applying subparagraph (C) of section 318(a)(2), the phrase “10 percent” shall be substituted for the phrase “50 percent” used in subparagraph (C).

(3) Partnership-related definitions

(A) Control

A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

(B) 50-percent interest

For purposes of subparagraph (A), a 50-percent interest in a partnership is—

(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply.

(C) 10-percent interest

A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if “10 percent” were substituted for “50 percent” each place it appears.

(4) Annual accounting period

The annual accounting period of a foreign business entity is the annual period on the basis of which such foreign business entity regularly computes its income in keeping its books. In the case of a specified foreign business entity (as defined in section 898), the taxable year of such foreign business entity shall be treated as its annual accounting period.

(f) Cross references

(1) For provisions relating to penalties for violations of this section, see section 7203.

(2) For definition of the term “United States person”, see section 7701(a)(30).

(Added Pub. L. 86-780, §6(a), Sept. 14, 1960, 74 Stat. 1014; amended Pub. L. 87-834, §20(a), Oct. 16, 1962, 76 Stat. 1059; Pub. L. 88-554, §4(b)(6), Aug. 31, 1964, 78 Stat. 764; Pub. L. 94-455, title X, §1031(b)(5), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1623, 1834; Pub. L. 97-248, title III,

§ 338(a)–(c), Sept. 3, 1982, 96 Stat. 631; Pub. L. 99–514, title XII, §§ 1202(c), 1245(b)(5), Oct. 22, 1986, 100 Stat. 2530, 2581; Pub. L. 101–239, title VII, § 7712(a), Dec. 19, 1989, 103 Stat. 2393; Pub. L. 101–508, title XI, § 11701(f), Nov. 5, 1990, 104 Stat. 1388–508; Pub. L. 104–188, title I, § 1704(f)(5)(A), (t)(40), (46), Aug. 20, 1996, 110 Stat. 1880, 1889; Pub. L. 105–34, title XI, § 1142(a)–(e)(2), Aug. 5, 1997, 111 Stat. 981–983; Pub. L. 105–206, title VI, § 6011(f), July 22, 1998, 112 Stat. 818; Pub. L. 115–97, title I, § 14301(c)(36), (37), Dec. 22, 2017, 131 Stat. 2224.)

REFERENCES IN TEXT

Section 902, referred to in subsec. (a)(1)(B), was repealed by Pub. L. 115–97, title I, § 14301(a), Dec. 22, 2017, 131 Stat. 2221.

PRIOR PROVISIONS

A prior section 6038 was renumbered section 6040 of this title.

AMENDMENTS

2017—Subsec. (c)(1)(B). Pub. L. 115–97, § 14301(c)(36), substituted “section 960” for “sections 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) and 960 (relating to special rules for foreign tax credit)”.

Subsec. (c)(4)(C). Pub. L. 115–97, § 14301(c)(37), struck out subpar. (C) which read as follows: “In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this subsection shall not apply for purposes of determining the amount of post-1986 undistributed earnings.”

1998—Subsec. (a)(2). Pub. L. 105–206, § 6011(f)(1), struck out “by regulations” before “prescribe”.

Subsec. (a)(3). Pub. L. 105–206, § 6011(f)(2), substituted “the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.” for “such information was required to be furnished under regulations in effect on the first day of such annual accounting period.”

Subsec. (e)(4). Pub. L. 105–206, § 6011(f)(3), substituted “such foreign business entity” for “such corporation” in two places.

1997—Pub. L. 105–34, § 1142(a), inserted “reporting” after “Information” and “and partnerships” after “corporations” in section catchline.

Subsec. (a). Pub. L. 105–34, § 1142(a), reenacted heading without change.

Subsec. (a)(1). Pub. L. 105–34, § 1142(a), reenacted heading without change and amended text generally. Prior to amendment, par. (1) consisted of subpars. (A) to (E) relating to general requirements of information with respect to foreign corporations.

Subsec. (a)(2), (3). Pub. L. 105–34, § 1142(e)(1)(A), substituted “foreign business entity” for “foreign corporation” in pars. (2) and (3).

Subsec. (a)(5). Pub. L. 105–34, § 1142(d), added par. (5).

Subsec. (b). Pub. L. 105–34, § 1142(c), (e)(1)(B), substituted “foreign business entity” for “foreign corporation” in par. (1), substituted “\$10,000” for “\$1,000” in pars. (1) and (2), and substituted “\$50,000” for “\$24,000” in par. (2).

Subsec. (c)(1). Pub. L. 105–34, § 1142(e)(1)(C), (2), substituted “foreign business entity” for “foreign corporation” in introductory provisions and inserted “in the case of a foreign business entity which is a foreign corporation,” after “(B)” in subpar. (B).

Subsec. (c)(2). Pub. L. 105–34, § 1142(e)(1)(C), substituted “foreign business entity” for “foreign corporation” in introductory provisions and in subpar. (B).

Subsec. (d). Pub. L. 105–34, § 1142(e)(1)(D), substituted “foreign business entity” for “foreign corporation”.

Subsec. (e). Pub. L. 105–34, § 1142(b), added pars. (1) and (3), redesignated former pars. (1) and (2) as (2) and (4), respectively, inserted “of corporation” after “Control” in par. (2) heading, and substituted “foreign business entity” for “foreign corporation” in two places in par. (4).

1996—Subsec. (a)(1)(E), (F). Pub. L. 104–188, § 1704(f)(5)(A), substituted period for “,” and “” at end of subpar. (E) and struck out subpar. (F) which read as follows: “such information as the Secretary may require for purposes of carrying out the provisions of section 453C.”

Subsec. (e). Pub. L. 104–188, § 1704(t)(40), redesignated subsec. (e), relating to cross references, as (f).

Subsec. (e)(2). Pub. L. 104–188, § 1704(t)(46), made technical amendment to directory language of Pub. L. 101–508. See 1990 Amendment note below.

Subsec. (f). Pub. L. 104–188, § 1704(t)(40), redesignated subsec. (e), relating to cross references, as (f).

1990—Subsec. (e)(2). Pub. L. 101–508, as amended by Pub. L. 104–188, § 1704(t)(46), in subsec. (e) relating to definitions, inserted at end of par. (2) “In the case of a specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period.”

1989—Subsec. (a)(1). Pub. L. 101–239, § 7712(a)(2), inserted before period at end “or which the Secretary determines to be appropriate to carry out the provisions of this title.”

Subsec. (a)(4). Pub. L. 101–239, § 7712(a)(1), added par. (4).

1986—Subsec. (a)(1)(B). Pub. L. 99–514, § 1202(c)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the accumulated profits (as defined in section 902(c)) of such foreign corporation, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;”.

Subsec. (a)(1)(F). Pub. L. 99–514, § 1245(b)(5), added subpar. (F).

Subsec. (c)(4)(C). Pub. L. 99–514, § 1202(c)(2), substituted “post-1986 undistributed earnings” for “accumulated profits in excess of income, war profits, and excess profits taxes”.

1982—Subsec. (a)(1). Pub. L. 97–248, § 338(c)(2), substituted “subsection (e)(1)” for “subsection (d)(1)”.

Subsec. (b). Pub. L. 97–248, § 338(a), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 97–248, § 338(a), (b), (c)(1), (3), redesignated former subsec. (b) as (c), substituted “Penalty of reducing foreign tax credit” for “Effect of failure to furnish information” in heading, inserted “of such failure” after “90 days or more after notice” in par. (1), added par. (3), redesignated former par. (3) as (4), and in par. (4) inserted reference to subsection (b) in subpar. (B). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 97–248, § 338(a), redesignated former subsec. (c) as (d). Former subsec. (d), relating to definitions, redesignated (e).

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

Subsec. (b)(1). Pub. L. 94–455, § 1031(b)(5), substituted in subpar. (A) “section 904(c)” for “section 904(d)”.

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

1964—Subsec. (d)(1). Pub. L. 88–554 substituted “subparagraphs (A), (B), and (C) of section 318(a)(3)” for “the second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2)” in subpar. (A), and deleted “clause (i) of” after “in applying” in subpar. (B).

1962—Subsec. (a)(1). Pub. L. 87–834, among other changes, substituted in introductory provisions “Every United States person shall furnish” for “A domestic corporation shall furnish”, in subpar. (D)(i) “such person” for “any foreign corporation controlled by the domestic corporation”, in subpar. (D)(ii) “any other corporation which such person controls” for “any foreign subsidiary of a foreign corporation controlled by the domestic corporation”, in subpar. (D)(iii) “any United States person owning, at the time the transaction takes place, 10 percent or more of the value of any class of stock outstanding of such foreign corporation” for

“the domestic corporation or any shareholder of the domestic corporation owning at the time the transaction takes place 10 percent or more of the value of any class of stock outstanding of the domestic corporation”, and in subpar. (E) “each United States person who is a shareholder” for “each citizen or resident of the United States and each domestic corporation who is a shareholder”, and struck out provisions throughout the subsection which related to foreign subsidiaries.

Subsec. (a)(2). Pub. L. 87-834 substituted provisions requiring the information to be furnished for the annual accounting period ending with or within the United States person's taxable year for provisions which required such information to be furnished for the annual accounting period ending with or within the domestic corporation's taxable year, and struck out provisions which related to the furnishing of information in the case of foreign subsidiaries.

Subsec. (a)(3). Pub. L. 87-834 struck out provisions which related to foreign subsidiaries.

Subsec. (b). Pub. L. 87-834, among other changes, substituted “If a United States person fails to furnish” for “If a domestic corporation fails to furnish” in the opening provisions, inserted provisions relating to reduction of taxes in applying sections 901 and 960 of this title, to the maximum amount of reduction under par. (1) for each failure to furnish information with respect to a foreign corporation required under subsec. (a)(1), and making the reduction provided by subsec. (b) inapplicable, in applying subsecs. (a) and (b) of section 902 and subsec. (a) of section 960, for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes, and eliminated provisions which related to the furnishing of information with respect to foreign subsidiaries.

Subsec. (c). Pub. L. 87-834 substituted provisions empowering the Secretary to provide for the furnishing of information by only one person where two or more persons would be required to furnish information under subsec. (a) with respect to the same foreign corporation for the same period for provisions which required a domestic corporation if at any time during its taxable year owned more than 50 percent of the voting stock of a foreign corporation to be deemed to be in control of such foreign corporation, and in the case of a foreign corporation if at any time during its annual accounting period owned more than 50 percent of the voting stock of another foreign corporation, that such other corporation shall be considered a foreign subsidiary of the corporation owning such stock. The provisions relating to control are now contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 87-834 added par. (1) which was formerly covered in part by subsec. (c) of this section, designated existing provisions as par. (2), and eliminated from par. (2) provisions which related to the annual accounting period of a foreign subsidiary.

Subsec. (e). Pub. L. 87-834 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years of foreign corporations beginning after Dec. 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, see section 14301(d) of Pub. L. 115-97, set out as a note under section 78 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 annual accounting periods beginning after Aug. 5, 1997, see section 1142(f) of Pub. L. 105-34, set out as a note under section 318 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective, except as otherwise provided, as if included in the provision of the Revenue Reconciliation Act of 1989, Pub. L. 101-239, title VII, to which such amendment relates, see section 11701(n) of Pub. L. 101-508, set out as a note under section 42 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7712(b), Dec. 19, 1989, 103 Stat. 2394, provided that: “The amendments made by subsection (a) [amending this section] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1202(c) of Pub. L. 99-514 applicable to distributions by foreign corporations out of, and to inclusions under section 951(a) of this title attributable to, earnings and profits for taxable years beginning after Dec. 31, 1986, see section 1202(e) of Pub. L. 99-514, set out as a note under section 960 of this title.

Amendment by section 1245(b)(5) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1245(c) of Pub. L. 99-514, set out as a note under section 6038A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, § 338(d), Sept. 3, 1982, 96 Stat. 631, provided that: “The amendments made by this section [amending this section] shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-554 effective Aug. 31, 1964, except that for purposes of sections 302 and 304 of this title, such amendments shall not apply to distributions in payment for stock acquisitions or redemptions, if such acquisitions or redemptions occurred before Aug. 31, 1964, see section 4(c) of Pub. L. 88-554, set out as a note under section 318 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-834, § 20(e)(1), Oct. 16, 1962, 76 Stat. 1063, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to annual accounting periods of foreign corporations beginning after December 31, 1962.”

EFFECTIVE DATE

Pub. L. 86-780, § 6(c), Sept. 14, 1960, 74 Stat. 1016, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsection (a) [enacting this section and amending section 902 of this title] shall apply to taxable years of domestic corporations beginning after December 31, 1960, with respect to information relating to a foreign corporation or a foreign subsidiary described in section 6038(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) for its annual accounting periods beginning after December 31, 1960.”

§ 6038A. Information with respect to certain foreign-owned corporations

(a) Requirement

If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the “reporting corporation”)—

- (1) is a domestic corporation, and
- (2) is 25-percent foreign-owned,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in

subsection (b) and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

(b) Required information

(1) In general

For purposes of subsection (a), the information described in this subsection is such information as the Secretary prescribes by regulations relating to—

(A) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each person which—

(i) is a related party to the reporting corporation, and

(ii) had any transaction with the reporting corporation during its taxable year,

(B) the manner in which the reporting corporation is related to each person referred to in subparagraph (A), and

(C) transactions between the reporting corporation and each foreign person which is a related party to the reporting corporation.

(2) Additional information regarding base erosion payments

For purposes of subsection (a) and section 6038C, if the reporting corporation or the foreign corporation to whom section 6038C applies is an applicable taxpayer, the information described in this subsection shall include—

(A) such information as the Secretary determines necessary to determine the base erosion minimum tax amount, base erosion payments, and base erosion tax benefits of the taxpayer for purposes of section 59A for the taxable year, and

(B) such other information as the Secretary determines necessary to carry out such section.

For purposes of this paragraph, any term used in this paragraph which is also used in section 59A shall have the same meaning as when used in such section.

(c) Definitions

For purposes of this section—

(1) 25-percent foreign-owned

A corporation is 25-percent foreign-owned if at least 25 percent of—

(A) the total voting power of all classes of stock of such corporation entitled to vote, or

(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a “25-percent foreign shareholder”).

(2) Related party

The term “related party” means—

(A) any 25-percent foreign shareholder of the reporting corporation,

(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

(3) Foreign person

The term “foreign person” means any person who is not a United States person. For purposes of the preceding sentence, the term “United States person” has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

(4) Records

The term “records” includes any books, papers, or other data.

(5) Section 318 to apply

Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

(A) “10 percent” shall be substituted for “50 percent” in section 318(a)(2)(C), and

(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

(d) Penalty for failure to furnish information or maintain records

(1) In general

If a reporting corporation—

(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of \$25,000 for each taxable year with respect to which such failure occurs.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of \$25,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

(3) Reasonable cause

For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records.

(e) Enforcement of requests for certain records**(1) Agreement to treat corporation as agent**

The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

(2) Rules where information not furnished

If—

(A) for purposes of determining the correct treatment under this title of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

(3) Applicable rules in cases of noncompliance

If the rules of this paragraph apply to any transaction—

(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

(4) Judicial proceedings**(A) Proceedings to quash**

Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

(B) Review of secretarial determination of noncompliance

Notwithstanding any law or rule of law, any reporting corporation which has been notified by the Secretary that the Secretary has determined that such corporation has not substantially complied with a summons referred to in paragraph (2) shall have the right to begin a proceeding to review such determination not later than the 90th day after the day on which the notice referred to in paragraph (2)(C) was mailed. If such a proceeding is not begun on or before such 90th day, such determination by the Secretary shall be binding and shall not be reviewed by any court.

(C) Jurisdiction

The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A) or (B). Any order or other determination in such a proceeding shall be treated as a final order which may be appealed.

(D) Suspension of statute of limitations

If the reporting corporation brings an action under subparagraph (A) or (B), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any affected taxable year shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding. For purposes of this subparagraph, the term "affected taxable year" means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.

(f) Cross reference

For provisions relating to criminal penalties for violation of this section, see section 7203.

(Added Pub. L. 97-248, title III, §339(a), Sept. 3, 1982, 96 Stat. 632; amended Pub. L. 97-448, title III, §306(b)(4), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 98-369, div. A, title VII, §714(l), July 18, 1984, 98

Stat. 963; Pub. L. 99-514, title XII, § 1245(a), (b)(1)–(4), Oct. 22, 1986, 100 Stat. 2581; Pub. L. 101-239, title VII, § 7403(a)–(d), Dec. 19, 1989, 103 Stat. 2358, 2359; Pub. L. 101-508, title XI, §§ 11315(b)(1), 11704(a)(23), Nov. 5, 1990, 104 Stat. 1388-457, 1388-519; Pub. L. 104-188, title I, §§ 1702(c)(5), 1704(f)(5)(B), Aug. 20, 1996, 110 Stat. 1869, 1880; Pub. L. 115-97, title I, § 14401(b), Dec. 22, 2017, 131 Stat. 2232.)

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-97, § 14401(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) described information required to be furnished by certain foreign-owned corporations.

Subsec. (d)(1), (2). Pub. L. 115-97, § 14401(b)(2), substituted “\$25,000” for “\$10,000”.

1996—Subsec. (b)(2) to (4). Pub. L. 104-188, § 1704(f)(5)(B), inserted “and” at end of par. (2), substituted a period for “, and” at end of par. (3), and struck out par. (4) which read as follows: “such information as the Secretary may require for purposes of carrying out the provisions of section 453C.”

Subsec. (e)(4)(D). Pub. L. 104-188, § 1702(c)(5), substituted “any affected taxable year” for “any transaction to which the summons relates” and inserted at end “For purposes of this subparagraph, the term ‘affected taxable year’ means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.”

1990—Subsec. (a)(1). Pub. L. 101-508, § 11315(b)(1), struck out “or is a foreign corporation engaged in trade or business within the United States” after “corporation”.

Subsec. (c)(3) to (6). Pub. L. 101-508, § 11704(a)(23), redesignated pars. (4) to (6) as (3) to (5), respectively.

1989—Subsec. (a). Pub. L. 101-239, § 7403(b), inserted before period at end “and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)”.

Subsec. (a)(2). Pub. L. 101-239, § 7403(a)(1), amended par. (2) generally, substituting “is 25-percent foreign-owned,” for “is controlled by a foreign person.”

Subsec. (c). Pub. L. 101-239, § 7403(a)(2), amended subsec. (c) generally, substituting pars. (1) to (6) for former pars. (1) to (3) defining “control”, “related party”, and “foreign person”.

Subsec. (d). Pub. L. 101-239, § 7403(c), inserted “or maintain records” after “information” in heading and amended text generally, making changes in substance and structure of pars. (1) to (3).

Subsecs. (e), (f). Pub. L. 101-239, § 7403(d), added subsec. (e) and redesignated former subsec. (e) as (f).

1986—Subsec. (b)(1). Pub. L. 99-514, § 1245(a), substituted “each person” for “each corporation” in introductory provisions and amended subpar. (A) generally, substituting “related party to the reporting corporation” for “member of the same controlled group as the reporting corporation”.

Subsec. (b)(2). Pub. L. 99-514, § 1245(b)(1), substituted “each person” for “each corporation”.

Subsec. (b)(3). Pub. L. 99-514, § 1245(b)(2), (3), amended par. (3) generally, substituting “foreign person which is a related party to the reporting corporation, and” for “foreign corporation which is a member of the same controlled group as the reporting corporation.”

Subsec. (b)(4). Pub. L. 99-514, § 1245(b)(3), added par. (4).

Subsec. (c)(2). Pub. L. 99-514, § 1245(b)(4), amended par. (2) generally. Prior to amendment, par. (2), controlled group, read as follows: “The term ‘controlled group’ means any controlled group of corporations within the meaning of section 1563(a); except that—

“(A) ‘at least 50 percent’ shall be substituted—

“(i) for ‘at least 80 percent’ each place it appears in section 1563(a)(1), and

“(ii) for ‘more than 50 percent’ each place it appears in section 1563(a)(2)(B), and

“(B) the determination shall be made without regard to subsections (a)(4), (b)(2)(C), and (e)(3)(C) of section 1563.”

1984—Subsec. (c)(1). Pub. L. 98-369 substituted section “6038(e)(1)” for “6038(d)(1)”.

1983—Subsec. (c)(2)(B). Pub. L. 97-448 inserted “, (b)(2)(C),” after “(a)(4)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by 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 1996 AMENDMENT

Amendment by section 1702(c)(5) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, § 11315(c), Nov. 5, 1990, 104 Stat. 1388-457, provided that: “The amendments made by this section [enacting section 6038C of this title and amending this section] shall apply to—

“(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act [Nov. 5, 1990],

“(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

“(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

“(4) any summons issued after such date of enactment, without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7403(e), Dec. 19, 1989, 103 Stat. 2361, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after July 10, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XII, § 1245(c), Oct. 22, 1986, 100 Stat. 2581, provided that: “The amendments made by this section [amending this section and section 6038 of this title] shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §339(c), Sept. 3, 1982, 96 Stat. 633, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1982.”

APPLICABILITY OF 1989 AMENDMENT

Pub. L. 101-508, title XI, §11314, Nov. 5, 1990, 104 Stat. 1388-455, provided that:

“(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 [Pub. L. 101-239, amending this section] shall apply to—

“(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act [Nov. 5, 1990].

“(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

“(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

“(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

“(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act [Nov. 5, 1990] but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.”

§ 6038B. Notice of certain transfers to foreign persons

(a) In general

Each United States person who—

(1) transfers property to—

(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary, or

(2) makes a distribution described in section 336 to a person who is not a United States person,

shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange or distribution as the Secretary may require in such regulations.

(b) Exceptions for certain transfers to foreign partnerships; special rule

(1) Exceptions

Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as de-

finied in section 6046A(d)) in the partnership, or

(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds \$100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

(2) Special rule

If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.

(c) Penalty for failure to furnish information

(1) In general

If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).

(2) Reasonable cause exception

Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect.

(3) Limit on penalty

The penalty under paragraph (1) with respect to any exchange shall not exceed \$100,000 unless the failure with respect to such exchange was due to intentional disregard.

(Added Pub. L. 98-369, div. A, title I, §131(d)(1), July 18, 1984, 98 Stat. 664; amended Pub. L. 105-34, title XI, §1144(a)-(c), Aug. 5, 1997, 111 Stat. 984, 985; Pub. L. 105-206, title VI, §6011(g), July 22, 1998, 112 Stat. 818; Pub. L. 109-135, title IV, §409(c), Dec. 21, 2005, 119 Stat. 2636.)

AMENDMENTS

2005—Subsec. (a)(1)(B). Pub. L. 109-135 inserted “or” at end.

1998—Subsec. (c). Pub. L. 105-206, §6011(g), made technical amendment to directory language of Pub. L. 105-206, §1144(c). See 1997 Amendment note below.

1997—Subsec. (a)(1). Pub. L. 105-34, §1144(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or”.

Subsec. (b). Pub. L. 105-34, §1144(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105-34, §1144(c), as amended by Pub. L. 105-206, §6011(g), substituted “equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution)” for “equal to 25 percent of the amount of the gain realized on the exchange” in par. (1) and added par. (3).

Pub. L. 105-34, §1144(b), redesignated subsec. (b) as (c).

EFFECTIVE DATE OF 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

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

Pub. L. 105-34, title XI, §1144(d)(1), Aug. 5, 1997, 111 Stat. 985, provided that: "The amendments made by this section [amending this section] shall apply to transfers made after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE

Section applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 367 of this title.

ELECTION OF RETROACTIVE EFFECT

Pub. L. 105-34, title XI, §1144(d)(2), Aug. 5, 1997, 111 Stat. 985, provided that: "Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if all applicable reporting requirements under section 6038B of such Code (as amended by this section) are satisfied. The Secretary of the Treasury or his delegate may prescribe simplified reporting requirements under the preceding sentence."

§ 6038C. Information with respect to foreign corporations engaged in U.S. business

(a) Requirement

If a foreign corporation (hereinafter in this section referred to as the "reporting corporation") is engaged in a trade or business within the United States at any time during a taxable year—

(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

(b) Required information

For purposes of subsection (a), the information described in this subsection is—

(1) the information described in section 6038A(b), and

(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

(c) Penalty for failure to furnish information or maintain records

The provisions of subsection (d) of section 6038A shall apply to—

(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

(d) Enforcement of requests for certain records

(1) Agreement to treat corporation as agent

The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

(2) Rules where information not furnished

If—

(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

(3) Applicable rules

If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

(4) Judicial proceedings

The provisions of section 6038A(e)(4) shall apply with respect to any summons referred to in paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting "transaction or item" for "transaction".

(e) Definitions

For purposes of this section, the terms "related party", "foreign person", and "records" have the respective meanings given to such terms by section 6038A(c).

(Added Pub. L. 101-508, title XI, § 11315(a), Nov. 5, 1990, 104 Stat. 1388-456.)

EFFECTIVE DATE

Section applicable to (1) any requirement to furnish information under this section if the time for furnishing such information is after Nov. 5, 1990, (2) any requirement under subsec. (a) of this section to maintain records which were in existence on or after Mar. 20, 1990, (3) any requirement to authorize a corporation to act as a limited agent under subsec. (d)(1) of this section if the time for authorizing such action is after Nov. 5, 1990, and (4) any summons issued after Nov. 5, 1990, without regard to when the taxable year (to which the information, records, authorization, or summons relates) began, see section 11315(c) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 6038A of this title.

§ 6038D. Information with respect to foreign financial assets**(a) In general**

Any individual who, during any taxable year, holds any interest in a specified foreign financial asset shall attach to such person's return of tax imposed by subtitle A for such taxable year the information described in subsection (c) with respect to each such asset if the aggregate value of all such assets exceeds \$50,000 (or such higher dollar amount as the Secretary may prescribe).

(b) Specified foreign financial assets

For purposes of this section, the term "specified foreign financial asset" means—

(1) any financial account (as defined in section 1471(d)(2)) maintained by a foreign financial institution (as defined in section 1471(d)(4)), and

(2) any of the following assets which are not held in an account maintained by a financial institution (as defined in section 1471(d)(5))—

(A) any stock or security issued by a person other than a United States person,

(B) any financial instrument or contract held for investment that has an issuer or counterparty which is other than a United States person, and

(C) any interest in a foreign entity (as defined in section 1473).

(c) Required information

The information described in this subsection with respect to any asset is:

(1) In the case of any account, the name and address of the financial institution in which such account is maintained and the number of such account.

(2) In the case of any stock or security, the name and address of the issuer and such information as is necessary to identify the class or issue of which such stock or security is a part.

(3) In the case of any other instrument, contract, or interest—

(A) such information as is necessary to identify such instrument, contract, or interest, and

(B) the names and addresses of all issuers and counterparties with respect to such instrument, contract, or interest.

(4) The maximum value of the asset during the taxable year.

(d) Penalty for failure to disclose**(1) In general**

If any individual fails to furnish the information described in subsection (c) with respect to any taxable year at the time and in the manner described in subsection (a), such person shall pay a penalty of \$10,000.

(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 individual, such individual shall pay a penalty (in addition to the penalties 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 penalty imposed under this paragraph with respect to any failure shall not exceed \$50,000.

(e) Presumption that value of specified foreign financial assets exceeds dollar threshold

If—

(1) the Secretary determines that an individual has an interest in one or more specified foreign financial assets, and

(2) such individual does not provide sufficient information to demonstrate the aggregate value of such assets,

then the aggregate value of such assets shall be treated as being in excess of \$50,000 (or such higher dollar amount as the Secretary prescribes for purposes of subsection (a)) for purposes of assessing the penalties imposed under this section.

(f) Application to certain entities

To the extent provided by the Secretary in regulations or other guidance, the provisions of this section shall apply to any domestic entity which is formed or availed of for purposes of holding, directly or indirectly, specified foreign financial assets, in the same manner as if such entity were an individual.

(g) Reasonable cause exception

No penalty shall be imposed by this section on any failure which is shown to be due to reason-

able 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.

(h) Regulations

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide appropriate exceptions from the application of this section in the case of—

- (1) classes of assets identified by the Secretary, including any assets with respect to which the Secretary determines that disclosure under this section would be duplicative of other disclosures,
- (2) nonresident aliens, and
- (3) bona fide residents of any possession of the United States.

(Added Pub. L. 111–147, title V, § 511(a), Mar. 18, 2010, 124 Stat. 109.)

EFFECTIVE DATE

Pub. L. 111–147, title V, § 511(c), Mar. 18, 2010, 124 Stat. 110, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after the date of the enactment of this Act [Mar. 18, 2010].”

§ 6039. Returns required in connection with certain options

(a) Requirement of reporting

Every corporation—

- (1) which in any calendar year transfers to any person a share of stock pursuant to such person’s exercise of an incentive stock option, or
- (2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock),

shall, for such calendar year, make a return at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.

(b) Statements to be furnished to persons with respect to whom information is reported

Every corporation making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement setting forth such information as the Secretary may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to such person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(c) Special rules

For purposes of this section—

(1) Treatment by employer to be determinative

Any option which the corporation treats as an incentive stock option or an option granted under an employee stock purchase plan shall be deemed to be such an option.

(2) Subsection (a)(2) applies only to first transfer described therein

A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

(3) Identification of stock

Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

(d) Cross references

For definition of—

(1) the term “incentive stock option”, see section 422(b), and

(2) the term “employee stock purchase plan”¹ see section 423(b).

(Added Pub. L. 88–272, title II, § 221(b)(1), Feb. 26, 1964, 78 Stat. 73; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 7(a), Dec. 29, 1979, 93 Stat. 1276; Pub. L. 97–34, title II, § 251(b)(5), Aug. 13, 1981, 95 Stat. 259; Pub. L. 101–508, title XI, § 11801(c)(9)(J), Nov. 5, 1990, 104 Stat. 1388–526; Pub. L. 105–206, title VI, § 6023(20), July 22, 1998, 112 Stat. 825; Pub. L. 109–432, div. A, title IV, § 403(a), (b), (c)(3), (4), Dec. 20, 2006, 120 Stat. 2954, 2955.)

PRIOR PROVISIONS

A prior section 6039 was renumbered section 6040 of this title.

AMENDMENTS

2006—Pub. L. 109–432, § 403(c)(3), substituted “Returns” for “Information” in section catchline.

Subsec. (a). Pub. L. 109–432, § 403(a), (c)(4), substituted “Requirement of reporting” for “Furnishing of information” in heading and amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.”

Subsecs. (b) to (d). Pub. L. 109–432, § 403(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1998—Subsec. (a)(1). Pub. L. 105–206 inserted “to any person” after “transfers”.

1990—Subsec. (a)(1), (2). Pub. L. 101–508, § 11801(c)(9)(J)(i), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) which in any calendar year transfers a share of stock to any person pursuant to such person’s exercise of a qualified stock option, an incentive stock option, or a restricted stock option, or

“(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

“(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

“(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock).”

Subsec. (b)(1). Pub. L. 101–508, § 11801(c)(9)(J)(ii), substituted “an incentive stock option or an” for “a qualified stock option, incentive stock option, a restricted stock option, or an”.

¹ So in original. Probably should be followed by a comma.

Subsec. (c). Pub. L. 101-508, §11801(c)(9)(J)(iii), amended subsec. (c) generally, striking out references for definitions of “qualified stock option” and “restricted stock option”.

1981—Subsec. (a)(1). Pub. L. 97-34, §251(b)(5)(A), inserted “, an incentive stock option,” after “qualified stock option”.

Subsec. (b)(1). Pub. L. 97-34, §251(b)(5)(B), inserted “incentive stock option,” after “qualified stock option.”

Subsec. (c)(4). Pub. L. 97-34, §251(b)(5)(C), added par. (4).

1979—Subsec. (a). Pub. L. 96-167 substituted “Furnishing of information” for “Requirement of reporting” in heading, and in closing par. substituted provisions relating to the furnishing, on or before Jan. 31 of the following calendar year, a written statement in such manner and setting forth such information, as prescribed by regulation for provisions prescribing the making of a return at such time and in such manner as prescribed by regulation, determining qualified stock options, restricted stock options or options granted under an employee stock purchase plan to be options under the provisions of this section, and restricting the necessity of a return only to the first transfer of such share.

Subsec. (b). Pub. L. 96-167 added subsec. (b). Former subsec. (b), requiring every corporation making a return to furnish each person named in the return a written statement setting forth such information as prescribed by regulation, and requiring such statement to be furnished before January 31 of the year following the calendar year for which the return was made, was struck out.

Subsec. (c). Pub. L. 96-167 redesignated subsec. (d) as (c). Former subsec. (c), requiring any corporation transferring any share of stock pursuant to the exercise of an option described in subsec. (a)(2) to identify such stock, was struck out.

Subsec. (d). Pub. L. 96-167 redesignated subsec. (d) as (c).

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §403(d), Dec. 20, 2006, 120 Stat. 2955, provided that: “The amendments made by this section [amending this section and section 6724 of this title] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to options granted on or after Jan. 1, 1976, and exercised on or after Jan. 1, 1981, or outstanding on Jan. 1, 1981, or granted on or after Jan. 1, 1976, and outstanding Aug. 13, 1981, see section 251(c) of Pub. L. 97-34, set out as an Effective Date note under section 422 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-167 applicable with respect to calendar years beginning after 1979, see section 7(c) of Pub. L. 96-167, set out as a note under section 6652 of this title.

EFFECTIVE DATE

Section applicable to stock transferred pursuant to options exercised on or after Jan. 1, 1964. See section 221(e) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 421 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[§ 6039A. Repealed. Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94-455, title XX, §2005(d)(1), Oct. 4, 1976, 90 Stat. 1877, related to information regarding carryover basis property acquired from a decedent. Repeal was achieved by repealing section 2005(d)(1) of Pub. L. 94-455 and the amendments made by that section.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

[§ 6039B. Repealed. Pub. L. 99-514, title XIII, § 1303(b)(5), Oct. 22, 1986, 100 Stat. 2658]

Section, added Pub. L. 95-600, title VI, §601(b)(4), Nov. 6, 1978, 92 Stat. 2896; amended Pub. L. 96-595, §3(b), Dec. 24, 1980, 94 Stat. 3466, related to returns of general stock ownership corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1986, see section 1311(f) of Pub. L. 99-514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

§ 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests

(a) General rule

To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

(1) the name and address of such person,

(2) a description of all United States real property interests held by such person at any time during the calendar year, and

(3) such other information as the Secretary may by regulations prescribe.

(b) Definition of foreign persons holding direct investments in United States real property interests

For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

(1) such person did not engage in a trade or business in the United States at any time during such calendar year, and

(2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds \$50,000.

(c) Definitions and special rules

For purposes of this section—

(1) United States real property interest

The term “United States real property interest” has the meaning given to such term by section 897(c).

(2) Foreign person

The term “foreign person” means any person who is not a United States person.

(3) Attribution of ownership

For purposes of subsection (b)(2)—

(A) Interests held by partnerships, etc.

United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

(B) Interests held by family members

United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

(4) Time and manner of filing return

All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(d) Special rule for United States interest and Virgin Islands interest

A nonresident alien individual or foreign corporation subject to tax under section 897(a) (and any person required to withhold tax under section 1445) shall pay any tax and file any return required by this title—

(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).

(Added Pub. L. 96-499, title XI, § 1123(a), Dec. 5, 1980, 94 Stat. 2687; amended Pub. L. 97-34, title VIII, § 831(a)(3), (e), Aug. 13, 1981, 95 Stat. 352, 354; Pub. L. 98-369, div. A, title I, § 129(b)(1), July 18, 1984, 98 Stat. 659; Pub. L. 99-514, title XVIII, § 1810(f)(7), Oct. 22, 1986, 100 Stat. 2828.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 inserted “(and any person required to withhold tax under section 1445)” after “section 897(a)”.

1984—Pub. L. 98-369 amended section generally, inserting in section catchline “foreign persons holding direct investments in” and substituting in text provisions concerning returns with respect to foreign persons holding direct investments in United States real property for provisions concerning returns with respect to United States real property interests.

1981—Subsec. (b)(4)(C). Pub. L. 97-34, § 831(e), substituted “For purposes of determining whether an entity to which this subsection applies has a substantial investor in United States real property, the assets of any person shall include the person’s pro rata share of the United States real property interest held by any corporation (whether domestic or foreign) if the person’s pro rata share of the United States real property interests exceeded \$50,000” for “The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property”.

Subsec. (f). Pub. L. 97-34, § 831(a)(3), added subsec. (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to

which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, § 129(c)(2), July 18, 1984, 98 Stat. 660, provided that: “The amendments made by subsection (b) [amending this section] shall apply to calendar year 1980 and subsequent calendar years.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to dispositions after June 18, 1980, in taxable years ending after such date, see section 831(i) of Pub. L. 97-34, set out as a note under section 897 of this title.

EFFECTIVE DATE

Section applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as a note under section 897 of this title.

§ 6039D. Returns and records with respect to certain fringe benefit plans**(a) In general**

Every employer maintaining a specified fringe benefit plan during any year for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

(1) the number of employees of the employer,

(2) the number of employees of the employer eligible to participate under the plan,

(3) the number of employees participating under the plan,

(4) the total cost of the plan during the year,

(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged, and

(6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3).

(b) Recordkeeping requirement

Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

(c) Additional information when required by the Secretary

Any employer—

(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

(2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe. The Secretary may require returns under this subsection only from a representative group of employers.

(d) Definitions and special rules

For purposes of this section—

(1) Specified fringe benefit plan

The term “specified fringe benefit plan” means any plan under section 79, 105, 106, 125, 127, 129, or 137.

(2) Applicable exclusion

The term “applicable exclusion” means, with respect to any specified fringe benefit plan, the section specified under paragraph (1) under which benefits under such plan are excludable from gross income.

(3) Special rule for multiemployer plans

In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer).

(Added Pub. L. 98-611, §1(d)(1), Oct. 31, 1984, 98 Stat. 3176; amended Pub. L. 99-514, title XI, §1151(h), title XVIII, §1879(d)(1), Oct. 22, 1986, 100 Stat. 2507, 2906; Pub. L. 100-647, title I, §1011B(a)(24), title III, §3021(a)(15)(A), Nov. 10, 1988, 102 Stat. 3486, 3631; Pub. L. 101-508, title XI, §11704(a)(24), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 105-34, title XVI, §1601(h)(2)(D)(iii), Aug. 5, 1997, 111 Stat. 1092; Pub. L. 113-295, div. A, title II, §221(a)(19)(B)(vii), (108), Dec. 19, 2014, 128 Stat. 4040, 4053.)

CODIFICATION

Another section 6039D, added Pub. L. 98-612, §1(b)(1), Oct. 31, 1984, 98 Stat. 3180, also related to returns and records with respect to certain fringe benefits, prior to repeal by Pub. L. 99-514, title XVIII, §1879(d)(2), Oct. 22, 1986, 100 Stat. 2906, effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such repeal relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, §221(a)(108), struck out “beginning after December 31, 1984,” after “during any year” in introductory provisions.

Subsec. (d)(1). Pub. L. 113-295, §221(a)(19)(B)(vii), struck out “120,” after “106.”

1997—Subsec. (d)(1). Pub. L. 105-34 substituted “129, or 137” for “or 129”.

1990—Subsec. (d)(3). Pub. L. 101-508 substituted “the employer.” for “the employer”).

1988—Subsec. (c). Pub. L. 100-647, §1011B(a)(24), amended directory language of Pub. L. 99-514, §1151(h)(3), see 1986 Amendment note below.

Subsec. (d). Pub. L. 100-647, §3021(a)(15)(A)(ii), inserted “and special rules” after “Definitions” in heading.

Subsec. (d)(3). Pub. L. 100-647, §3021(a)(15)(A)(i), added par. (3).

1986—Subsec. (a)(6). Pub. L. 99-514, §1151(h)(2), added par. (6).

Subsec. (c). Pub. L. 99-514, §1151(h)(3), as amended by Pub. L. 100-647, §1011B(a)(24), inserted at end “The Secretary may require returns under this subsection only from a representative group of employers.”

Subsec. (d). Pub. L. 99-514, §1151(h)(1), amended subsec. (d) generally. Prior to amendment, par. (1) defined a specified fringe benefit plan as (A) any qualified group legal services plan (as defined in section 120), (B) any cafeteria plan (as defined in section 125), and (C) any educational assistance plan (as defined in section 127), and par. (2) defined “applicable exclusion” as meaning (A) section 120 in the case of a qualified legal group services plan, (B) section 125 in the case of a cafeteria plan, and (C) section 127 in the case of an educational assistance plan.

Pub. L. 99-514, §1879(d)(1), in amending subsec. (d) generally, added subpars. (1)(A) and (2)(A). Former subpars. (1)(A) and (B) and (2)(A) and (B) were redesignated as subpars. (1)(B) and (C) and (2)(B) and (C), respectively.

EFFECTIVE DATE OF 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 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(a)(24) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title III, §3021(a)(15)(B), Nov. 10, 1988, 102 Stat. 3631, provided that: “The amendments made by this paragraph [amending this section] shall apply to years beginning after 1984.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(h) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1879(d)(1) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98-611, set out as an Effective Date of 1984 Amendment note under section 127 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 6039E. Information concerning resident status**(a) General rule**

Notwithstanding any other provision of law, any individual who—

(1) applies for a United States passport (or a renewal thereof), or

(2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws,

shall include with any such application a statement which includes the information described in subsection (b).

(b) Information to be provided

Information required under subsection (a) shall include—

- (1) the taxpayer's TIN (if any),
- (2) in the case of a passport applicant, any foreign country in which such individual is residing,
- (3) in the case of an individual seeking permanent residence, information with respect to whether such individual is required to file a return of the tax imposed by chapter 1 for such individual's most recent 3 taxable years, and
- (4) such other information as the Secretary may prescribe.

(c) Penalty

Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to \$500 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(d) Information to be provided to Secretary

Notwithstanding any other provision of law, any agency of the United States which collects (or is required to collect) the statement under subsection (a) shall—

- (1) provide any such statement to the Secretary, and
- (2) provide to the Secretary the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a).

Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence).

(e) Exemption

The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(Added Pub. L. 99-514, title XII, §1234(a)(1), Oct. 22, 1986, 100 Stat. 2565; amended Pub. L. 100-647, title I, §1012(o), Nov. 10, 1988, 102 Stat. 3515.)

REFERENCES IN TEXT

Section 245A of the Immigration and Nationality Act, referred to in subsec. (d), is classified to section 1255a of Title 8, Aliens and Nationality.

The date of the enactment of this sentence, referred to in subsec. (d), is the date of enactment of Pub. L. 100-647, which was approved Nov. 10, 1988.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647 inserted sentence at end relating to disclosure of information subject to section 245A of the Immigration and Nationality Act.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 99-514, title XII, §1234(a)(3), Oct. 22, 1986, 100 Stat. 2566, provided that: “The amendments made by this subsection [enacting this section] shall apply to applications submitted after December 31, 1987 (or, if earlier, the effective date which shall not be earlier than January 1, 1987) of the initial regulations issued

under section 6039E of the Internal Revenue Code of 1986 as added by this subsection).”

§ 6039F. Notice of large gifts received from foreign persons**(a) In general**

If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds \$10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

(b) Foreign gift

For purposes of this section, the term “foreign gift” means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

(c) Penalty for failure to file information**(1) In general**

If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

(2) Reasonable cause exception

Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

(d) Cost-of-living adjustment

In the case of any taxable year beginning after December 31, 1996, the \$10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (A)(ii) thereof shall be applied by substituting “1995” for “2016”.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104-188, title I, §1905(a), Aug. 20, 1996, 110 Stat. 1913; amended Pub. L. 115-97, title I, §11002(d)(13), Dec. 22, 2017, 131 Stat. 2062.)

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 6039F was renumbered section 6039G of this title.

AMENDMENTS

2017—Subsec. (d). Pub. L. 115-97 substituted “subparagraph (A)(ii) thereof shall be applied by substituting ‘1995’ for ‘2016’” for “subparagraph (B) thereof shall be applied by substituting ‘1995’ for ‘1992’”.

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

Pub. L. 104-188, title I, §1905(c), Aug. 20, 1996, 110 Stat. 1913, provided that: “The amendments made by this section [enacting this section] shall apply to amounts received after the date of the enactment of this Act [Aug. 20, 1996] in taxable years ending after such date.”

§ 6039G. Information on individuals losing United States citizenship

(a) In general

Notwithstanding any other provision of law, any individual to whom section 877(b) or 877A applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).

(b) Information to be provided

Information required under subsection (a) shall include—

- (1) the taxpayer’s TIN,
- (2) the mailing address of such individual’s principal foreign residence,
- (3) the foreign country in which such individual is residing,
- (4) the foreign country of which such individual is a citizen,
- (5) information detailing the income, assets, and liabilities of such individual,
- (6) the number of days during any portion of which that the individual was physically present in the United States during the taxable year, and
- (7) such other information as the Secretary may prescribe.

(c) Penalty

If—

- (1) an individual is required to file a statement under subsection (a) for any taxable year, and
- (2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of \$10,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(d) Information to be provided to Secretary

Notwithstanding any other provision of law—

- (1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

- (A) a copy of any such statement, and
- (B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

(Added Pub. L. 104-191, title V, §512(a), Aug. 21, 1996, 110 Stat. 2100, §6039F; renumbered §6039G, Pub. L. 105-34, title XVI, §1602(h)(1), Aug. 5, 1997, 111 Stat. 1096; amended Pub. L. 108-357, title VIII, §804(e), Oct. 22, 2004, 118 Stat. 1572; Pub. L. 110-245, title III, §301(e), June 17, 2008, 122 Stat. 1646.)

REFERENCES IN TEXT

Section 358 of the Immigration and Nationality Act, referred to in subsec. (d)(2), is classified to section 1501 of Title 8, Aliens and Nationality.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-245, §301(e)(1), inserted “or 877A” after “section 877(b)”.

Subsec. (d). Pub. L. 110-245, §301(e)(2), inserted “or 877A” after “section 877(a)” in concluding provisions.

2004—Subsec. (a). Pub. L. 108-357, §804(e)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

“(1) provided not later than the earliest date of any act referred to in subsection (c), and

“(2) provided to the person or court referred to in subsection (c) with respect to such act.”

Subsec. (b). Pub. L. 108-357, §804(e)(2), reenacted heading, introductory provisions, and pars. (1) to (4) without change, in par. (5), substituted “information detailing the income, assets, and liabilities of such individual,” for “in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and”, added par. (6), and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 108-357, §804(e)(4), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “For purposes of this section, the acts referred to in this subsection are—

- “(1) the individual’s renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5)

of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(2) the individual’s furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

“(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

“(4) the cancellation by a court of the United States of a naturalized citizen’s certificate of naturalization.”

Subsec. (d). Pub. L. 108–357, §804(e)(4), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 108–357, §804(e)(3), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: “Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

“(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

“(2) \$1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.”

Subsec. (e). Pub. L. 108–357, §804(e)(4), redesignated subsec. (e) as (d).

Subsec. (f). Pub. L. 108–357, §804(e)(4), struck out heading and text of subsec. (f). Text read as follows: “In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.”

Subsec. (g). Pub. L. 108–357, §804(e)(4), struck out heading and text of subsec. (g). Text read as follows: “The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.”

1997—Pub. L. 105–34 renumbered section 6039F as this section.

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 2004 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

For special rule relating to application of this section to certain individuals who performed an act of expatriation specified in section 1481(a)(1)–(4) of Title 8, Aliens and Nationality, before Feb. 6, 1995, see section 511(g)(3) of Pub. L. 104–191, set out as an Effective Date of 1996 Amendment note under section 877 of this title.

Pub. L. 104–191, title V, §512(c), Aug. 21, 1996, 110 Stat. 2102, provided that: “The amendments made by this section [enacting this section] shall apply to—

“(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

“(2) long-term residents of the United States with respect to whom an event described in [former] sub-

paragraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act [Aug. 21, 1996].”

§ 6039H. Information with respect to Alaska Native Settlement Trusts and Native Corporations

(a) Requirement

The fiduciary of an electing Settlement Trust (as defined in section 646(h)(1)) shall include with the return of income of the trust a statement containing the information required under subsection (c).

(b) Application with other requirements

The filing of any statement under this section shall be in lieu of the reporting requirements under section 6034A to furnish any statement to a beneficiary regarding amounts distributed to such beneficiary (and such other reporting rules as the Secretary deems appropriate).

(c) Required information

The information required under this subsection shall include—

(1) the amount of distributions made during the taxable year to each beneficiary,

(2) the treatment of such distribution under the applicable provision of section 646, including the amount that is excludable from the recipient beneficiary’s gross income under section 646, and

(3) the amount (if any) of any distribution during such year that is deemed to have been made by the sponsoring Native Corporation (as defined in section 646(h)(5)).

(d) Sponsoring Native Corporation

(1) In general

The electing Settlement Trust shall, on or before the date on which the statement under subsection (a) is required to be filed, furnish such statement to the sponsoring Native Corporation (as so defined).

(2) Distributees

The sponsoring Native Corporation shall furnish each recipient of a distribution described in section 646(e)(3) a statement containing the amount deemed to have been distributed to such recipient by such corporation for the taxable year.

(e) Deductible contributions by Native Corporations to Alaska Native Settlement Trusts

(1) In general

Any Native Corporation (as defined in subsection (m) of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m))) which has made a contribution to a Settlement Trust (as defined in subsection (t) of such section) to which an election under subsection (e) of section 247 applies shall provide such Settlement Trust with a statement regarding such election not later than January 31 of the calendar year subsequent to the calendar year in which the contribution was made.

(2) Content of statement

The statement described in paragraph (1) shall include—

(A) the total amount of contributions to which the election under subsection (e) of section 247 applies,

(B) for each contribution, whether such contribution was in cash,

(C) for each contribution which consists of property other than cash, the date that such property was acquired by the Native Corporation and the adjusted basis and fair market value of such property on the date such property was contributed to the Settlement Trust,

(D) the date on which each contribution was made to the Settlement Trust, and

(E) such information as the Secretary determines to be necessary or appropriate for the identification of each contribution and the accurate inclusion of income relating to such contributions by the Settlement Trust.

(Added Pub. L. 107-16, title VI, §671(b), June 7, 2001, 115 Stat. 147; amended Pub. L. 115-97, title I, §13821(c)(1), Dec. 22, 2017, 131 Stat. 2181.)

AMENDMENTS

2017—Pub. L. 115-97, §13821(c)(1)(A), struck out “sponsoring” before “Native Corporations” in section catchline.

Subsec. (e). Pub. L. 115-97, §13821(c)(1)(B), added subsec. (e).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13821(c)(3), Dec. 22, 2017, 131 Stat. 2182, provided that: “The amendments made by this subsection [amending this section] shall apply to taxable years beginning after December 31, 2016.”

EFFECTIVE DATE

Section applicable to taxable years ending after June 7, 2001, and to contributions made to electing Settlement Trusts for such year or any subsequent year, see section 671(d) of Pub. L. 107-16, set out as a note under section 646 of this title.

§ 6039I. Returns and records with respect to employer-owned life insurance contracts

(a) In general

Every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after the date of the enactment of this section shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing for each year such contracts are owned—

(1) the number of employees of the applicable policyholder at the end of the year,

(2) the number of such employees insured under such contracts at the end of the year,

(3) the total amount of insurance in force at the end of the year under such contracts,

(4) the name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged, and

(5) that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

(b) Recordkeeping requirement

Each applicable policyholder owning 1 or more employer-owned life insurance contracts during

any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section and section 101(j) are met.

(c) Definitions

Any term used in this section which is used in section 101(j) shall have the same meaning given such term by section 101(j).

(Added Pub. L. 109-280, title VIII, §863(b), Aug. 17, 2006, 120 Stat. 1023.)

REFERENCES IN TEXT

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

EFFECTIVE DATE

Section applicable to life insurance contracts issued after Aug. 17, 2006, except for a contract issued after such date pursuant to an exchange described in section 1035 of this title for a contract issued on or prior to that date, and any material change to cause the contract to be treated as a new contract, with exception in the case of a master contract, see section 863(d) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 101 of this title.

§ 6039J. Information reporting with respect to Commodity Credit Corporation transactions

(a) Requirement of reporting

The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return, according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.

(b) Statements to be furnished to persons with respect to whom information is required

The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.

(Added Pub. L. 110-234, title XV, §15353(a), May 22, 2008, 122 Stat. 1526, and Pub. L. 110-246, §4(a), title XV, §15353(a), June 18, 2008, 122 Stat. 1664, 2288.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, §15353(c), May 22, 2008, 122 Stat. 1527, and Pub. L. 110-246, §4(a), title XV, §15353(c), June 18, 2008, 122 Stat. 1664, 2289, provided that: “The amendments made by this section [enacting this section] shall apply to loans repaid on or after January 1, 2007.”

[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.]

§ 6040. Cross references

(1) For the notice required of persons acting in a fiduciary capacity for taxpayers or for transferees, see sections 6212, 6901(g), and 6903.

(2) For application by fiduciary for determination of tax and discharge from personal liability therefor, see section 2204.

(3) For the notice required of taxpayers for redemption of taxes claimed as credits, see sections 905(c) and 2016.

(4) For exemption certificates required to be furnished to employers by employees, see section 3402(f)(2), (3), (4), and (5).

(5) For receipts, constituting information returns, required to be furnished to employees, see section 6051.

[(6) Repealed. Pub. L. 89-44, title III, § 305(b), June 21, 1965, 79 Stat. 148]

(7) For information required with respect to the redemption of stamps, see section 6805.

(8) For the statement required to be filed by a corporation expecting a net operating loss carryback or unused excess profits credit carryback, see section 6164.

(9) For the application, which a taxpayer may file for a tentative carryback adjustment of income taxes, see section 6411.

(Aug. 16, 1954, ch. 736, 68A Stat. 744, § 6037; renumbered § 6038, Pub. L. 85-866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; renumbered § 6039, Pub. L. 86-780, § 6(a), Sept. 14, 1960, 74 Stat. 1014; renumbered § 6040, Pub. L. 88-272, title II, § 221(b)(1), Feb. 26, 1964, 78 Stat. 73; amended Pub. L. 89-44, title III, § 305(b), June 21, 1965, 79 Stat. 148; Pub. L. 91-614, title I, § 101(d)(2), Dec. 31, 1970, 84 Stat. 1837.)

AMENDMENTS

1970—Par. (2). Pub. L. 91-614 substituted “fiduciary” for “executor”.

1965—Par. (6). Pub. L. 89-44 struck out par. (6) which cross referred to section 4234 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to admissions, services, and uses after noon, Dec. 31, 1965, see section 701(b)(1) of Pub. L. 89-44, set out as a note under section 4291 of this title.

SUBPART B—INFORMATION CONCERNING
TRANSACTIONS WITH OTHER PERSONS

Sec.	
6041.	Information at source.
6041A.	Returns regarding payments of remuneration for services and direct sales. ¹
6042.	Returns regarding payments of dividends and corporate earnings and profits.
6043.	Liquidating, etc., transactions.
6043A.	Returns relating to taxable mergers and acquisitions.
6044.	Returns regarding payments of patronage dividends.
6045.	Returns of brokers.
6045A.	Information required in connection with transfers of covered securities to brokers.
6045B.	Returns relating to actions affecting basis of specified securities.

¹ Editorially supplied. Section 6041A added by Pub. L. 97-248 without corresponding amendment of subpart analysis.

6046.	Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
6046A.	Returns as to interests in foreign partnerships.
6047.	Information relating to certain trusts and annuity plans.
6048.	Information with respect to certain foreign trusts.
6049.	Returns regarding payments of interest.
[6050.	Repealed.]
6050A.	Reporting requirements of certain fishing boat operators.
6050B.	Returns relating to unemployment compensation.
[6050C.	Repealed.]
6050D.	Returns relating to energy grants and financing.
6050E.	State and local income tax refunds.
6050F.	Returns relating to social security benefits.
6050G.	Returns relating to certain railroad retirement benefits.
6050H.	Returns relating to mortgage interest received in trade or business from individuals.
6050I.	Returns relating to cash received in trade or business, etc.. ²
6050J.	Returns relating to foreclosures and abandonments of security.
6050K.	Returns relating to exchanges of certain partnership interests.
6050L.	Returns relating to certain donated property.
6050M.	Returns relating to persons receiving contracts from Federal executive agencies.
6050N.	Returns regarding payments of royalties.
6050P.	Returns relating to the cancellation of indebtedness by certain entities.
6050Q.	Certain long-term care benefits.
6050R.	Returns relating to certain purchases of fish.
6050S.	Returns relating to higher education tuition and related expenses.
6050T.	Returns relating to credit for health insurance costs of eligible individuals.
6050U.	Charges or payments for qualified long-term care insurance contracts under combined arrangements.
6050V.	Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.
6050W.	Returns relating to payments made in settlement of payment card transactions. ³
6050X.	Information with respect to certain fines, penalties, and other amounts.
6050Y.	Returns relating to certain life insurance contract transactions.

AMENDMENTS

2017—Pub. L. 115-97, title I, §§ 13306(b)(2), 13520(b), Dec. 22, 2017, 131 Stat. 2129, 2150, added items 6050X and 6050Y.

2008—Pub. L. 110-343, div. B, title IV, § 403(c)(3), (d)(3), Oct. 3, 2008, 122 Stat. 3858, 3860, added items 6045A and 6045B.

Pub. L. 110-289, div. C, title III, § 3091(d), July 30, 2008, 122 Stat. 2911, added item 6050W.

2006—Pub. L. 109-280, title XII, § 1211(a)(2), Aug. 17, 2006, 120 Stat. 1073, which directed the amendment of the analysis for subpart B of part III of subchapter A of chapter 61 by adding item 6050V, without specifying the act to be amended, was executed by adding item 6050V to this analysis, which is part of chapter 61 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

Pub. L. 109-280, title VIII, § 844(d)(3), Aug. 17, 2006, 120 Stat. 1013, added item 6050U.

2004—Pub. L. 108-357, title VIII, § 882(c)(2), Oct. 22, 2004, 118 Stat. 1630, which directed amendment of the

² So in original.

³ So in original. Does not conform to section catchline.

analysis for subpart A of part II of subchapter A of chapter 61 of this title by substituting “Returns relating to certain donated property” for “Returns relating to certain dispositions of donated property” in item 6050L, was executed by making the substitution in item 6050L in the analysis for this subpart, to reflect the probable intent of Congress.

Pub. L. 108-357, title VIII, §805(c), Oct. 22, 2004, 118 Stat. 1574, added item 6043A.

2002—Pub. L. 107-210, div. A, title II, §202(d)(2), Aug. 6, 2002, 116 Stat. 963, added item 6050T.

1998—Pub. L. 105-206, title VI, §6018(a), July 22, 1998, 112 Stat. 822, amended directory language of Pub. L. 104-188, §1116(b)(2). See 1996 Amendment note below.

1997—Pub. L. 105-34, title II, §201(c)(3), Aug. 5, 1997, 111 Stat. 805, added item 6050S.

Pub. L. 105-34, title XVI, §1601(a)(2), Aug. 5, 1997, 111 Stat. 1086, provided that amendment made by section 1116(b)(2)(C) of Pub. L. 104-188 shall be applied as if the reference to chapter 68 were a reference to chapter 61. See 1996 Amendment note below.

1996—Pub. L. 104-191, title III, §323(c), Aug. 21, 1996, 110 Stat. 2063, added item 6050Q.

Pub. L. 104-188, title I, §1116(b)(2)(C), Aug. 20, 1996, 110 Stat. 1764, as amended by Pub. L. 105-206, title VI, §6018(a), July 22, 1998, 112 Stat. 822, added item 6050R. See 1997 Amendment note above.

Pub. L. 104-188, title I, §§1704(t)(18), 1901(c)(2), Aug. 20, 1996, 110 Stat. 1764, 1888, 1908, substituted “Liquidating,” for “Liquidating;” in item 6043 and “Information with respect” for “Returns as” in item 6048 and added item 6050R.

Pub. L. 104-134, title III, §31001(m)(2)(D)(iii), Apr. 26, 1996, 110 Stat. 1321-369, struck out “financial” before “entities” in item 6050P.

1994—Pub. L. 103-322, title II, §20415(b)(4), Sept. 13, 1994, 108 Stat. 1833, substituted “business, etc.” for “business” in item 6050I.

1993—Pub. L. 103-66, title XIII, §13252(c), Aug. 10, 1993, 107 Stat. 532, added item 6050P.

1989—Pub. L. 101-239, title VII, §7208(b)(3)(C), Dec. 19, 1989, 103 Stat. 2338, substituted “Liquidating; etc., transactions” for “Return regarding corporate dissolution or liquidation” in item 6043.

1988—Pub. L. 100-418, title I, §1941(b)(3)(B), Aug. 23, 1988, 102 Stat. 1324, struck out item 6050C “Information regarding windfall profit tax on domestic crude oil”.

1986—Pub. L. 99-514, title XV, §§1522(b), 1523(c), Oct. 22, 1986, 100 Stat. 2747, 2748, added items 6050M and 6050N.

1984—Pub. L. 98-369, div. A, title I, §§145(c), 146(c), 148(c), 149(c), 155(b)(3), title IV, §491(d)(58), July 18, 1984, 98 Stat. 685, 687, 689, 690, 693, 852, struck out “and bond purchase” after “trust and annuity” in item 6047 and added items 6050H to 6050L.

1983—Pub. L. 98-76, title II, §224(b)(2), Aug. 12, 1983, 97 Stat. 423, added item 6050G.

Pub. L. 98-21, title I, §121(f)(4), Apr. 20, 1983, 97 Stat. 84, added item 6050F.

1982—Pub. L. 97-248, title III, §313(b), title IV, §405(c)(1), Sept. 3, 1982, 96 Stat. 603, 670, added items 6046A and 6050E.

1980—Pub. L. 96-223, title I, §101(d)(2)(B), title II, §203(b)(2), Apr. 2, 1980, 94 Stat. 251, 259, added items 6050C and 6050D.

1979—Pub. L. 96-167, §5(b), Dec. 29, 1979, 93 Stat. 1276, struck out item 6050 “Returns relating to certain transfers to exempt organizations”.

1978—Pub. L. 95-600, title I, §112(c)(2), Nov. 6, 1978, 92 Stat. 2778, added item 6050B.

1976—Pub. L. 94-455, title X, §1013(e)(5), Oct. 4, 1976, 90 Stat. 1616, substituted “as to certain foreign trusts” for “as to creation of or transfer to certain foreign trusts” in item 6048.

1969—Pub. L. 91-172, title I, §121(e)(2), Dec. 30, 1969, 83 Stat. 548, added item 6050.

1962—Pub. L. 87-834, §§7(i)(2), 19(g)(1), 20(d)(2), Oct. 16, 1962, 76 Stat. 989, 1058, 1063, substituted “payments of dividends and corporate earnings and profits” for “corporate dividends, earnings and profits” in item 6042,

substituted “organization or reorganization of foreign corporations and as to acquisitions of their stock” for “creation or organization, or reorganization, of foreign corporations” in item 6046, inserted “payments of” in item 6044, and added items 6048 and 6049.

Pub. L. 87-792, §7(m)(2), Oct. 10, 1962, 76 Stat. 831, added item 6047.

1960—Pub. L. 86-780, §7(b), Sept. 14, 1960, 74 Stat. 1016, substituted “Returns as to creation or organization, or reorganization, of foreign corporations” for “Returns as to formation or reorganization of foreign corporations,” in item 6046.

§ 6041. Information at source

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Collection of foreign items

In the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by any person undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange, such person shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the amount paid and the name and address of the recipient of each such payment.

(c) Recipient to furnish name and address

When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person

on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b).

(e) Section does not apply to certain tips

This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies.

(f) Section does not apply to certain health arrangements

This section shall not apply to any payment for medical care (as defined in section 213(d)) made under—

- (1) a flexible spending arrangement (as defined in section 106(c)(2)), or
- (2) a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan for purposes of section 106.

(g) Nonqualified deferred compensation

Subsection (a) shall apply to—

- (1) any deferrals for the year under a non-qualified deferred compensation plan (within the meaning of section 409A(d)), whether or not paid, except that this paragraph shall not apply to deferrals which are required to be reported under section 6051(a)(13) (without regard to any de minimis exception), and
- (2) any amount includible under section 409A and which is not treated as wages under section 3401(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 745; Pub. L. 87-834, §19(f), Oct. 16, 1962, 76 Stat. 1058; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title V, §501(b), Nov. 6, 1978, 92 Stat. 2878; Pub. L. 97-34, title VII, §723(b)(1), Aug. 13, 1981, 95 Stat. 344; Pub. L. 97-248, title III, §309(b)(1), Sept. 3, 1982, 96 Stat. 595; Pub. L. 98-369, div. A, title VII, §722(h)(4)(B), July 18, 1984, 98 Stat. 976; Pub. L. 99-514, title XV, §§1501(c)(1), 1523(b)(2), Oct. 22, 1986, 100 Stat. 2736, 2748; Pub. L. 104-168, title XII, §1201(a)(1), July 30, 1996, 110 Stat. 1469; Pub. L. 108-173, title XII, §1203(a), Dec. 8, 2003, 117 Stat. 2480; Pub. L. 108-357, title VIII, §885(b)(3), Oct. 22, 2004, 118 Stat. 1640; Pub. L. 111-148, title IX, §9006(a), (b), Mar. 23, 2010, 124 Stat. 855; Pub. L. 111-240, title II, §2101(a), Sept. 27, 2010, 124 Stat. 2561; Pub. L. 112-9, §2(a), (b), 3(a), Apr. 14, 2011, 125 Stat. 36.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-9, §2(b), struck out “amounts in consideration for property,” after “salaries, wages,” “gross proceeds,” after “emoluments, or other”, and “gross proceeds,” after “setting forth the amount of such”.

Subsec. (h). Pub. L. 112-9, §3(a), struck out subsec. (h) which related to treatment of rental property expense payments.

Subsecs. (i), (j). Pub. L. 112-9, §2(a), struck out subsecs. (i) and (j) which read as follows:

“(i) **APPLICATION TO CORPORATIONS.**—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this subsection, for purposes of this section the term ‘person’ includes any corporation that is not an organization exempt from tax under section 501(a).

“(j) **REGULATIONS.**—The Secretary may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section, including rules to prevent duplicative reporting of transactions.”

2010—Subsec. (a). Pub. L. 111-148, §9006(b), inserted “amounts in consideration for property,” after “salaries, wages,” “gross proceeds,” after “emoluments, or other”, and “gross proceeds,” after “setting forth the amount of such”.

Subsec. (h). Pub. L. 111-240 added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 111-148, §9006(a), added subsec. (h).

Subsec. (i). Pub. L. 111-240 redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Pub. L. 111-148, §9006(a), added subsec. (i).

Subsec. (j). Pub. L. 111-240 redesignated subsec. (i) as (j).

2004—Subsec. (g). Pub. L. 108-357 added subsec. (g).

2003—Subsec. (f). Pub. L. 108-173 added subsec. (f).

1996—Subsec. (d)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1986—Subsec. (a). Pub. L. 99-514, §1523(b)(2), substituted “6049(a), or 6050N(a)” for “or 6049(a)”.

Subsec. (d). Pub. L. 99-514, §1501(c)(1), in amending subsec. (d) generally, substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make returns for former references to persons making returns.

1984—Subsec. (a). Pub. L. 98-369 inserted “6047(e),”.

1982—Subsec. (a). Pub. L. 97-248 substituted “6049(a)” for “6049(a)(1)”, and “or 6045” for “6045, 6049(a)(2), or 6049(a)(3)”.

1981—Subsecs. (d), (e). Pub. L. 97-34 added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsecs. (c), (d). Pub. L. 95-600 added subsec. (d) and redesignated subsec. (d) as (c).

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1962—Subsec. (a). Pub. L. 87-834, §19(f)(1), substituted “(other than payments to which section 6042(a)(1), 6044(a)(1), or 6049(a)(1) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), 6045, 6049(a)(2), or 6049(a)(3))” for “other than payments described in section 6042(1) or section 6045)”.

Subsec. (c). Pub. L. 87-834, §19(f)(2), repealed subsec. (c) which related to returns of payments of interest by corporations.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-9, §2(c), Apr. 14, 2011, 125 Stat. 36, provided that: “The amendments made by this section [amending this section] shall apply to payments made after December 31, 2011.”

Pub. L. 112-9, §3(b), Apr. 14, 2011, 125 Stat. 36, provided that: “The amendment made by this section [amending this section] shall apply to payments made after December 31, 2010.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-240, title II, §2101(b), Sept. 27, 2010, 124 Stat. 2561, provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments made after December 31, 2010.”

Pub. L. 111-148, title IX, §9006(c), Mar. 23, 2010, 124 Stat. 855, provided that: “The amendments made by this section [amending this section] shall apply to payments made after December 31, 2011.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts deferred after Dec. 31, 2004, with special rules relating to earnings and material modifications and exception for nonelective deferred compensation, see section 885(d) of Pub. L. 108-357, set out as an Effective Date note under section 409A of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-173, title XII, §1203(b), Dec. 8, 2003, 117 Stat. 2480, provided that: “The amendment made by this section [amending this section] shall apply to payments made after December 31, 2002.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XII, §1201(b), July 30, 1996, 110 Stat. 1470, provided that: “The amendments made by subsection (a) [amending this section and sections 6041A, 6042, 6044, 6045, 6049, 6050B, 6050H to 6050K, and 6050N of this title] shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(1) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1523(b)(2) of Pub. L. 99-514 applicable to payments made after Dec. 31, 1986, see section 1523(d) of Pub. L. 99-514, set out as an Effective Date note under section 6050N of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to payments or distributions after Dec. 31, 1984, unless the payor elects to have such amendment apply to payments or distributions before Jan. 1, 1985, see section 722(h)(5)(B) of Pub. L. 98-369, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to amounts paid (or treated as paid) after Dec. 31, 1982, see section 309(c) of Pub. L. 97-248, set out as a note under section 6049 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to returns and statements required to be furnished after Dec. 31, 1981, see section 723(c) of Pub. L. 97-34, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to payments made after Dec. 31, 1978, see section 501(c) of Pub. L. 95-600, set out as a note under section 6001 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87-834, set out as a note under section 6042 of this title.

ALLOWANCE OF ELECTRONIC 1099'S

Pub. L. 107-147, title IV, §401, Mar. 9, 2002, 116 Stat. 40, provided that: “Any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act [Mar. 9, 2002], may electronically furnish such statement (without regard to any first class mailing requirement) to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.”

EMPLOYER'S DUTIES IN CONNECTION WITH RECORDING AND REPORTING OF TIPS

Pub. L. 94-455, title XXI, §2211, Oct. 4, 1976, 90 Stat. 1905, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) SUSPENSION OF RULINGS.—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

“(1) without regard to Revenue Rulings 75-400 and 76-231, and

“(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

“(b) EFFECTIVE DATE.—This section shall take effect on January 1, 1976.”

§ 6041A. Returns regarding payments of remuneration for services and direct sales

(a) Returns regarding remuneration for services

If—

(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

(2) the aggregate of such remuneration paid to such person during such calendar year is \$600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term “service-recipient” means the person for whom the service is performed.

(b) Direct sales of \$5,000 or more

(1) In general

If—

(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

(B) the aggregate amount of the sales to such buyer during such calendar year is \$5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

(2) Definitions

For purposes of paragraph (1)—

(A) Buy-sell basis

A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

(B) Deposit-commission basis

A transaction is on a deposit-commission basis if the buyer performing the services is

entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

(c) Certain services not included

No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

(d) Applications to governmental units

(1) Treated as persons

The term "person" includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of any payment by a governmental entity or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

(3) Payments to corporations by Federal executive agencies

(A) In general

Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

(B) Exception

Subparagraph (A) shall not apply to—

(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.

(e) Statements to be furnished to persons with respect to whom information is required to be furnished

Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(f) Recipient to furnish name, address, and identification number; inclusion on return

(1) Furnishing of information

Any person with respect to whom a return or statement is required under this section to be

made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

(2) Inclusion on return

The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.

(Added Pub. L. 97-248, title III, §312(a), Sept. 3, 1982, 96 Stat. 601; amended Pub. L. 104-168, title XII, §1201(a)(2), July 30, 1996, 110 Stat. 1469; Pub. L. 105-34, title X, §1022(a), Aug. 5, 1997, 111 Stat. 923.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 105-34, which was approved Aug. 5, 1997.

AMENDMENTS

1997—Subsec. (d)(3). Pub. L. 105-34 added par. (3).

1996—Subsec. (e)(1). Pub. L. 104-168 substituted "name, address, and phone number of the information contact" for "name and address".

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1022(b), Aug. 5, 1997, 111 Stat. 923, provided that: "The amendment made by this section [amending this section] shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §312(c), Sept. 3, 1982, 96 Stat. 603, provided that: "The amendments made by this section [enacting this section and amending section 6678 of this title] shall apply to payments and sales made after December 31, 1982."

§ 6042. Returns regarding payments of dividends and corporate earnings and profits

(a) Requirement of reporting

(1) In general

Every person—

(A) who makes payments of dividends aggregating \$10 or more to any other person during any calendar year, or

(B) who receives payments of dividends as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the dividends so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) Returns required by the Secretary

Every person who makes payments of dividends aggregating less than \$10 to any other

person during any calendar year shall, when required by the Secretary, make a return setting forth the aggregate amount of such payments, and the name and address of the person to whom paid.

(b) Dividend defined

(1) General rule

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

(A) any distribution by a corporation which is a dividend (as defined in section 316); and

(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

(2) Exceptions

For purposes of this section, the term “dividend” does not include any distribution or payment—

(A) to the extent provided in regulations prescribed by the Secretary—

(i) by a foreign corporation, or

(ii) to a foreign corporation, a non-resident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens, or

(B) except to the extent otherwise provided in regulations prescribed by the Secretary, to any person described in section 6049(b)(4).

(3) Special rule

If the person making any payment described in subsection (a)(1)(A) or (B) is unable to determine the portion of such payment which is a dividend or is paid with respect to a dividend, he shall, for purposes of subsection (a)(1), treat the entire amount of such payment as a dividend or as an amount paid with respect to a dividend.

(c) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made and shall be in such form as the Secretary may prescribe by regulations.

(d) Statements to be furnished by corporations to Secretary

Every corporation shall, when required by the Secretary—

(1) furnish to the Secretary a statement stating the name and address of each share-

holder, and the number of shares owned by each shareholder;

(2) furnish to the Secretary a statement of such facts as will enable him to determine the portion of the earnings and profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Secretary may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Secretary may specify; and

(3) furnish to the Secretary a statement of its accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to such accumulated earnings and profits if divided or distributed, and of the amounts that would be payable to each.

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 87-834, §19(a), Oct. 16, 1962, 76 Stat. 1053; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§303(a), 308(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 97-354, §5(a)(40), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98-67, title I, §§102(a), 108(b), Aug. 5, 1983, 97 Stat. 369, 383; Pub. L. 98-369, div. A, title VII, §714(d), July 18, 1984, 98 Stat. 961; Pub. L. 99-514, title XV, §1501(c)(2), Oct. 22, 1986, 100 Stat. 2736; Pub. L. 104-168, title XII, §1201(a)(3), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1986—Subsec. (c). Pub. L. 99-514, in amending subsec. (c) generally, substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make returns for former references to persons making returns and struck out provisions directing that no statement was required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsec. (a)(1) was less than \$10.

1984—Subsec. (b)(2). Pub. L. 98-369, in amending par. (2) generally, designated existing provision as subpar. (A), redesignated as cls. (i) and (ii) of subpar. (A) text formerly designated (A) and (B), and added subpar. (B).

1983—Pub. L. 98-67 substituted in subsec. (c) “The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations” for “The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made” and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsecs. (a)(1), (c), (e). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsecs. (a)(1) and (c) are amended and a new subsec. (e) is added. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (b)(2). Pub. L. 97-354 redesignated cl. (A)(i) as subpar. (A) and cl. (A)(ii) as subpar. (B). Former subpar. (B), excluding from the term “dividends” any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations), was struck out.

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

1962—Pub. L. 87-834 substituted “Returns regarding payments of dividends and corporate earnings and profits” for “Returns regarding corporate dividends, earnings, and profits” in section catchline, added subsecs. (a) to (c), designated existing provisions of section as subsec. (d), and substituted in par. (1) of subsec. (d) “furnish to the Secretary or his delegate a statement stating the name and address of each shareholder, and the number of shares owned by each shareholder” for “Make a return of its payments of dividends, stating the name and address of, the number of shares owned by, and the amount of dividends paid to, each shareholder.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 108(b) of Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-834, §19(h), Oct. 16, 1962, 76 Stat. 1058, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) **DIVIDENDS AND INTEREST.**—The amendments made by this section [enacting sections 6049 and 6678 of this title and amending this section and sections 6041, 6044, and 6052 of this title] shall apply to payments of dividends and interest made on or after January 1, 1963.

“(2) **PATRONAGE DIVIDENDS.**—The amendments made by this section shall apply to payments of amounts described in section 6044(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] made on or after January 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after January 1, 1963.”

§ 6043. Liquidating, etc., transactions

(a) Corporate liquidating, etc., transactions

Every corporation shall—

(1) Within 30 days after the adoption by the corporation of a resolution or plan for the dis-

solution of the corporation or for the liquidation of the whole or any part of its capital stock, make a return setting forth the terms of such resolution or plan and such other information as the Secretary shall by forms or regulations prescribe; and

(2) When required by the Secretary, make a return regarding its distributions in liquidation, stating the name and address of, the number and class of shares owned by, and the amount paid to, each shareholder, or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to each shareholder.

(b) Exempt organizations

Every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under section 501(a) shall file such return and other information with respect to such liquidation, dissolution, termination, or substantial contraction as the Secretary shall by forms or regulations prescribe; except that—

(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000, and

(2) the Secretary may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in section 401(a), where the employer who established such organization files such a return.

(c) Changes in control and recapitalizations

If—

(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

(d) Cross references

For provisions relating to penalties for failure to file—

(1) **a return under subsection (b), see section 6652(c), or**

(2) **a return under subsection (c), see section 6652(1).¹**

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 91-172, title I, §101(j)(35), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct.

¹ So in original. Probably should be section “6652(l).”

4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, § 1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 101-239, title VII, § 7208(b)(1), (3)(A), (B), Dec. 19, 1989, 103 Stat. 2337, 2338; Pub. L. 104-188, title I, § 1704(t)(17), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Pub. L. 104-188 substituted “Liquidating, etc., transactions” for “Liquidating; etc., transactions” in section catchline.

1989—Pub. L. 101-239, § 7208(b)(3)(B), substituted “Liquidating; etc., transactions” for “Returns regarding liquidation, dissolution, termination, or contraction” in section catchline.

Subsec. (a). Pub. L. 101-239, § 7208(b)(3)(A), substituted “Corporate liquidating, etc., transactions” for “Corporations” in heading.

Subsecs. (c), (d). Pub. L. 101-239, § 7208(b)(1), added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: “CROSS REFERENCE.—For provisions relating to penalties for failure to file a return required by subsection (b), see section 6652(c).”

1986—Subsec. (c). Pub. L. 99-514 substituted “section 6652(c)” for “section 6652(d)”.

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

1969—Pub. L. 91-172 inserted references to termination and contraction in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7208(b)(4), Dec. 19, 1989, 103 Stat. 2338, provided that: “The amendments made by this subsection [amending this section and section 6652 of this title] shall apply to transactions after March 31, 1990.”

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

§ 6043A. Returns relating to taxable mergers and acquisitions

(a) In general

According to the forms or regulations prescribed by the Secretary, the acquiring corporation in any taxable acquisition shall make a return setting forth—

- (1) a description of the acquisition,
- (2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,
- (3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and
- (4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

(b) Nominees

According to the forms or regulations prescribed by the Secretary:

(1) Reporting

Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

(2) Reporting to nominees

In the case of stock held by any person as a nominee, references in this section (other than in subsection (c)) to a shareholder shall be treated as a reference to the nominee.

(c) Taxable acquisition

For purposes of this section, the term “taxable acquisition” means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

(d) Statements to be furnished to shareholders

According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

- (1) the name, address, and phone number of the information contact of the person required to make such return,
- (2) the information required to be shown on such return with respect to such shareholder, and
- (3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.

(Added Pub. L. 108-357, title VIII, § 805(a), Oct. 22, 2004, 118 Stat. 1573.)

EFFECTIVE DATE

Pub. L. 108-357, title VIII, § 805(d), Oct. 22, 2004, 118 Stat. 1574, provided that: “The amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to acquisitions after the date of the enactment of this Act [Oct. 22, 2004].”

§ 6044. Returns regarding payments of patronage dividends

(a) Requirement of reporting

(1) In general

Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies, which makes payments of amounts described in subsection (b) aggregating \$10 or more to any person during any calendar year, shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) Returns required by the Secretary

Every such cooperative which makes payments of amounts described in subsection (b)

aggregating less than \$10 to any person during any calendar year shall, when required by the Secretary, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Amounts subject to reporting

(1) General rule

Except as otherwise provided in this section, the amounts subject to reporting under subsection (a) are—

(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d)),

(B) any amount described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions) which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax),

(C) any amount described in section 1382(b)(2) (relating to redemption of nonqualified written notices of allocation) and, in the case of an organization described in section 1381(a)(1), any amount described in section 1382(c)(2)(B) (relating to redemption of nonqualified written notices of allocation paid with respect to earnings derived from sources other than patronage), and

(D) the amount of any per-unit retain allocation (as defined in section 1388(f)) which is paid in qualified per-unit retain certificates (as defined in section 1388(h)), and

(E) any amount described in section 1382(b)(4) (relating to redemption of nonqualified per-unit retain certificates).

(2) Exceptions

The provisions of subsection (a) shall not apply, to the extent provided in regulations prescribed by the Secretary, to any payment—

(A) by a foreign corporation, or

(B) to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens.

(c) Exemption for certain consumer cooperatives

A cooperative which the Secretary determines is primarily engaged in selling at retail goods or services of a type that are generally for personal, living, or family use shall, upon application to the Secretary, be granted exemption from the reporting requirements imposed by subsection (a). Application for exemption under this subsection shall be made in accordance with regulations prescribed by the Secretary.

(d) Determination of amount paid

For purposes of this section, in determining the amount of any payment—

(1) property (other than a qualified written notice of allocation or a qualified per-unit retain certificate) shall be taken into account at its fair market value, and

(2) a qualified written notice of allocation or a qualified per-unit retain certificate shall be taken into account at its stated dollar amount.

(e) Statements to be furnished to persons with respect to whom information is required

Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the cooperative required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made and shall be in such form as the Secretary may prescribe by regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 87-834, §19(b), Oct. 16, 1962, 76 Stat. 1054; Pub. L. 89-809, title II, §211(d), Nov. 13, 1966, 80 Stat. 1584; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§304, 308(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 98-67, title I, §§102(a), 108(c), Aug. 5, 1983, 97 Stat. 369, 383; Pub. L. 99-514, title XV, §1501(c)(3), Oct. 22, 1986, 100 Stat. 2737; Pub. L. 104-168, title XII, §1201(a)(4), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1986—Subsec. (e). Pub. L. 99-514, in amending subsec. (e) generally, substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and struck out provision directing that no statement was required if the aggregate amount of payments made to the person as shown on the return was less than \$10.

1983—Pub. L. 98-67 substituted in subsec. (e) “The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations” for “The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made” and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsecs. (a)(1), (b)(1), (e), (f). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsecs. (a)(1), (b)(1), and (e) are amended and a new subsec. (f) is added. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

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

1966—Subsec. (b)(1). Pub. L. 89-809, §211(d)(1), added subpars. (D) and (E).

Subsec. (d). Pub. L. 89-809, §211(d)(2), inserted references to qualified per-unit retain certificates.

1962—Pub. L. 87-834 substituted “Returns regarding payments of patronage dividends” for “Returns regarding patronage dividends” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) PAYMENTS OF \$100 OR MORE.—Any corporation allocating amounts as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) shall make a return showing—

“(1) The name and address of each patron to whom it has made such allocations amounting to \$100 or more during the calendar year; and

“(2) The amount of such allocations to each patron.

“(b) PAYMENTS REGARDLESS OF AMOUNT.—If required by the Secretary or his delegate, any such corporation shall make a return of all patronage dividends, rebates, or refunds made during the calendar year to its patrons.

“(c) EXCEPTIONS.—This section shall not apply in the case of any corporation (including any cooperative or nonprofit corporation engaged in rural electrification) described in section 501(c)(12) or (15) which is exempt from tax under section 501(a), or in the case of any corporation subject to a tax imposed by subchapter L of chapter 1.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 108(c) of Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to calendar years after 1966, see section 211(e)(2) of Pub. L. 89-809, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in subsection (b) of this section made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87-834, set out as a note under section 6042 of this title.

§ 6045. Returns of brokers

(a) General rule

Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Sec-

retary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

(b) Statements to be furnished to customers

Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before February 15 of the year following the calendar year for which the return under subsection (a) was required to be made. In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.

(c) Definitions

For purposes of this section—

(1) Broker

The term “broker” includes—

(A) a dealer,

(B) a barter exchange, and

(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person.

(2) Customer

The term “customer” means any person for whom the broker has transacted any business.

(3) Barter exchange

The term “barter exchange” means any organization of members providing property or services who jointly contract to trade or barter such property or services.

(4) Person

The term “person” includes any governmental unit and any agency or instrumentality thereof.

(d) Statements required in case of certain substitute payments

If any broker—

(1) transfers securities of a customer for use in a short sale or similar transaction, and

(2) receives (on behalf of the customer) a payment in lieu of—

(A) a dividend,

(B) tax-exempt interest, or

(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open, the broker shall furnish

such customer a written statement (in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.

(e) Return required in the case of real estate transactions

(1) In general

In the case of a real estate transaction, the real estate reporting person shall file a return under subsection (a) and a statement under subsection (b) with respect to such transaction.

(2) Real estate reporting person

For purposes of this subsection, the term “real estate reporting person” means any of the following persons involved in a real estate transaction in the following order:

- (A) the person (including any attorney or title company) responsible for closing the transaction,
- (B) the mortgage lender,
- (C) the seller’s broker,
- (D) the buyer’s broker, or
- (E) such other person designated in regulations prescribed by the Secretary.

Any person treated as a real estate reporting person under the preceding sentence shall be treated as a broker for purposes of subsection (c)(1).

(3) Prohibition of separate charge for filing return

It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1). Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.

(4) Additional information required

In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

- (A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).
- (B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).

(5) Exception for sales or exchanges of certain principal residences

(A) In general

Paragraph (1) shall not apply to any sale or exchange of a residence for \$250,000 or less

if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

- (i) such residence is the principal residence (within the meaning of section 121) of the seller,
- (ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and
- (iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting “\$500,000” for “\$250,000”. The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.

(B) Seller

For purposes of this paragraph, the term “seller” includes the person relinquishing the residence in an exchange.

(f) Return required in the case of payments to attorneys

(1) In general

Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

(2) Application of subsection

(A) In general

This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

(B) Exception

This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.

(g) Additional information required in the case of securities transactions, etc.

(1) In general

If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

(2) Additional information required

(A) In general

The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer’s adjusted basis in such security and whether any gain or loss with

respect to such security is long-term or short-term (within the meaning of section 1222).

(B) Determination of adjusted basis

For purposes of subparagraph (A)—

(i) In general

The customer's adjusted basis shall be determined—

(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

(ii) Exception for wash sales

Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

(iii) Treatment of uncorrected de minimis errors

Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined by treating any incorrect dollar amount which is not required to be corrected by reason of section 6721(c)(3) or section 6722(c)(3) as the correct amount.

(3) Covered security

For purposes of this subsection—

(A) In general

The term “covered security” means any specified security acquired on or after the applicable date if such security—

(i) was acquired through a transaction in the account in which such security is held, or

(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

(B) Specified security

The term “specified security” means—

(i) any share of stock in a corporation,

(ii) any note, bond, debenture, or other evidence of indebtedness,

(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

(iv) any other financial instrument with respect to which the Secretary determines

that adjusted basis reporting is appropriate for purposes of this subsection.

(C) Applicable date

The term “applicable date” means—

(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012, and

(iii) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

(4) Treatment of S corporations

In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

(5) Special rules for short sales

In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.

(6) Special rule for certain stock held in connection with dividend reinvestment plan

For purposes of this subsection, stock acquired before January 1, 2012, in connection with a dividend reinvestment plan shall be treated as stock described in clause (ii) of paragraph (3)(C) (unless the broker with respect to such stock elects not to have this paragraph apply with respect to such stock).

(h) Application to options on securities

(1) Exercise of option

For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

(2) Lapse or closing transaction

In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

(3) Prospective application

Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

(4) Definitions

For purposes of this subsection, the terms “covered security” and “specified security” shall have the meanings given such terms in subsection (g)(3).

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90

Stat. 1834; Pub. L. 97-248, title III, §311(a)(1), Sept. 3, 1982, 96 Stat. 600; Pub. L. 98-369, div. A, title I, §150(a), title VII, §714(e)(1), July 18, 1984, 98 Stat. 690, 961; Pub. L. 99-514, title XV, §§1501(c)(4), 1521(a), Oct. 22, 1986, 100 Stat. 2737, 2746; Pub. L. 100-647, title I, §1015(e)(1)(A), (2)(A), (3), title IV, §4005(g)(3), Nov. 10, 1988, 102 Stat. 3569, 3570, 3650; Pub. L. 101-239, title VII, §7814(c)(1), Dec. 19, 1989, 103 Stat. 2413; Pub. L. 101-508, title XI, §11704(a)(25), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 102-486, title XIX, §1939(a), Oct. 24, 1992, 106 Stat. 3034; Pub. L. 104-168, title XII, §1201(a)(5), July 30, 1996, 110 Stat. 1469; Pub. L. 104-188, title I, §1704(o)(1), Aug. 20, 1996, 110 Stat. 1886; Pub. L. 105-34, title III, §312(c), title X, §1021(a), Aug. 5, 1997, 111 Stat. 839, 922; Pub. L. 109-135, title IV, §412(xx), Dec. 21, 2005, 119 Stat. 2640; Pub. L. 110-343, div. B, title IV, §403(a), Oct. 3, 2008, 122 Stat. 3854; Pub. L. 113-295, div. A, title II, §210(f)(4), Dec. 19, 2014, 128 Stat. 4032; Pub. L. 114-113, div. Q, title II, §202(c), Dec. 18, 2015, 129 Stat. 3077.)

AMENDMENTS

2015—Subsec. (g)(2)(B)(iii). Pub. L. 114-113 added cl. (iii).

2014—Subsec. (g)(6). Pub. L. 113-295 added par. (6).

2008—Subsec. (b). Pub. L. 110-343, §403(a)(3)(A), (C), in concluding provisions, substituted “February 15” for “January 31” and inserted at end “In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.”

Subsec. (d). Pub. L. 110-343, §403(a)(3)(B), in concluding provisions, struck out “at such time and” before “in the manner” and inserted “The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.” before “The Secretary may prescribe.”

Subsecs. (g), (h). Pub. L. 110-343, §403(a)(1), (2), added subsecs. (g) and (h).

2005—Subsec. (e)(5)(A). Pub. L. 109-135 adjusted the margin of the third sentence to include it in concluding provisions with the second sentence.

1997—Subsec. (e)(5). Pub. L. 105-34, §312(c), added par. (5).

Subsec. (f). Pub. L. 105-34, §1021(a), added subsec. (f).

1996—Subsec. (b)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

Subsec. (e)(3). Pub. L. 104-188 inserted at end “Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.”

1992—Subsec. (e)(4). Pub. L. 102-486 substituted heading for one which read: “Whether seller’s financing was federally-subsidized” and amended text generally. Prior to amendment, text read as follows: “In the case of a real estate transaction involving a residence, the real estate reporting person shall specify on the return under subsection (a) and the statement under subsection (b) whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).”

1990—Subsec. (e)(4). Pub. L. 101-508 substituted “reporting person” for “broker”.

1989—Subsec. (e)(3), (4). Pub. L. 101-239 redesignated par. (3), relating to whether seller’s financing was federally-subsidized indebtedness, as (4).

1988—Subsec. (c)(1). Pub. L. 100-647, §1015(e)(1)(A), inserted at end “A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person.”

Subsec. (e)(1). Pub. L. 100-647, §1015(e)(3)(A), substituted “real estate reporting person” for “real estate broker”.

Subsec. (e)(2). Pub. L. 100-647, §1015(e)(3), substituted “estate reporting person” for “estate broker” in par. (2) heading and two places in text.

Subsec. (e)(3). Pub. L. 100-647, §4005(g)(3), added par. (3) relating to whether seller’s financing was federally-subsidized indebtedness.

Pub. L. 100-647, §1015(e)(2)(A), added par. (3) relating to prohibition of separate charge for filing return.

1986—Subsec. (b). Pub. L. 99-514, §1501(c)(4), in amending subsec. (c) generally, substituted references to persons required to make a return for former references to persons making a return.

Subsec. (e). Pub. L. 99-514, §1521(a), added subsec. (e).

1984—Subsec. (c)(4). Pub. L. 98-369, §714(e)(1), added par. (4).

Subsec. (d). Pub. L. 98-369, §150(a), added subsec. (d).

1982—Pub. L. 97-248 designated existing provisions as subsec. (a), substituted “the name and address of each customer, with such details regarding gross proceeds” for “the names of customers for whom such person has transacted any business, with such details regarding the profits and losses” after “may prescribe, showing” and “such business” for “each customer as will enable the Secretary to determine the amount of such profits and losses” after “with respect to”, and added subsecs. (b) and (c).

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

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, §202(e), Dec. 18, 2015, 129 Stat. 3078, provided that: “The amendments made by this section [amending this section and sections 6721 and 6722 of this title] shall apply to returns required to be filed, and payee statements required to be provided, after December 31, 2016.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provisions of the Energy Improvement and Extension Act of 2008, Pub. L. 110-343, div. B, to which such amendment relates, see section 210(h) of Pub. L. 113-295, set out as a note under section 45 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 effective Jan. 1, 2011, except that amendment by section 403(a)(3) of Pub. L. 110-343 applies to statements required to be furnished after Dec. 31, 2008, see section 403(e) of Pub. L. 110-343, set out as a note under section 1012 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

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

Pub. L. 105-34, title X, §1021(c), Aug. 5, 1997, 111 Stat. 923, provided that: “The amendment made by this section [amending this section] shall apply to payments made after December 31, 1997.”

EFFECTIVE DATE OF 1996 AMENDMENTS

Pub. L. 104-188, title XVII, §1704(o)(2), Aug. 20, 1996, 110 Stat. 1886, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1939(b), Oct. 24, 1992, 106 Stat. 3034, provided that: “The amendment made by subsection (a) [amending this section] shall apply to transactions after December 31, 1992.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(e)(1)(B), Nov. 10, 1988, 102 Stat. 3570, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].”

Pub. L. 100-647, title I, §1015(e)(2)(B), Nov. 10, 1988, 102 Stat. 3570, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by section 1015(e)(3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 4005(g)(3) of Pub. L. 100-647 applicable to financing provided, and mortgage credit certificates issued, after Dec. 31, 1990, with certain exceptions, see section 4005(h)(3) of Pub. L. 100-647, set out as a note under section 143 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(4) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Pub. L. 99-514, title XV, §1521(c), Oct. 22, 1986, 100 Stat. 2747, provided that: “The amendments made by this section [amending this section and section 3406 of this title] shall apply to real estate transactions closing after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §150(b), July 18, 1984, 98 Stat. 690, provided that: “The amendment made by this section [amending this section] shall apply to payments received after December 31, 1984.”

Amendment by section 714(e)(1) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §311(c)(1), Sept. 3, 1982, 96 Stat. 601, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by subsection (a) [amending this section and section 6678 of this title] shall take effect on the date of the enactment of this Act [Sept. 3, 1982], except that—

“(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this Act) within 6 months after the date of the enactment of this Act [Sept. 3, 1982], and

“(B) such regulations shall not apply to transactions occurring before January 1, 1983.”

NO PENALTY FOR PAYMENTS BEFORE JANUARY 1, 1985

Pub. L. 98-369, div. A, title VII, §714(e)(2), July 18, 1984, 98 Stat. 961, as amended by Pub. L. 99-514, §2, Oct.

22, 1986, 100 Stat. 2095, provided that: “No penalty shall be imposed under the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to any person required (by reason of the amendment made by paragraph (1) [amending this section]) to file a return under section 6045 of such Code with respect to any payment before January 1, 1985.”

§ 6045A. Information required in connection with transfers of covered securities to brokers**(a) Furnishing of information**

Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

(b) Applicable person

For purposes of subsection (a), the term “applicable person” means—

- (1) any broker (as defined in section 6045(c)(1)), and
- (2) any other person as provided by the Secretary in regulations.

(c) Time for furnishing statement

Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.

(Added Pub. L. 110-343, div. B, title IV, §403(c)(1), Oct. 3, 2008, 122 Stat. 3858.)

EFFECTIVE DATE

Section effective Jan. 1, 2011, see section 403(e)(1) of Pub. L. 110-343, set out as an Effective Date of 2008 Amendment note under section 1012 of this title.

§ 6045B. Returns relating to actions affecting basis of specified securities**(a) In general**

According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

- (1) a description of any organizational action which affects the basis of such specified security of such issuer,
- (2) the quantitative effect on the basis of such specified security resulting from such action, and
- (3) such other information as the Secretary may prescribe.

(b) Time for filing return

Any return required by subsection (a) shall be filed not later than the earlier of—

- (1) 45 days after the date of the action described in subsection (a), or
- (2) January 15 of the year following the calendar year during which such action occurred.

(c) Statements to be furnished to holders of specified securities or their nominees

According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with re-

spect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

- (1) the name, address, and phone number of the information contact of the person required to make such return,
- (2) the information required to be shown on such return with respect to such security, and
- (3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

(d) Specified security

For purposes of this section, the term “specified security” has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

(e) Public reporting in lieu of return

The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

- (1) the name, address, phone number, and email address of the information contact of such person, and
- (2) the information described in paragraphs (1), (2), and (3) of subsection (a).

(Added Pub. L. 110-343, div. B, title IV, § 403(d)(1), Oct. 3, 2008, 122 Stat. 3859.)

EFFECTIVE DATE

Section effective Jan. 1, 2011, see section 403(e)(1) of Pub. L. 110-343, set out as an Effective Date of 2008 Amendment note under section 1012 of this title.

§ 6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock

(a) Requirement of return

(1) In general

A return complying with the requirements of subsection (b) shall be made by—

- (A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,
- (B) each United States person—
 - (i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or
 - (ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership re-

quirements of paragraph (2) with respect to a foreign corporation,

(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

(2) Stock ownership requirements

A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

(B) the total value of the stock of such corporation.

(b) Form and contents of returns

The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign corporation, such information as the Secretary prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws, except that in the case of persons described only in subsection (a)(1)(A) the information required shall be limited to the names and addresses of persons described in subparagraph (B) or (C) of subsection (a)(1).

(c) Ownership of stock

For purposes of subsection (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) shall be taken into account. For purposes of the preceding sentence, the family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(d) Time for filing

Any return required by subsection (a) shall be filed on or before the 90th day after the day on which, under any provision of subsection (a), the United States citizen, resident, or person becomes liable to file such return (or on or before such later day as the Secretary may by forms or regulations prescribe).

(e) Limitation

No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).

(f) Cross reference

For provisions relating to penalties for violations of this section, sections 6679 and 7203.

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Pub. L. 86-780, §7(a), Sept. 14, 1960, 74 Stat. 1016; Pub. L. 87-834, §20(b), Oct. 16, 1962, 76 Stat. 1061; Pub. L. 94-455, title XIX, §1906(a)(4), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97-248, title III, §341(a), Sept. 3, 1982, 96 Stat. 635; Pub. L. 100-647, title I, §1012(i)(19), Nov. 10, 1988, 102 Stat. 3510; Pub. L. 105-34, title XI, §1146(a), Aug. 5, 1997, 111 Stat. 986; Pub. L. 110-172, §11(a)(33), Dec. 29, 2007, 121 Stat. 2487.)

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-172 substituted “subsection (a)(1)(A)” for “subsection (a)(1)” and “subparagraph (B) or (C) of subsection (a)(1)” for “paragraph (2) or (3) of subsection (a)”.

1997—Subsec. (a). Pub. L. 105-34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “A return complying with the requirements of subsection (b) shall be made by—

“(1) each United States citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation, 5 percent or more in value of the stock of which is owned by a United States person (as defined in section 7701(a)(30)), or who becomes such an officer or director at any time after such date,

“(2) each United States person who on January 1, 1963, owns 5 percent or more in value of the stock of a foreign corporation, or who, at any time after such date—

“(A) acquires stock which, when added to any stock owned on January 1, 1963, has a value equal to 5 percent or more of the value of the stock of a foreign corporation, or

“(B) acquires an additional 5 percent or more in value of the stock of a foreign corporation,

“(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

“(4) each person who at any time after January 1, 1963, becomes a United States person while owning 5 percent or more in value of the stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation.”

1988—Subsec. (a). Pub. L. 100-647, §1012(i)(19)(C), inserted sentence at end relating to foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c).

Subsec. (a)(3), (4). Pub. L. 100-647, §1012(i)(19)(A), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b). Pub. L. 100-647, §1012(i)(19)(B), substituted “paragraph (2) or (3) of subsection (a)” for “subsection (a)(2)”.

1982—Subsec. (d). Pub. L. 97-248 inserted “(or on or before such later day as the Secretary may by forms or regulations prescribe)”.

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

Subsec. (e). Pub. L. 94-455, §1906(a)(4), struck out provisions relating to the requirement for information to be furnished in the case of liability to file a return under subsec. (a) of this section arising on or after Jan. 1, 1963, and before June 1, 1963, under regulations in effect on or before June 1, 1963.

1962—Pub. L. 87-834 substituted “organization or reorganization of foreign corporations and as to acquisitions of their stock” for “creation or organization, or reorganization, of foreign corporations” in section catchline.

Subsec. (a). Pub. L. 87-834 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a) GENERAL RULE.—On or before the 90th day after the creation or organization, or reorganization, of any foreign corporation—

“(1) Each United States citizen or resident who was an officer or director of the corporation at any time within 60 days after the creation or organization, or reorganization thereof, and

“(2) Each United States shareholder of the corporation by or for whom, at any time within 60 days after the creation or organization or reorganization of the corporation, 5 percent or more in value of the stock of the corporation outstanding was owned directly or indirectly (including, in the case of an individual, stock owned by members of his family), shall make a return in compliance with the provisions of subsection (b).”

Subsec. (b). Pub. L. 87-834 inserted the exception providing that in the case of persons described only in subsec. (a)(1) the information required shall be limited to the names and addresses of persons described in subsec. (a)(2).

Subsec. (c). Pub. L. 87-834 substituted provisions requiring, for purposes of subsec. (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) to be taken into account for provisions which defined “United States shareholder”.

Subsecs. (d) to (f). Pub. L. 87-834 added subsecs. (d) and (e) and redesignated former subsec. (d) as (f) and inserted a reference to section 6679 of this title.

1960—Pub. L. 86-780 substituted “Returns as to creation or organization, or reorganization, of foreign corporations” for “Returns as to formation or reorganization of foreign corporations” in section catchline.

Subsec. (a). Pub. L. 86-780 substituted requirement that returns relating to the creation, organization, or reorganization of foreign corporations be made by every citizen or resident of the United States who was an officer or director of the corporation at any time within 60 days after its creation, organization, or reorganization, and by every United States shareholder of the corporation owning at least 5 percent of its outstanding stock at any time within such 60 days for requirement that every attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who advises as to the formation or reorganization of a foreign corporation, file a return in accordance with regulations prescribed by the Secretary of the Treasury or his delegate.

Subsec. (b). Pub. L. 86-780 reenacted the substance of subsec. (b), struck out “to the full extent of the information within the possession or knowledge or under the control of the person required to make the return” before “such information”.

Subsec. (c). Pub. L. 86-780 inserted the provisions defining United States shareholder and members of family and struck out provision relating to the making of a return by an attorney-at-law with respect to privileged communications.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1146(b), Aug. 5, 1997, 111 Stat. 986, provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §341(c), Sept. 3, 1982, 96 Stat. 635, provided that: “The amendments made by this section [amending this section and section 6048 of this title] shall apply to returns filed after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-834, §20(e)(2), Oct. 16, 1962, 76 Stat. 1063, provided that: “The amendments made by subsection

(b) [amending this section] shall take effect on January 1, 1963.”

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-780, § 8, Sept. 14, 1960, 74 Stat. 1016, provided that: “The amendments made by section 7 [amending this section] shall apply only with respect to foreign corporations created or organized, or reorganized, after the date of the enactment of this Act [Sept. 14, 1960].”

§ 6046A. Returns as to interests in foreign partnerships

(a) Requirement of return

Any United States person, except to the extent otherwise provided by regulations—

- (1) who acquires any interest in a foreign partnership,
- (2) who disposes of any portion of his interest in a foreign partnership, or
- (3) whose proportional interest in a foreign partnership changes substantially,

shall file a return. Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.

(b) Form and contents of return

Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

(c) Time for filing return

Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

(d) 10-percent interest

For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).

(e) Cross reference

For provisions relating to penalties for violations of this section, see sections 6679 and 7203.

(Added Pub. L. 97-248, title IV, § 405(a), Sept. 3, 1982, 96 Stat. 669; amended Pub. L. 105-34, title XI, § 1143(a), Aug. 5, 1997, 111 Stat. 983.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34, § 1143(a)(1), inserted at end “Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.”

Subsecs. (d), (e). Pub. L. 105-34, § 1143(a)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, § 1143(c), Aug. 5, 1997, 111 Stat. 984, provided that: “The amendments made by this section [amending this section and section 6679 of this title] shall apply to transfers and changes after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE

Pub. L. 97-248, title IV, § 407(b), Sept. 3, 1982, 96 Stat. 671, provided that: “The amendments made by section 405 [enacting this section and amending section 6679 of this title] shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act [Sept. 3, 1982].”

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

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

§ 6047. Information relating to certain trusts and annuity plans

(a) Trustees and insurance companies

The trustee of a trust described in section 401(a) which is exempt from tax under section 501(a) to which contributions have been paid under a plan on behalf of any owner-employee (as defined in section 401(c)(3)), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in section 403(a), contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Secretary shall by forms or regulations prescribe.

(b) Owner-employees

Every individual on whose behalf contributions have been paid as an owner-employee (as defined in section 401(c)(3))—

- (1) to a trust described in section 401(a) which is exempt from tax under section 501(a), or
- (2) to an insurance company or other person under a plan described in section 403(a),

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Secretary shall prescribe by forms or regulations.

(c) Other programs

To the extent provided by regulations prescribed by the Secretary, the provisions of this section apply with respect to any payment described in section 219 and to transactions of any trust described in section 408(a) or under an individual retirement annuity described in section 408(b).

(d) Reports by employers, plan administrators, etc.

(1) In general

The Secretary shall by forms or regulations require that—

(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(e)(1)) may be made, and

(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe. No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate \$10 or more.

(2) Form, etc., of reports

Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations.

(e) Employee stock ownership plans

The Secretary shall require—

(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

(2) both such employer or plan administrator,

to make returns and reports regarding such plan, transaction, or loan to the Secretary and to such other persons as the Secretary may prescribe. Such returns and reports shall be made in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

(f) Designated Roth contributions

The Secretary shall require the plan administrator of each applicable retirement plan (as defined in section 402A) to make such returns and reports regarding designated Roth contributions (as defined in section 402A) to the Secretary, participants and beneficiaries of the plan, and such other persons as the Secretary may prescribe.

(g) Information relating to life insurance contract transactions

This section shall not apply to any information which is required to be reported under section 6050Y.

(h) Cross references

(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.

(2) For criminal penalty for furnishing fraudulent information, see section 7207.

(3) For provisions relating to penalty for failure to comply with the provisions of subsection (d), see section 6704.

(4) For provisions requiring reporting of information relating to certain life insurance contract transactions, see section 6050Y.

(Added Pub. L. 87-792, §7(m)(1), Oct. 10, 1962, 76 Stat. 830; amended Pub. L. 93-406, title II, §§1031(c)(3), 2002(g)(8), Sept. 2, 1974, 88 Stat. 947, 970; Pub. L. 94-455, title XV, §1501(b)(9), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1737, 1834; Pub. L. 97-34, title III, §311(h)(8), Aug. 13, 1981, 95 Stat. 282; Pub. L. 97-248, title III, §334(b), Sept. 3, 1982, 96 Stat. 626; Pub. L. 97-448, title I, §103(c)(12)(C), Jan. 12, 1983, 96 Stat. 2377; Pub. L. 98-369, div. A, title IV, §491(d)(47), (57), July 18, 1984, 98 Stat. 852; Pub. L. 99-514, title XV,

§1501(d)(1)(D), title XVIII, §1848(e)(2), Oct. 22, 1986, 100 Stat. 2740, 2857; Pub. L. 101-239, title VII, §7301(e), Dec. 19, 1989, 103 Stat. 2349; Pub. L. 102-318, title V, §522(b)(2)(D), (E), July 3, 1992, 106 Stat. 314; Pub. L. 104-188, title I, §§1455(b)(2), (d)(1), 1602(b)(6), Aug. 20, 1996, 110 Stat. 1818, 1834; Pub. L. 107-16, title VI, §617(d)(2), June 7, 2001, 115 Stat. 106; Pub. L. 115-97, title I, §13520(c)(2), Dec. 22, 2017, 131 Stat. 2151.)

AMENDMENTS

2017—Subsec. (g). Pub. L. 115-97, §13520(c)(2)(B), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 115-97, §13520(c)(2)(A), redesignated subsec. (g) as (h).

Subsec. (h)(4). Pub. L. 115-97, §13520(c)(2)(C), added par. (4). Text was editorially conformed to match the style of pars. (1) to (3).

2001—Subsecs. (f), (g). Pub. L. 107-16 added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (d)(1). Pub. L. 104-188, §1455(b)(2), inserted at end “No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate \$10 or more.”

Subsec. (e)(1) to (3). Pub. L. 104-188, §1602(b)(6), added pars. (1) and (2) and struck out former pars. (1) to (3) which read as follows:

“(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan—

“(A) which acquired stock in a transaction to which section 133 applies, or

“(B) which holds stock with respect to which section 404(k) applies to dividends paid on such stock,

“(2) any person making or holding a loan to which section 133 applies, or

“(3) both such employer or plan administrator and such person.”

Subsec. (f)(1). Pub. L. 104-188, §1455(d)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For provisions relating to penalties for failure to file a return required by this section, see section 6652(e).”

1992—Subsec. (d)(1)(A). Pub. L. 102-318, §522(b)(2)(E), which directed the substitution of “section 3405(d)(3)” for “section 3405(d)(1)”, could not be executed because of the prior amendment by Pub. L. 102-318, §522(b)(2)(D). See below.

Pub. L. 102-318, §522(b)(2)(D), substituted “3405(e)(1)” for “3405(d)(1)”.

1989—Subsecs. (e), (f). Pub. L. 101-239 added subsec. (e) and redesignated former subsec. (e) as (f).

1986—Subsec. (e)(1). Pub. L. 99-514, §1501(d)(1)(D), substituted “section 6652(e)” for “section 6652(f)”.

Subsec. (e)(3). Pub. L. 99-514, §1848(e)(2), added par. (3).

1984—Pub. L. 98-369, §491(d)(57), struck out “and bond purchase” after “trusts and annuity” in section catchline.

Subsecs. (c) to (f). Pub. L. 98-369, §491(d)(47), redesignated former subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c) which related to information to be supplied by employees under qualified bond purchase plans.

1983—Subsec. (d). Pub. L. 97-448 substituted “section 219” for “section 219(a)”.

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

1981—Subsec. (d). Pub. L. 97-34 substituted “section 219(a)” for “section 219(a) or 220(a)”.

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

Subsec. (d). Pub. L. 94-455, §1501(b)(9), inserted “or 220(a)” after “section 219(a)”.

1974—Subsec. (d). Pub. L. 93-406, §2002(g)(8), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 93-406, §§1031(c)(3), 2002(g)(8), redesignated former subsec. (d) as (e), and inserted reference to section 6652(f) covering provisions relating to penalties for failure to file a return required by this section.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13520(d), Dec. 22, 2017, 131 Stat. 2151, provided that: “The amendments made by this section [enacting section 6050Y of this title and amending this section and section 6724 of this title] shall apply to—

- “(1) reportable policy sales (as defined in section 6050Y(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) after December 31, 2017, and
- “(2) reportable death benefits (as defined in section 6050Y(d)(4) of such Code (as added by subsection (a)) paid after December 31, 2017.”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2005, see section 617(f) of Pub. L. 107-16, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1455(b)(2), (d)(1) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

Amendment by section 1602(b)(6) of Pub. L. 104-188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104-188, set out as an Effective Date of Repeal note under former section 133 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102-318, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239, applicable, except as otherwise provided, to loans made after July 10, 1989, see section 7301(f) of Pub. L. 101-239, set out as a note under section 133 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(d)(1)(D) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1848(e)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Jan. 1, 1983, see section 334(e) of Pub. L. 97-248, set out as an Effective Date note under section 3405 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97-34, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1501(b)(9) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94-455, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 1031(c)(3) of Pub. L. 93-406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as an Effective Date note under section 6057 of this title.

Amendment by section 2002(g)(8) of Pub. L. 93-406 effective Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93-406, set out as an Effective Date note under section 4973 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

§ 6048. Information with respect to certain foreign trusts

(a) Notice of certain events

(1) General rule

On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

(2) Contents of notice

The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

(3) Reportable event

For purposes of this subsection—

(A) In general

The term “reportable event” means—

(i) the creation of any foreign trust by a United States person,

(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

(iii) the death of a citizen or resident of the United States if—

(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

(II) any portion of a foreign trust was included in the gross estate of the decedent.

(B) Exceptions

(i) Fair market value sales

Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

(ii) Deferred compensation and charitable trusts

Subparagraph (A) shall not apply with respect to a trust which is—

(I) described in section 402(b), 404(a)(4), or 404A, or

(II) determined by the Secretary to be described in section 501(c)(3).

(4) Responsible party

For purposes of this subsection, the term “responsible party” means—

(A) the grantor in the case of the creation of an inter vivos trust,

(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

(C) the executor of the decedent’s estate in any other case.

(b) United States owner of foreign trust

(1) In general

If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall submit such information as the Secretary may prescribe with respect to such trust for such year and shall be responsible to ensure that—

(A) such trust makes a return for such year which sets forth a full and complete ac-

counting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

(2) Trusts not having United States agent

(A) In general

If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

(B) United States agent required

The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust’s limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

(C) Other rules to apply

Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

(c) Reporting by United States beneficiaries of foreign trusts

(1) In general

If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

(A) the name of such trust,

(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

(C) such other information as the Secretary may prescribe.

(2) Inclusion in income if records not provided

(A) In general

If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

(B) Application of accumulation distribution rules

For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be $\frac{1}{2}$ of the number of years the trust has been in existence.

(d) Special rules

(1) Determination of whether United States person makes transfer or receives distribution

For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

(2) Domestic trusts with foreign activities

To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

(3) Time and manner of filing information

Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

(4) Modification of return requirements

The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.

(5) United States person's return must be consistent with trust return or Secretary notified of inconsistency

Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.

(Added Pub. L. 87-834, §7(f), Oct. 16, 1962, 76 Stat. 987; amended Pub. L. 94-455, title X, §1013(d)(1), (e)(3), (4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1616, 1834; Pub. L. 97-248, title III, §341(b), Sept. 3, 1982, 96 Stat. 635; Pub. L. 104-188, title I, §1901(a), Aug. 20, 1996, 110 Stat. 1904; Pub. L. 105-34, title X, §1027(b), title XVI, §1601(i)(1), Aug. 5, 1997, 111 Stat. 926, 1092; Pub. L. 111-147, title V, §534(a), Mar. 18, 2010, 124 Stat. 114.)

AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-147 inserted “shall submit such information as the Secretary may prescribe with respect to such trust for such year and” before “shall be responsible to ensure” in introductory provisions.

1997—Subsec. (b). Pub. L. 105-34, §1601(i)(1), substituted “owner” for “grantor” in heading.

Subsec. (d)(5). Pub. L. 105-34, §1027(b), added par. (5).

1996—Pub. L. 104-188 amended section generally, substituting provisions calling for improved information reporting on foreign trusts for provisions calling for the filing of returns as to foreign trusts, prescribing the form and contents of such returns, and requiring annual returns for foreign trusts with one or more United States beneficiaries.

1982—Subsec. (a). Pub. L. 97-248 inserted “(or on or before such later day as the Secretary may by regulations prescribe)” after “the 90th day”.

1976—Pub. L. 94-455, §1013(e)(4), struck out “creation of or transfer to” after “Returns as to” in section catchline.

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

Subsecs. (c), (d). Pub. L. 94-455, §1013(d)(1), (e)(3), added subsec. (c), redesignated former subsec. (c) as (d), and in subsec. (d) struck out cross reference to section 643(d) for definition of “foreign trust created by a United States person”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §534(b), Mar. 18, 2010, 124 Stat. 115, 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 [Mar. 18, 2010].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1027(b) of Pub. L. 105-34 applicable to returns of beneficiaries and owners filed after Aug. 5, 1997, see section 1027(c) of Pub. L. 105-34, set out as a note under section 6034A of this title.

Amendment by section 1601(i)(1) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1901(d), Aug. 20, 1996, 110 Stat. 1908, provided that:

“(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section [amending this section and sections 6677 and 6724 of this title] shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act [Aug. 20, 1996].

“(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

“(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to returns filed after Sept. 3, 1982, see section 341(c) of Pub. L. 97-248, set out as a note under section 6046 of this title.

§ 6049. Returns regarding payments of interest

(a) Requirement of reporting

Every person—

(1) who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year, or

(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Interest defined

(1) General rule

For purposes of subsection (a), the term “interest” means—

(A) interest on any obligation—

- (i) issued in registered form, or
- (ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

(B) interest on deposits with persons carrying on the banking business,

(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

(E) interest on deposits with brokers (as defined in section 6045(c)),

(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and

(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

(2) Exceptions

For purposes of subsection (a), the term “interest” does not include—

(A) interest on any obligation issued by a natural person,

(B) except to the extent otherwise provided in regulations—

- (i) any amount paid to any person described in paragraph (4), or
- (ii) any amount described in paragraph (5), and

(C) except to the extent otherwise provided in regulations, any amount not described in subparagraph (B) of this paragraph which is income from sources outside the United States or which is paid by—

- (i) a foreign government or international organization or any agency or instrumentality thereof,
- (ii) a foreign central bank of issue,

(iii) a foreign corporation not engaged in a trade or business in the United States,

(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii).

(3) Payments by United States nominees, etc., of United States person

If, within the United States, a United States person—

(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

(B) makes payments of such interest to such second United States person,

notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

(4) Persons described in this paragraph

A person is described in this paragraph if such person is—

(A) a corporation,

(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

(C) the United States or any wholly owned agency or instrumentality thereof,

(D) a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

(E) a foreign government, a political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

(F) an international organization or any wholly owned agency or instrumentality thereof,

(G) a foreign central bank of issue,

(H) a dealer in securities or commodities required to register as such under the laws of the United States or a State, the District of Columbia, or a possession of the United States,

(I) a real estate investment trust (as defined in section 856),

(J) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

(K) a common trust fund (as defined in section 584(a)), or

(L) any trust which—

- (i) is exempt from tax under section 664(c), or
- (ii) is described in section 4947(a)(1).

(5) Amounts described in this paragraph

An amount is described in this paragraph if such amount—

(A) is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount, or

(B) would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

(i) such amount is income from sources outside the United States,

(ii) the payor thereof is exempt from the application of section 1441(a) by reason of section 1441(c) or a tax treaty,

(iii) such amount is original issue discount (within the meaning of section 1273(a)), or

(iv) such amount is described in section 871(i)(2).

(c) Statements to be furnished to persons with respect to whom information is required

(1) In general

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(A) the name, address, and phone number of the information contact of the person required to make such return, and

(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

(2) Time and form of statement

The written statement under paragraph (1)—

(A) shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

(B) shall be in such form as the Secretary may prescribe by regulations.

(d) Definitions and special rules

For purposes of this section—

(1) Person

The term “person” includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

(2) Obligation

The term “obligation” includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

(3) Payments by governmental units

In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

(4) Financial institutions, brokers, etc., collecting interest may be substituted for payor

To the extent and in the manner provided by regulations, in the case of any obligation—

(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

(5) Interest on certain obligations may be treated on a transactional basis

(A) In general

To the extent and in the manner provided in regulations, this section shall apply with respect to—

(i) any person described in paragraph (4)(A), and

(ii) in the case of any United States savings bonds, any Federal agency making payments thereon,

on any transactional basis rather than on an annual aggregation basis.

(B) Separate returns and statements

If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

(C) Statement to payee required in case of transactions involving \$10 or more

In the case of any transaction to which this paragraph applies which involves the payment of \$10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

(6) Treatment of original issue discount

(A) In general

Original issue discount on any obligation shall be reported—

(i) as if paid at the time it is includible in gross income under section 1272 (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

(ii) if section 1272 does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

(B) Original issue discount

For purposes of this paragraph, the term “original issue discount” has the meaning given to such term by section 1273(a).

(7) Interests in REMIC's and certain other debt instruments**(A) In general**

For purposes of subsection (a), the term “interest” includes amounts includible in gross income with respect to regular interests in REMIC's (and such amounts shall be treated as paid when includible in gross income under section 860B(b)).

(B) Reporting to corporations, etc.

Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph and any other debt instrument to which section 1272(a)(6) applies, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

(C) Additional information

Except as otherwise provided in regulations, any return or statement required to be filed or furnished under this section with respect to interest income described in subparagraph (A) and interest on any other debt instrument to which section 1272(a)(6) applies shall also provide information setting forth the adjusted issue price of the interest to which the return or statement relates at the beginning of each accrual period with respect to which interest income is required to be reported on such return or statement and information necessary to compute accrual of market discount.

(D) Regulatory authority

The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

(8) Reporting of credit on clean renewable energy bonds**(A) In general**

For purposes of subsection (a), the term “interest” includes amounts includible in gross income under section 54(g)¹ or 1400N(l)(6) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)¹ or 1400N(l)(2)(D), as the case may be).

(B) Reporting to corporations, etc.

Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

(C) Regulatory authority

The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

(9) Reporting of credit on qualified tax credit bonds**(A) In general**

For purposes of subsection (a), the term “interest” includes amounts includible in gross income under section 54A¹ and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).¹

(B) Reporting to corporations, etc.

Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

(C) Regulatory authority

The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

(Added Pub. L. 87-834, §19(c), Oct. 16, 1962, 76 Stat. 1055; amended Pub. L. 91-172, title IV, §413(c), (d), Dec. 30, 1969, 83 Stat. 611, 612; Pub. L. 94-455, title XIX, §§1901(b)(6)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1793, 1834; Pub. L. 97-248, title III, §§303(b), 308(a), 309(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 97-424, title V, §547(b)(4), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-67, title I, §§102(a), (e), 108(a), Aug. 5, 1983, 97 Stat. 369, 370, 383; Pub. L. 98-369, div. A, title I, §42(a)(14), title IV, §474(r)(29)(J), July 18, 1984, 98 Stat. 557, 845; Pub. L. 99-514, title VI, §674, title XII, §1214(c)(4), title XV, §1501(c)(5), title XVIII, §1803(a)(14)(C), Oct. 22, 1986, 100 Stat. 2319, 2543, 2737, 2797; Pub. L. 100-647, title I, §1006(t)(24), (v), Nov. 10, 1988, 102 Stat. 3426, 3427; Pub. L. 104-168, title XII, §1201(a)(6), July 30, 1996, 110 Stat. 1469; Pub. L. 109-58, title XIII, §1303(b), Aug. 8, 2005, 119 Stat. 996; Pub. L. 109-135, title I, §101(b)(2), Dec. 21, 2005, 119 Stat. 2593; Pub. L. 109-222, title V, §502(a), (b), May 17, 2006, 120 Stat. 354; Pub. L. 110-234, title XV, §15316(b), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(b), June 18, 2008, 122 Stat. 1664, 2273.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (b)(4)(J), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

Section 54, referred to in subsec. (d)(8)(A), was repealed by Pub. L. 115-97, title I, §13404(a), Dec. 22, 2017, 131 Stat. 2138.

Section 54A, referred to in subsec. (d)(9)(A), was repealed by Pub. L. 115-97, title I, §13404(a), Dec. 22, 2017, 131 Stat. 2138.

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. (d)(9). Pub. L. 110-246, §15316(b), added par. (9).

¹ See References in Text note below.

2006—Subsec. (b)(2)(B). Pub. L. 109-222, §502(a), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of this title.”

Subsec. (b)(2)(C). Pub. L. 109-222 redesignated subpar. (D) as (C) and substituted “subparagraph (B)” for “subparagraph (C)”.

Subsec. (b)(2)(D). Pub. L. 109-222, §502(a), redesignated subpar. (D) as (C).

2005—Subsec. (d)(8). Pub. L. 109-58 added par. (8).

Subsec. (d)(8)(A). Pub. L. 109-135 inserted “or 1400N(l)(6)” after “section 54(g)” and “or 1400N(l)(2)(D), as the case may be” after “section 54(b)(4)”.

1996—Subsec. (c)(1)(A). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1988—Subsec. (d)(7)(A). Pub. L. 100-647, §1006(v), inserted parenthetical phrase relating to amounts treated as paid when includible in gross income under section 860B(b).

Subsec. (d)(7)(C). Pub. L. 100-647, §1006(t)(24), substituted “the adjusted issue price” for “the issue price”.

1986—Subsec. (b)(5)(B)(iii). Pub. L. 99-514, §1803(a)(14)(C), substituted “section 1273(a)” for “section 1232(b)(1)”.

Subsec. (b)(5)(B)(iv). Pub. L. 99-514, §1214(c)(4), added cl. (iv).

Subsec. (c). Pub. L. 99-514, §1501(c)(5), in amending subsec. (c) generally, substituted “information is required” for “information is furnished” in subsection heading and, in text, substituted references to persons required to make a return for former references to persons making a return and struck out provisions that no statement was required if the aggregate amount of payments to the person shown on the return was less than \$10.

Subsec. (d)(7). Pub. L. 99-514, §674, added par. (7).

1984—Subsec. (b)(2)(E). Pub. L. 98-369, §474(r)(29)(J), struck out subpar. (E) which related to amounts on which the person making payments was required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would have been so required but for section 1451(d) (relating to benefit of personal exemptions).

Subsec. (d)(6)(A). Pub. L. 98-369, §42(a)(14)(A), substituted “section 1272” for “section 1232A” in two places.

Subsec. (d)(6)(B). Pub. L. 98-369, §42(a)(14)(B), substituted “section 1273(a)” for “section 1232(b)(1)”.

1983—Subsec. (a). Pub. L. 98-67, §102(e)(1), struck out par. (3) which related to persons required under subchapter B of chapter 24 to withhold tax on the payment of interest and, in provisions following par. (2), substituted “and the name and address of the person to whom paid” for “, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld”.

Subsec. (b)(2)(B). Pub. L. 97-424 substituted “this title” for “law”.

Subsec. (b)(2)(C). Pub. L. 98-67, §102(e)(2), amended subpar. (C) generally, substituting in cl. (i) “person described in paragraph (4), or” for “person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof, or)” and in cl. (ii) “described in paragraph (5),” for “described in section 3454(a)(2)(D) or (E),”.

Subsec. (b)(4), (5). Pub. L. 98-67, §102(e)(2)(B), added pars. (4) and (5).

Subsec. (c)(1)(C). Pub. L. 98-67, §102(e)(3), struck out subpar. (C) which related to aggregate amount of tax deducted and withheld with respect to the person under subchapter B of chapter 24.

Subsec. (c)(2). Pub. L. 98-67, §108(a), amended par. (2) generally, inserting provision allowing the written statement to be furnished either in person or in a separate mailing by first-class mail and authorizing the

Secretary to prescribe by regulation the form that the written statement must take.

Subsec. (e). Pub. L. 98-67, §102(a), repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97-248, §309(a), redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, in par. (2) as so redesignated inserted “(as so defined)” after “payments of interest”, substituted par. (3) for former par. (1)(C) which described corporations with evidence of outstanding indebtedness in registered form for which during any calendar year there was at least \$10 of original issue discount includible in the gross income of a holder under section 1232(a)(3) of this title without regard to subpar. (B) thereof, substituted “of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld” for “of such payments and such aggregate amount includible in the gross income of any holder and the name and address of the person to whom paid or such holder” in provisions following par. (3), formerly following par. (1)(C), and struck out former par. (2), which directed persons making aggregate interest payments of less than \$10 to another person during any calendar year to report such payments and the recipients when required by the Secretary, and former par. (3), which required all corporations making payments of any amount of interest other than as defined in subsec. (b) to report such payments and the recipients when required by the Secretary.

Subsec. (b). Pub. L. 97-248, §309(a), substituted “subsection (a)” for “subsections (a)(1) and (2)” in provisions preceding subpar. (A), in subpar. (A) substituted “any obligation (i) issued in registered form, or (ii) of a type offered to the public, other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation” for “evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary, interest on other evidences of indebtedness issued by a corporation of a type offered by corporations to the public” in subpar. (C) inserted “industrial loan association or bank” to list of payors of interest, in subpar. (E) substituted “brokers (as defined in section 6045(c))” for “stockbrokers and dealers in securities”, added subpars. (F) and (G), in par. (2) substituted “subsection (a)” for “subsections (a)(1) and (2)” in provisions preceding subpar. (A), added subpar. (A), redesignated former subpar. (A) as (B), in subpar. (B) as so redesignated inserted reference to exemption under any provision of law, added subpar. (C), redesignated former subpar. (B) as (D), in subpar. (D) as so redesignated substituted provisions that the subpar. operates except to the extent otherwise provided in regulations or in subpar. (C) for provisions that the subpar. operates to the extent provided in regulations, added cls. (i) and (ii), designated existing provisions as cls. (iii) to (v), in cl. (iii) as so designated inserted specification of not being engaged in trade or business in the United States, in cl. (iv) as so designated inserted specification of exemption under subchapter A of chapter 3, redesignated former subpar. (C) as (E), and added par. (3).

Subsec. (c). Pub. L. 97-248, §309(a), substituted “subsection (a)” for “subsection (a)(1)” wherever appearing, designated provision before former par. (1) as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, added subpar. (C), designated first sentence after former par. (2) as par. (2), designated second sentence after former par. (2) as par. (3), in par. (3) as so designated inserted “with respect to payments of interest to any person” after “No statement”, struck out “, or the aggregate amount includible in the gross income of,” after “payments to”, and substituted “paragraph (1) or (2)” for “subparagraph (A), (B), or (C)” after “with respect to”.

Subsec. (d). Pub. L. 97-248, §309(a), added subsec. (d).

Subsec. (e). Pub. L. 97-248, §§303(b), 308(a), provided that, applicable to payments of interest, dividends, and

patronage dividends paid or credited after June 30, 1983, a new subsec. (e) is added. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

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

Subsec. (b)(1), (2)(A), (B). Pub. L. 94-455, §§1901(b)(6)(A), 1906(b)(13)(A), substituted “section 103(a)” for “section 103(a)(1) or (3)”, and struck out “or his delegate” after “Secretary” wherever appearing.

1969—Subsec. (a)(1)(C). Pub. L. 91-172, §413(c), added subpar. (C).

Subsec. (c). Pub. L. 91-172, §413(d), further qualified requirement to furnish statement by reference to aggregate amount includible in gross income.

EFFECTIVE DATE OF 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 15316(b) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 1400N of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-222, title V, §502(c), May 17, 2006, 120 Stat. 354, provided that: “The amendments made by this section [amending this section] shall apply to interest paid after December 31, 2005.”

EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by Pub. L. 109-135 applicable to taxable years ending on or after Aug. 28, 2005, see section 101(c)(1) of Pub. L. 109-135, set out as an Effective Date note under section 1400N of this title.

Pub. L. 109-58, title XIII, §1303(e), Aug. 8, 2005, 119 Stat. 997, as amended by Pub. L. 109-135, title IV, §402(c)(2), Dec. 21, 2005, 119 Stat. 2610, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 54 of this title and amending this section and sections 1397E and 6401 of this title] shall apply to bonds issued after December 31, 2005.

“(2) SUBSECTION (C).—The amendments made by subsection (c) [amending sections 1397E and 6401 of this title] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 674 of Pub. L. 99-514 effective Jan. 1, 1987, see section 675(a) of Pub. L. 99-514, as amended, set out as an Effective Date note under section 860A of this title.

Amendment by section 1214(c)(4) of Pub. L. 99-514 applicable to payments made in taxable year of payor be-

ginning after Dec. 31, 1986, except as otherwise provided, see section 1214(d) of Pub. L. 99-514, as amended, set out as a note under section 861 of this title.

Amendment by section 1501(c)(5) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1803(a)(14)(C) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 42(a)(14) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 474(r)(29)(J) of Pub. L. 98-369 not applicable with respect to obligations issued before Jan. 1, 1984, see section 475(b) of Pub. L. 98-369, set out as a note under section 33 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 102(a), (e) of Pub. L. 98-67 effective as of close of June 30, 1983, see section 110(b) of Pub. L. 98-67, set out as a note under section 31 of this title.

Amendment by section 108(a) of Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §309(c), Sept. 3, 1982, 96 Stat. 595, provided that: “The amendments made by this section [amending this section and sections 6041, 6652, and 6678 of this title] shall apply to amounts paid (or treated as paid) after December 31, 1982.”

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IV, §413(e), Dec. 30, 1969, 83 Stat. 612, provided that: “The amendments made by this section [amending this section and section 1232 of this title] shall apply with respect to bonds and other evidences of indebtedness issued after May 27, 1969 (other than evidences of indebtedness issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter).”

EFFECTIVE DATE

Section applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87-834, set out as an Effective Date of 1962 Amendment note under section 6042 of this title.

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

For nonapplication of amendment by section 1214(c)(4) of Pub. L. 99-514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147

and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

[§ 6050. Repealed. Pub. L. 96–167, § 5(a), Dec. 29, 1979, 93 Stat. 1276]

Section, added Pub. L. 91–172, title I, §121(e)(1), Dec. 30, 1969, 83 Stat. 548; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a return by transferor of income producing property if the transferee was known to be an organization referred to in section 511(a) or (b) and property had a fair market value in excess of \$50,000.

EFFECTIVE DATE OF REPEAL

Pub. L. 96–167, §5(c), Dec. 29, 1979, 93 Stat. 1276, provided that: “The amendments made by this section [repealing this section] shall apply to transfers after the date of the enactment of this Act [Dec. 29, 1979].”

§ 6050A. Reporting requirements of certain fishing boat operators

(a) Reports

The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b)(20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

(1) the identity of each individual performing such services;

(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share;

(4) if such individual receives a share of the proceeds of such catches, the amount so received; and

(5) any cash remuneration described in section 3121(b)(20)(A).

(b) Written statement

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 94–455, title XII, §1207(e)(3)(A), Oct. 4, 1976, 90 Stat. 1707; amended Pub. L. 99–514, title XV, §1501(c)(6), Oct. 22, 1986, 100 Stat. 2737; Pub. L. 104–188, title I, §1116(a)(1)(C), Aug. 20, 1996, 110 Stat. 1762.)

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–188 added par. (5).

1986—Subsec. (b). Pub. L. 99–514 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Every person making a return under subsection

(a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendments by Pub. L. 104–188 applicable to remuneration paid after Dec. 31, 1996, see section 1116(a)(3)(B) of Pub. L. 104–188, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Section effective for calendar years beginning after Oct. 4, 1976, see section 1207(f)(4)(A) of Pub. L. 94–455, set out as a note under section 3121 of this title.

§ 6050B. Returns relating to unemployment compensation

(a) Requirement of reporting

Every person who makes payments of unemployment compensation aggregating \$10 or more to any individual during any calendar year shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

(b) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Definitions

For purposes of this section—

(1) Unemployment compensation

The term “unemployment compensation” has the meaning given to such term by section 85(b).

(2) Person

The term “person” means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section.

(Added Pub. L. 95–600, title I, §112(b), Nov. 6, 1978, 92 Stat. 2777; amended Pub. L. 99–514, title

XV, §1501(c)(7), Oct. 22, 1986, 100 Stat. 2738; Pub. L. 104-168, title XII, §1201(a)(7), July 30, 1996, 110 Stat. 1469; Pub. L. 104-188, title I, §1704(t)(14), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

Subsec. (c)(1). Pub. L. 104-188 substituted “section 85(b)” for “section 85(c)”.

1986—Subsec. (b). Pub. L. 99-514, in amending subsec. (b) generally, substituted references to persons required to make a return for former references to persons making a return and references to individuals whose names are required to be set forth for former references to individuals whose names are set forth, and struck out provision directing that no statement is required to be furnished to individuals if the aggregate amount of payments to such individual shown on the return is less than \$10.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Section applicable to payments of unemployment compensation made after Dec. 31, 1978, in taxable years ending after such date, but not applicable to payments made for weeks of unemployment ending before Dec. 1, 1978, see section 112(d) of Pub. L. 95-600, as amended, set out as a note under section 85 of this title.

WAIVER OF STATUTE OF LIMITATIONS

For provisions relating to credit or refund of overpayment of tax resulting from 1984 amendment to section 112(d) of Pub. L. 95-600, see section 1075(b) of Pub. L. 98-369, set out as a note under section 85 of this title.

§ 6050C. Repealed. Pub. L. 100-418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96-223, title I, §101(d)(1), Apr. 2, 1980, 94 Stat. 251; amended Pub. L. 99-514, title XV, §1501(d)(1)(E), Oct. 22, 1986, 100 Stat. 2740, related to information regarding windfall profit tax on domestic crude oil.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

§ 6050D. Returns relating to energy grants and financing

(a) In general

Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under

such program and the aggregate amount so received by such individual.

(b) Definition of person

For purposes of this section, the term “person” means the officer or employee having control of the program, or the person appropriately designated for purposes of this section.

(Added Pub. L. 96-223, title II, §203(b)(1), Apr. 2, 1980, 94 Stat. 259.)

EFFECTIVE DATE

Pub. L. 96-223, title II, §203(c), Apr. 2, 1980, 94 Stat. 259, provided that: “The amendments made by this section [amending this section and section 23 of this title] shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date.”

§ 6050E. State and local income tax refunds

(a) Requirement of reporting

Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating \$10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

(b) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name of the State or political subdivision thereof, and

(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.

(c) Person defined

For purposes of this section, the term “person” means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section.

(Added Pub. L. 97-248, title III, §313(a), Sept. 3, 1982, 96 Stat. 603; amended Pub. L. 98-369, div. A, title I, §151(a), July 18, 1984, 98 Stat. 690; Pub. L. 99-514, title XV, §1501(c)(8), Oct. 22, 1986, 100 Stat. 2738.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514, in amending subsec. (b) generally, substituted “information is required” for

“information is furnished” in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

1984—Subsec. (b). Pub. L. 98-369 inserted provision that no statement is required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §151(b), July 18, 1984, 98 Stat. 691, provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.”

EFFECTIVE DATE

Pub. L. 97-248, title III, §313(c), Sept. 3, 1982, 96 Stat. 603, provided that: “The amendments made by this section [enacting this section] shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.”

§ 6050F. Returns relating to social security benefits

(a) Requirement of reporting

The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

(1) the—

(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,

(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and

(C) aggregate reductions under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen’s compensation act, and

(2) the name and address of such individual.

(b) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name of the agency making the payments, and

(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Definitions

For purposes of this section

(1) Appropriate Federal official

The term “appropriate Federal official” means—

(A) the Commissioner of Social Security in the case of social security benefits described in section 86(d)(1)(A), and

(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

(2) Social security benefit

The term “social security benefit” has the meaning given to such term by section 86(d)(1).

(Added Pub. L. 98-21, title I, §121(b), Apr. 20, 1983, 97 Stat. 82; amended Pub. L. 99-514, title XV, §1501(c)(9), Oct. 22, 1986, 100 Stat. 2738; Pub. L. 100-360, title I, §111(b), July 1, 1988, 102 Stat. 697; Pub. L. 101-234, title I, §102(a), Dec. 13, 1989, 103 Stat. 1980; Pub. L. 103-296, title I, §108(h)(4), Aug. 15, 1994, 108 Stat. 1487.)

REFERENCES IN TEXT

Section 224 of the Social Security Act, referred to in subsec. (a)(1)(C), is classified to section 424a of Title 42, The Public Health and Welfare.

Section 3(a)(1) of the Railroad Retirement Act of 1974, referred to in subsec. (a)(1)(C), is classified to section 231b(a)(1) of Title 45, Railroads.

AMENDMENTS

1994—Subsec. (c)(1)(A). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1989—Subsecs. (a), (b)(1), (2), (c)(1)(A). Pub. L. 101-234, §102(a), repealed Pub. L. 100-360, §111, and provided that the provisions of law amended by such section are restored or revived as if such section had not been enacted, see 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100-360, §111(b)(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(1). Pub. L. 100-360, §111(b)(2)(A), inserted “or making the determination under subsection (a)(2)” after “payments”.

Subsec. (b)(2). Pub. L. 100-360, §111(b)(2)(B), inserted “and the information required under subsection (a)(2),” after “reductions.”

Subsec. (c)(1)(A). Pub. L. 100-360, §111(b)(3), inserted “and the information required under subsection (a)(2)” after “section 86(d)(1)(A)”.

1986—Subsec. (b). Pub. L. 99-514, in amending subsec. (b) generally, substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-234 applicable to taxable years beginning after Dec. 31, 1988, see section 102(d)(2) of Pub. L. 101-234, set out as an Effective Date of Repeal note under section 59B of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-360 applicable to taxable years beginning after Dec. 31, 1988, see section 111(e) of

Pub. L. 100-360, set out as an Effective Date note under section 59B of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Section applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for any portion of a lump-sum payment of social security benefits received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 121(g) of Pub. L. 98-21, set out as a note under section 86 of this title.

REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND

Pub. L. 101-234, title I, §102(a), Dec. 13, 1989, 103 Stat. 1980, provided that: "Sections 111 and 112 of MCCA [Pub. L. 100-360, which enacted section 59B of this title and section 1395i-1a of Title 42, The Public Health and Welfare, amended this section, and enacted provisions set out as notes under section 59B of this title and section 1395i-1a of Title 42] are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted."

§ 6050G. Returns relating to certain railroad retirement benefits

(a) In general

The Railroad Retirement Board shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

(1) the aggregate amount of benefits paid under the Railroad Retirement Act of 1974 (other than tier 1 railroad retirement benefits, as defined in section 86(d)(4)) to any individual during any calendar year,

(2) the employee contributions (to the extent not previously taken into account under section 72(d)(1))¹ which are treated as having been paid for purposes of section 72(r),

(3) the name and address of such individual, and

(4) such other information as the Secretary may require.

(b) Statements to be furnished to persons with respect to whom information is required

The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 98-76, title II, §224(b)(1), Aug. 12, 1983, 97 Stat. 422; amended Pub. L. 99-514, title XV, §1501(c)(10), Oct. 22, 1986, 100 Stat. 2739.)

¹ See References in Text note below.

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (a)(1), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

Section 72(d), referred to in subsec. (a)(2), was repealed by Pub. L. 99-514, title XI, §1122(c)(1), Oct. 22, 1986, 100 Stat. 2467. A new section 72(d) was added by Pub. L. 100-647, title I, §1011A(b)(2)(A), Nov. 10, 1988, 102 Stat. 3472, and subsequently amended generally by Pub. L. 104-188, title I, §1403(a), Aug. 20, 1996, 110 Stat. 1790.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514, in amending subsec. (b) generally, substituted "information is required" for "information is furnished" in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Enactment of section applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for portions of lump-sum payments received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 227(b) of Pub. L. 98-76, set out as an Effective Date of 1983 Amendment note under section 72 of this title.

§ 6050H. Returns relating to mortgage interest received in trade or business from individuals

(a) Mortgage interest of \$600 or more

Any person—

(1) who is engaged in a trade or business, and

(2) who, in the course of such trade or business, receives from any individual interest aggregating \$600 or more for any calendar year on any mortgage,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe,

(2) contains—

(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

(B) the amount of such interest (other than points) received for the calendar year,

(C) the amount of points on the mortgage received during the calendar year and whether such points were paid directly by the borrower,

(D) the amount of outstanding principal on the mortgage as of the beginning of such calendar year,

(E) the date of the origination of the mortgage,

(F) the address (or other description in the case of property without an address) of the property which secures the mortgage, and

(G) such other information as the Secretary may prescribe.

(c) Application to governmental units

For purposes of subsection (a)—

(1) Treated as persons

The term “person” includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of interest described in subsection (a)(2) (other than points) received by the person required to make such return from the individual to whom the statement is required to be furnished (and the information required under subparagraphs (C), (D), (E), and (F) of subsection (b)(2)).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) Mortgage defined

For purposes of this section, except as provided in regulations prescribed by the Secretary, the term “mortgage” means any obligation secured by real property.

(f) Returns which would be required to be made by 2 or more persons

Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).

(g) Special rules for cooperative housing corporations

For purposes of subsection (a), an amount received by a cooperative housing corporation from a tenant-stockholder shall be deemed to be

interest received on a mortgage in the course of a trade or business engaged in by such corporation, to the extent of the tenant-stockholder's proportionate share of interest described in section 216(a)(2). Terms used in the preceding sentence shall have the same meanings as when used in section 216.

(h) Returns relating to mortgage insurance premiums

(1) In general

The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating \$600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

(2) Statement to be furnished to individuals with respect to whom information is required

Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

(3) Special rules

For purposes of this subsection—

(A) rules similar to the rules of subsection (c) shall apply, and

(B) the term “mortgage insurance” means—

(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).

(Added Pub. L. 98-369, div. A, title I, §145(a), July 18, 1984, 98 Stat. 684; amended Pub. L. 99-514, title XV, §1501(c)(11), title XVIII, §1811(a)(1), Oct. 22, 1986, 100 Stat. 2739, 2832; Pub. L. 101-239, title VII, §7646(a), (b), Dec. 19, 1989, 103 Stat. 2382; Pub. L. 104-168, title XII, §1201(a)(8), July 30, 1996, 110 Stat. 1469; Pub. L. 104-188, title I, §1704(t)(23), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 109-432, div. A, title IV, §419(c), Dec. 20, 2006, 120 Stat. 2968; Pub. L. 114-41, title II, §2003(a), (b), July 31, 2015, 129 Stat. 454.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (h)(3)(B)(ii), is the date of enactment of Pub. L. 109-432, which was approved Dec. 20, 2006.

AMENDMENTS

2015—Subsec. (b)(2)(D) to (G). Pub. L. 114-41, §2003(a), added subpars. (D) to (F) and redesignated former subpar. (D) as (G).

Subsec. (d)(2). Pub. L. 114-41, §2003(b), substituted “subparagraphs (C), (D), (E), and (F) of subsection (b)(2)” for “subsection (b)(2)(C)”.

2006—Subsec. (h). Pub. L. 109-432 added subsec. (h).
 1996—Subsec. (b)(2)(B). Pub. L. 104-188 made technical amendment to directory language of Pub. L. 101-239, § 7646(b)(1). See 1989 Amendment note below.

Subsec. (d)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1989—Subsec. (b)(2)(B). Pub. L. 101-239, § 7646(b)(1), as amended by Pub. L. 104-188, inserted “(other than points)” after “such interest”.

Subsec. (b)(2)(C), (D). Pub. L. 102-239, § 7646(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d)(2). Pub. L. 102-239, § 7646(b)(2), inserted “(other than points)” after “subsection (a)(2)” and “(and the information required under subsection (b)(2)(C))” after “to be furnished”.

1986—Subsec. (d). Pub. L. 99-514, § 1501(c)(11), in amending subsec. (d) generally, substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

Subsec. (g). Pub. L. 99-514, § 1811(a)(1), added subsec. (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-41, title II, § 2003(c), July 31, 2015, 129 Stat. 454, 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, 2016.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to amounts paid or accrued after Dec. 31, 2006, see section 419(d) of Pub. L. 109-432, set out as a note under section 163 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7646(c), Dec. 19, 1989, 103 Stat. 2382, provided that: “The amendments made by this section [amending this section] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1991.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(11) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1811(a)(1) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, § 145(d), July 18, 1984, 98 Stat. 685, as amended by Pub. L. 99-514, § 2, title XVIII, § 1811(a)(2), Oct. 22, 1986, 100 Stat. 2095, 2832, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply to amounts received after December 31, 1984.

“(2) SPECIAL RULE FOR OBLIGATIONS IN EXISTENCE ON DECEMBER 31, 1984.—In the case of any obligation in existence on December 31, 1984, no penalty shall be imposed under section 6676 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by reason of the amendments made by this section on any failure to supply a taxpayer identification number with respect to amounts received before January 1, 1986.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 60501. Returns relating to cash received in trade or business, etc.

(a) Cash receipts of more than \$10,000

Any person—

- (1) who is engaged in a trade or business, and
- (2) who, in the course of such trade or business, receives more than \$10,000 in cash in 1 transaction (or 2 or more related transactions),

shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

- (1) is in such form as the Secretary may prescribe,
- (2) contains—
 - (A) the name, address, and TIN of the person from whom the cash was received,
 - (B) the amount of cash received,
 - (C) the date and nature of the transaction, and
 - (D) such other information as the Secretary may prescribe.

(c) Exceptions

(1) Cash received by financial institutions

Subsection (a) shall not apply to—

(A) cash received in a transaction reported under title 31, United States Code, if the Secretary determines that reporting under this section would duplicate the reporting to the Treasury under title 31, United States Code, or

(B) cash received by any financial institution (as defined in subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), and (S) of section 5312(a)(2) of title 31, United States Code).

(2) Transactions occurring outside the United States

Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

(d) Cash includes foreign currency and certain monetary instruments

For purposes of this section, the term “cash” includes—

- (1) foreign currency, and
- (2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than \$10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B).

(e) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

- (1) the name, address, and phone number of the information contact of the person required to make such return, and
- (2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(f) Structuring transactions to evade reporting requirements prohibited

(1) In general

No person shall for the purpose of evading the return requirements of this section—

- (A) cause or attempt to cause a trade or business to fail to file a return required under this section,
- (B) cause or attempt to cause a trade or business to file a return required under this section that contains a material omission or misstatement of fact, or
- (C) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more trades or businesses.

(2) Penalties

A person violating paragraph (1) of this subsection shall be subject to the same civil and criminal sanctions applicable to a person which fails to file or completes a false or incorrect return under this section.

(g) Cash received by criminal court clerks

(1) In general

Every clerk of a Federal or State criminal court who receives more than \$10,000 in cash as bail for any individual charged with a specified criminal offense shall make a return described in paragraph (2) (at such time as the Secretary may by regulations prescribe) with respect to the receipt of such bail.

(2) Return

A return is described in this paragraph if such return—

- (A) is in such form as the Secretary may prescribe, and
- (B) contains—
 - (i) the name, address, and TIN of—
 - (I) the individual charged with the specified criminal offense, and
 - (II) each person posting the bail (other than a person licensed as a bail bondsman),

- (ii) the amount of cash received,
- (iii) the date the cash was received, and
- (iv) such other information as the Secretary may prescribe.

(3) Specified criminal offense

For purposes of this subsection, the term “specified criminal offense” means—

- (A) any Federal criminal offense involving a controlled substance,
- (B) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),
- (C) money laundering (as defined in section 1956 or 1957 of such title), and
- (D) any State criminal offense substantially similar to an offense described in subparagraph (A), (B), or (C).

(4) Information to Federal prosecutors

Each clerk required to include on a return under paragraph (1) the information described in paragraph (2)(B) with respect to an individual described in paragraph (2)(B)(i)(I) shall furnish (at such time as the Secretary may by regulations prescribe) a written statement showing such information to the United States Attorney for the jurisdiction in which such individual resides and the jurisdiction in which the specified criminal offense occurred.

(5) Information to payors of bail

Each clerk required to make a return under paragraph (1) shall furnish (at such time as the Secretary may by regulations prescribe) to each person whose name is required to be set forth in such return by reason of paragraph (2)(B)(i)(II) a written statement showing—

- (A) the name and address of the clerk's office required to make the return, and
- (B) the aggregate amount of cash described in paragraph (1) received by such clerk.

(Added Pub. L. 98-369, div. A, title I, §146(a), July 18, 1984, 98 Stat. 685; amended Pub. L. 99-514, title XV, §1501(c)(12), Oct. 22, 1986, 100 Stat. 2739; Pub. L. 100-690, title VII, §7601(a)(1), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101-508, title XI, §11318(a), (c), Nov. 5, 1990, 104 Stat. 1388-458, 1388-459; Pub. L. 103-322, title II, §20415(a), (b)(3), Sept. 13, 1994, 108 Stat. 1832, 1833; Pub. L. 104-168, title XII, §1201(a)(9), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1994—Pub. L. 103-322, §20415(b)(3), substituted “business, etc.” for “business” in section catchline.

Subsec. (g). Pub. L. 103-322, §20415(a), added subsec. (g).

1990—Subsec. (d). Pub. L. 101-508, §11318(a), substituted heading for one which read: “Cash includes foreign currency” and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘cash’ includes foreign currency.”

Subsec. (f). Pub. L. 101-508, §11318(c), substituted heading for one which read: “Actions by payors”.

1988—Subsec. (f). Pub. L. 100-690 added subsec. (f).

1986—Subsec. (e). Pub. L. 99-514 substituted “information is required” for “information is furnished” in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title II, §20415(d), Sept. 13, 1994, 108 Stat. 1833, provided that: “The amendments made by this section [amending this section and section 6724 of this title] shall take effect on the 60th day after the date on which the temporary regulations are prescribed under subsection (c) [section 20415(c) of Pub. L. 103-322, set out as a Regulations note below].” [Temporary regulations under section 20415(c) of Pub. L. 103-322 were filed Dec. 12, 1994, published Dec. 15, 1994, 59 F.R. 64572, and effective Feb. 13, 1995.]

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11318(e), Nov. 5, 1990, 104 Stat. 1388-459, provided that:

“(1) The amendments made by subsections (a) and (b) [amending this section and section 6721 of this title] shall apply to amounts received after the date of the enactment of this Act [Nov. 5, 1990].

“(2) The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act.

“(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-690, title VII, §7601(a)(3), Nov. 18, 1988, 102 Stat. 4504, provided that: “The amendments made by this subsection [amending this section and sections 6721 and 7203 of this title] shall apply to actions after the date of the enactment of this Act [Nov. 18, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §146(d), July 18, 1984, 98 Stat. 687, provided that: “The amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply to amounts received after December 31, 1984.”

REGULATIONS

Pub. L. 103-322, title II, §20415(c), Sept. 13, 1994, 108 Stat. 1833, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall prescribe temporary regulations under the amendments made by this section [amending this section and section 6724 of this title] within 90 days after the date of enactment of this Act [Sept. 13, 1994].” [Temporary regulations under section 20415(c) of Pub. L. 103-322 were filed Dec. 12, 1994, published Dec. 15, 1994, 59 F.R. 64572, and effective Feb. 13, 1995.]

REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS

For requirement of Secretary of the Treasury to report to Congress on number of reports filed under this section yearly, the rate of compliance with reporting requirements, the manner in which Federal agencies collect, organize and analyze such data, and sanctions imposed and indictments filed for failure to comply, see section 101 of Pub. L. 101-647, set out as a note under section 5311 of Title 31, Money and Finance.

NO INFERENCE TO BE DRAWN FROM AMENDMENT

Pub. L. 100-690, title VII, §7601(a)(4), Nov. 18, 1988, 102 Stat. 4504, provided that: “No inference shall be drawn from the amendment made by paragraph (1) [amending this section] on the application of the Internal Revenue Code of 1986 without regard to such amendment.”

§ 6050J. Returns relating to foreclosures and abandonments of security**(a) In general**

Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness, or

(2) has reason to know that the property in which such person has a security interest has been abandoned,

shall make a return described in subsection (c) with respect to each of such acquisitions or abandonments, at such time as the Secretary may by regulations prescribe.

(b) Exception

Subsection (a) shall not apply to any loan to an individual secured by an interest in tangible personal property which is not held for investment and which is not used in a trade or business.

(c) Form and manner of return

The return required under subsection (a) with respect to any acquisition or abandonment of property—

(1) shall be in such form as the Secretary may prescribe,

(2) shall contain—

(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured,

(B) a general description of the nature of such property and such indebtedness,

(C) in the case of a return required under subsection (a)(1)—

(i) the amount of such indebtedness at the time of such acquisition, and

(ii) the amount of indebtedness satisfied in such acquisition,

(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment, and

(E) such other information as the Secretary may prescribe.

(d) Applications to governmental units

For purposes of this section—

(1) Treated as persons

The term “person” includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return under this section shall be made by the officer or employee appro-

privately designated for the purpose of making such return.

(e) Statements to be furnished to persons with respect to whom information is required to be furnished

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name, address, and phone number of the information contact of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(f) Treatment of other dispositions

To the extent provided by regulations prescribed by the Secretary, any transfer of the property which secures the indebtedness to a person other than the lender shall be treated as an abandonment of such property.

(Added Pub. L. 98-369, div. A, title I, §148(a), July 18, 1984, 98 Stat. 687; amended Pub. L. 104-168, title XII, §1201(a)(10), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §148(d), July 18, 1984, 98 Stat. 689, provided that: “The amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply with respect to acquisitions of property and abandonments of property after December 31, 1984.”

§ 6050K. Returns relating to exchanges of certain partnership interests

(a) In general

Except as provided in regulations prescribed by the Secretary, if there is an exchange described in section 751(a) of any interest in a partnership during any calendar year, such partnership shall make a return for such calendar year stating—

- (1) the name and address of the transferee and transferor in such exchange, and
- (2) such other information as the Secretary may by regulations prescribe.

Such return shall be made at such time and in such manner as the Secretary may require by regulations.

(b) Statements to be furnished to transferor and transferee

Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the partnership required to make such return, and

(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Requirement that transferor notify partnership

(1) In general

In the case of any exchange described in subsection (a), the transferor of the partnership interest shall promptly notify the partnership of such exchange.

(2) Partnership not required to make return until notice

A partnership shall not be required to make a return under this section with respect to any exchange until the partnership is notified of such exchange.

(Added Pub. L. 98-369, div. A, title I, §149(a), July 18, 1984, 98 Stat. 689; amended Pub. L. 99-514, title XV, §1501(c)(13), title XVIII, §1811(b)(2), Oct. 22, 1986, 100 Stat. 2739, 2833; Pub. L. 104-168, title XII, §1201(a)(11), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

1986—Subsec. (b). Pub. L. 99-514, §1501(c)(13), in amending subsec. (b) generally, substituted references to partnerships required to make a return for former references to partnerships making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

Subsec. (c)(2). Pub. L. 99-514, §1811(b)(2), substituted “this section” for “this subsection”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(13) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1811(b)(2) of Pub. L. 99-514 applicable to partnership taxable years beginning after Oct. 22, 1986, see section 1811(b)(1)(B) of Pub. L. 99-514, set out as a note under section 6031 of this title.

Amendment by section 1811(b)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §149(d), July 18, 1984, 98 Stat. 690, provided that: “The amendments made by this section [enacting this section and amending sec-

tions 6652 and 6678 of this title] shall apply with respect to exchanges after December 31, 1984.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

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

§ 6050L. Returns relating to certain donated property

(a) Dispositions of donated property

(1) In general

If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 3 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

- (A) the name, address, and TIN of the donor,
- (B) a description of the property,
- (C) the date of the contribution,
- (D) the amount received on the disposition,
- (E) the date of such disposition,
- (F) a description of the donee’s use of the property, and
- (G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee’s exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(7)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is made under section 170(e)(7).

(2) Definitions

For purposes of this subsection:

(A) Charitable deduction property

The term “charitable deduction property” means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds \$5,000.

(B) Publicly traded securities

The term “publicly traded securities” means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(b) Qualified intellectual property contributions

(1) In general

Each donee with respect to a qualified intellectual property contribution shall make a return (at such time and in such form and man-

ner as the Secretary may by regulations prescribe) with respect to each specified taxable year of the donee showing—

- (A) the name, address, and TIN of the donor,
- (B) a description of the qualified intellectual property contributed,
- (C) the date of the contribution, and
- (D) the amount of net income of the donee for the taxable year which is properly allocable to the qualified intellectual property (determined without regard to paragraph (10)(B) of section 170(m) and with the modifications described in paragraphs (5) and (6) of such section).

(2) Definitions

For purposes of this subsection:

(A) In general

Terms used in this subsection which are also used in section 170(m) have the respective meanings given such terms in such section.

(B) Specified taxable year

The term “specified taxable year” means, with respect to any qualified intellectual property contribution, any taxable year of the donee any portion of which is part of the 10-year period beginning on the date of such contribution.

(c) Statement to be furnished to donors

Every person making a return under subsection (a) or (b) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.

(Added Pub. L. 98–369, div. A, title I, § 155(b)(1), July 18, 1984, 98 Stat. 692; amended Pub. L. 108–357, title VIII, § 882(c)(1), Oct. 22, 2004, 118 Stat. 1629; Pub. L. 109–280, title XII, § 1215(b), Aug. 17, 2006, 120 Stat. 1078.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–280, which directed the amendment of section 6050L by adding subpars. (F) and (G) and concluding provisions and substituting “3 years” for “2 years” in introductory provisions without specifying the act to be amended, was executed to this section, which is section 6050L of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2004—Pub. L. 108–357 amended section catchline and text generally, substituting provisions consisting of subsecs. (a) to (c) for provisions which, in subsec. (a) required return to be made by donee and set forth contents requirements, in subsec. (b) defined “charitable deduction property” for purposes of this section, in subsec. (c) required copy of return to be furnished to donor by donee, and in subsec. (d) defined “publicly traded securities”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title XII, § 1215(d)(2), Aug. 17, 2006, 120 Stat. 1079, provided that: “The amendments made by subsection (b) [amending this section] shall apply to returns filed after September 1, 2006.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–357 applicable to contributions made after June 3, 2004, see section 882(f) of Pub. L. 108–357, set out as a note under section 170 of this title.

EFFECTIVE DATE

Pub. L. 98–369, div. A, title I, § 155(d)(1), July 18, 1984, 98 Stat. 695, provided that: “The amendments made by

subsections (a) and (b) [enacting this section, amending sections 6652 and 6678 of this title, and enacting provisions set out as a note under section 170 of this title] shall apply to contributions made after December 31, 1984, in taxable years ending after such date.”

§ 6050M. Returns relating to persons receiving contracts from Federal executive agencies

(a) Requirement of reporting

The head of every Federal executive agency which enters into any contract shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

- (1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and
- (2) such other information as the Secretary may require.

(b) Federal executive agency

For purposes of this section, the term “Federal executive agency” means—

- (1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the Government Accountability Office,
- (2) any military department (as defined in section 102 of such title), and
- (3) the United States Postal Service and the Postal Regulatory Commission.

(c) Authority to extend reporting to licenses and subcontracts

To the extent provided in regulations, this section also shall apply to—

- (1) licenses granted by Federal executive agencies, and
- (2) subcontracts under contracts to which subsection (a) applies.

(d) Authority to prescribe minimum amounts

This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Secretary by regulations for such class.

(e) Exception for certain classified or confidential contracts

(1) In general

Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

(2) Reporting requirement

Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

- (A) the information required under this section with respect to such person, and
- (B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

(3) Description of contract

For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

- (A) the fact of the existence of such contract or the subject matter of such contract

has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity.

(Added Pub. L. 99-514, title XV, § 1522(a), Oct. 22, 1986, 100 Stat. 2747; amended Pub. L. 100-647, title I, § 1015(f), Nov. 10, 1988, 102 Stat. 3570; Pub. L. 109-135, title IV, § 412(rr)(2), Dec. 21, 2005, 119 Stat. 2640; Pub. L. 109-435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (b)(3). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

2005—Subsec. (b)(1). Pub. L. 109-135 substituted “Government Accountability Office” for “General Accounting Office”.

1988—Subsec. (e). Pub. L. 100-647 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Pub. L. 99-514, title XV, § 1522(c), Oct. 22, 1986, 100 Stat. 2747, provided that: “The amendments made by this section [enacting this section] shall apply to contracts (and subcontracts) entered into, and licenses granted, before, on, or after January 1, 1987.”

§ 6050N. Returns regarding payments of royalties

(a) Requirement of reporting

Every person—

- (1) who makes payments of royalties (or similar amounts) aggregating \$10 or more to any other person during any calendar year, or
- (2) who receives payments of royalties (or similar amounts) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the royalties (or similar amounts) so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Statements to be furnished to persons with respect to whom information is furnished

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

- (1) the name, address, and phone number of the information contact of the person required to make such return, and
- (2) the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

(c) Exception for payments to certain persons

Except to the extent otherwise provided in regulations, this section shall not apply to any amount paid to a person described in subparagraph (A), (B), (C), (D), (E), or (F) of section 6049(b)(4).

(Added Pub. L. 99-514, title XV, §1523(a), Oct. 22, 1986, 100 Stat. 2747; amended Pub. L. 104-168, title XII, §1201(a)(12), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-168 substituted “name, address, and phone number of the information contact” for “name and address”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104-168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Pub. L. 99-514, title XV, §1523(d), Oct. 22, 1986, 100 Stat. 2749, provided that: “The amendments made by this section [enacting this section and amending sections 3406, 6041, and 6676 of this title] shall apply with respect to payments made after December 31, 1986.”

§ 6050P. Returns relating to the cancellation of indebtedness by certain entities

(a) In general

Any applicable entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

- (1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,
- (2) the date of the discharge and the amount of the indebtedness discharged, and
- (3) such other information as the Secretary may prescribe.

(b) Exception

Subsection (a) shall not apply to any discharge of less than \$600.

(c) Definitions and special rules

For purposes of this section—

(1) Applicable entity

The term “applicable entity” means—

- (A) an executive, judicial, or legislative agency (as defined in section 3701(a)(4) of title 31, United States Code), and
- (B) an applicable financial entity.

(2) Applicable financial entity

The term “applicable financial entity” means—

- (A) any financial institution described in section 581 or 591(a) and any credit union,

(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing,

(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A), and

(D) any organization a significant trade or business of which is the lending of money.

(3) Governmental units

In the case of an entity described in paragraph (1)(A) or (2)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to persons with respect to whom information is required to be furnished

Every applicable entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

- (1) the name and address of the entity required to make such return, and
- (2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(e) Alternative procedure

In lieu of making a return required under subsection (a), an agency described in subsection (c)(1)(A) may submit to the Secretary (at such time and in such form as the Secretary may by regulations prescribe) information sufficient for the Secretary to complete such a return on behalf of such agency. Upon receipt of such information, the Secretary shall complete such return and provide a copy of such return to such agency.

(Added Pub. L. 103-66, title XIII, §13252(a), Aug. 10, 1993, 107 Stat. 531; amended Pub. L. 104-134, title III, §31001(m)(2)(A)–(D)(ii), Apr. 26, 1996, 110 Stat. 1321-368, 1321-369; Pub. L. 106-170, title V, §533(a), Dec. 17, 1999, 113 Stat. 1931.)

AMENDMENTS

1999—Subsec. (c)(2)(D). Pub. L. 106-170 added subpar. (D).

1996—Pub. L. 104-134, §31001(m)(2)(D)(ii), amended section catchline generally, striking out “financial” before “entities”.

Subsec. (a). Pub. L. 104-134, §31001(m)(2)(A), struck out “financial” before “entity” in introductory provisions.

Subsec. (c). Pub. L. 104-134, §31001(m)(2)(B), added par. (1), redesignated former par. (1) as (2), and redesignated former par. (2) as (3) and substituted “(1)(A) or (2)(B)” for “(1)(B)”.

Subsec. (d). Pub. L. 104-134, §31001(m)(2)(D)(i), struck out “financial” before “entity” in introductory provisions.

Subsec. (e). Pub. L. 104-134, §31001(m)(2)(C), added subsec. (e).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §533(b), Dec. 17, 1999, 113 Stat. 1931, provided that: “The amendment made by subsection (a) [amending this section] shall apply to discharges of indebtedness after December 31, 1999.”

EFFECTIVE DATE

Pub. L. 103-66, title XIII, §13252(d), Aug. 10, 1993, 107 Stat. 532, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to discharges of indebtedness after December 31, 1993.

“(2) GOVERNMENTAL ENTITIES.—In the case of an entity referred to in section 6050P(c)(1)(B) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act [Aug. 10, 1993].”

§ 6050Q. Certain long-term care benefits

(a) Requirement of reporting

Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year,

(2) whether or not such benefits are paid in whole or in part on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate,

(3) the name, address, and TIN of such individual, and

(4) the name, address, and TIN of the chronically ill or terminally ill individual on account of whose condition such benefits are paid.

(b) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person making the payments, and

(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Long-term care benefits

For purposes of this section, the term “long-term care benefit” means—

(1) any payment under a product which is advertised, marketed, or offered as long-term care insurance, and

(2) any payment which is excludable from gross income by reason of section 101(g).

(Added Pub. L. 104-191, title III, §323(a), Aug. 21, 1996, 110 Stat. 2062; amended Pub. L. 105-34, title XVI, §1602(d)(1), Aug. 5, 1997, 111 Stat. 1094.)

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105-34 inserted “, address, and phone number of the information contact” after “name”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE

Pub. L. 104-191, title III, §323(d), Aug. 21, 1996, 110 Stat. 2063, provided that: “The amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to benefits paid after December 31, 1996.”

§ 6050R. Returns relating to certain purchases of fish

(a) Requirement of reporting

Every person—

(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

(2) who makes payments in cash in the course of such trade or business to such a person of \$600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b) with respect to each person to whom such a payment was made during such calendar year.

(b) Return

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(A) the name, address, and TIN of each person to whom a payment described in subsection (a)(2) was made during the calendar year,

(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

(C) such other information as the Secretary may require.

(c) Statement to be furnished with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such a return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(d) Definitions

For purposes of this section:

(1) Cash

The term “cash” has the meaning given such term by section 6050I(d).

(2) Fish

The term “fish” includes other forms of aquatic life.

(Added Pub. L. 104-188, title I, § 1116(b)(1), Aug. 20, 1996, 110 Stat. 1763; amended Pub. L. 105-34, title XVI, § 1601(a), Aug. 5, 1997, 111 Stat. 1086; Pub. L. 105-206, title VI, § 6023(21), July 22, 1998, 112 Stat. 826.)

AMENDMENTS

1998—Subsec. (b)(2)(A). Pub. L. 105-206 substituted a comma for the semicolon at end.

1997—Pub. L. 105-34, § 1601(a)(2), provided that amendment made by section 1116(b)(1) of Pub. L. 104-188, shall be applied as if reference to chapter 68 were a reference to chapter 61. Section 1116(b)(1) of Pub. L. 104-188 directed amendment of subpart B of part III of subchapter A of chapter 68 by adding this section.

Subsec. (c)(1). Pub. L. 105-34, § 1601(a)(1), substituted “name, address, and phone number of the information contact” for “name and address”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE

Pub. L. 104-188, title I, § 1116(b)(3), Aug. 20, 1996, 110 Stat. 1764, provided that: “The amendments made by this subsection [enacting this section and amending section 6724 of this title] shall apply to payments made after December 31, 1997.”

§ 6050S. Returns relating to higher education tuition and related expenses**(a) In general**

Any person—

(1) which is an eligible educational institution which enrolls any individual for any academic period;

(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses; or

(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating \$600 or more for any calendar year on one or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(A) the name, address, and TIN of any individual—

(i) who is or has been enrolled at the institution and with respect to whom trans-

actions described in subparagraph (B) are made during the calendar year, or

(ii) with respect to whom payments described in subsection (a)(2) or (a)(3) were made or received,

(B) the—

(i) aggregate amount of payments received for qualified tuition and related expenses with respect to the individual described in subparagraph (A) during the calendar year,

(ii) aggregate amount of grants received by such individual for payment of costs of attendance that are administered and processed by the institution during such calendar year,

(iii) amount of any adjustments to the aggregate amounts reported by the institution pursuant to clause (i) or (ii) with respect to such individual for a prior calendar year,

(iv) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by a person engaged in a trade or business described in subsection (a)(2), and

(v) aggregate amount of interest received for the calendar year from such individual,

(C) the employer identification number of the institution, and

(D) such other information as the Secretary may prescribe.

(c) Application to governmental units

For purposes of this section—

(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) of subsection (b)(2) a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the information required by subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) Definitions

For purposes of this section, the terms “eligible educational institution” and “qualified tuition and related expenses” have the meanings given such terms by section 25A (without regard to subsection (g)(2) thereof), and except as provided in regulations, the term “qualified education loan” has the meaning given such term by section 221(d)(1).

(f) Returns which would be required to be made by 2 or more persons

Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under part II of subchapter B of chapter 68 with respect to any return or statement required under this section until such time as such regulations are issued.

(Added and amended Pub. L. 105-34, title II, §§201(c)(1), 202(c), Aug. 5, 1997, 111 Stat. 804, 808; Pub. L. 105-206, title III, §3712(a), (b), title VI, §6004(a)(2), July 22, 1998, 112 Stat. 781, 792; Pub. L. 107-16, title IV, §412(a)(2), June 7, 2001, 115 Stat. 63; Pub. L. 107-131, §1, Jan. 16, 2002, 115 Stat. 2410; Pub. L. 114-27, title VIII, §804(c), June 29, 2015, 129 Stat. 416; Pub. L. 114-113, div. Q, title II, §§211(b), 212(a), Dec. 18, 2015, 129 Stat. 3085, 3086.)

AMENDMENTS

2015—Subsec. (b)(2)(B)(i). Pub. L. 114-113, §212(a), struck out “or the aggregate amount billed” after “received”.

Subsec. (b)(2)(C), (D). Pub. L. 114-113, §211(b), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d)(2). Pub. L. 114-27 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the amounts described in subparagraph (B) of subsection (b)(2).”

2002—Subsec. (a)(1). Pub. L. 107-131, §1(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “which is an eligible educational institution—

“(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year; or

“(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses;”

Subsec. (b)(1). Pub. L. 107-131, §1(b)(1), inserted “and” at end.

Subsec. (b)(2)(A). Pub. L. 107-131, §1(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the name, address, and TIN of the individual with respect to whom payments or interest described in subsection (a) were received from (or were paid to).”

Subsec. (b)(2)(B). Pub. L. 107-131, §1(b)(4), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the—

“(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year,

“(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,

“(iii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by the person making such return, and and

“(iv) aggregate amount of interest received for the calendar year from such individual, and”.

Pub. L. 107-131, §1(b)(3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “the name, address, and TIN of any individual certified by the individual described in subparagraph

(A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and”.

Subsec. (b)(2)(C), (D). Pub. L. 107-131, §1(b)(3), redesignated subpars. (C) and (D) as (B) and (C), respectively.

Subsec. (d). Pub. L. 107-131, §1(c)(1), struck out “or (B)” after “subparagraph (A)” in introductory provisions.

Subsec. (d)(2). Pub. L. 107-131, §1(c)(2), substituted “subparagraph (B)” for “subparagraph (C)”.

2001—Subsec. (e). Pub. L. 107-16 substituted “section 221(d)(1)” for “section 221(e)(1)”.

1998—Subsec. (a). Pub. L. 105-206, §6004(a)(2), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Any person—

“(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

“(2) which is engaged in a trade or business and which, in the course of such trade or business—

“(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

“(B) except as provided in regulations, receives from any individual interest aggregating \$600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.”

Subsec. (b)(2)(C)(ii). Pub. L. 105-206, §3712(a)(1), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (b)(2)(C)(iii). Pub. L. 105-206, §3712(a)(1), (2), redesignated cl. (ii) as (iii) and inserted “by the person making such return” after “year”. Former cl. (iii) redesignated (iv).

Subsec. (b)(2)(C)(iv). Pub. L. 105-206, §3712(a)(1), (3), redesignated cl. (iii) as (iv) and inserted “and” at end.

Subsec. (d)(2). Pub. L. 105-206, §3712(b)(1), struck out “aggregate” before “amounts”.

Subsec. (e). Pub. L. 105-206, §3712(b)(2), inserted “(without regard to subsection (g)(2) thereof)” after “section 25A”.

1997—Subsec. (a)(2). Pub. L. 105-34, §202(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual.”

Subsec. (b)(2)(A). Pub. L. 105-34, §202(c)(2)(A), inserted “or interest” after “payments”.

Subsec. (b)(2)(C)(iii). Pub. L. 105-34, §202(c)(2)(B), added cl. (iii).

Subsec. (e). Pub. L. 105-34, §202(c)(3), inserted at end “, and except as provided in regulations, the term ‘qualified education loan’ has the meaning given such term by section 221(e)(1)”.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, §211(c)(2), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendments made by subsection (b) [amending this section] shall apply to expenses paid after December 31, 2015, for education furnished in academic periods beginning after such date.”

Pub. L. 114-113, div. Q, title II, §212(b), Dec. 18, 2015, 129 Stat. 3086, provided that: “The amendments made by subsection (b) [probably should be “subsection (a)”, amending this section] shall apply to expenses paid after December 31, 2015, for education furnished in academic periods beginning after such date.”

Amendment by Pub. L. 114-27 applicable to taxable years beginning after June 29, 2015, see section 804(d) of Pub. L. 114-27, set out as a note under section 25A of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-131, §2, Jan. 16, 2002, 115 Stat. 2411, provided that: “The amendments made by section 1 [amending this section] shall apply to expenses paid or assessed after December 31, 2002 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable with respect to any loan interest paid after Dec. 31, 2001, in taxable years ending after such date, see section 412(a)(3) of Pub. L. 107-16, set out as a note under section 221 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3712(c), July 22, 1998, 112 Stat. 782, provided that: “The amendments made by this section [amending this section] shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.”

Amendment by section 6004(a)(2) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 202(c) of Pub. L. 105-34 applicable to any qualified education loan (as defined in section 221(e)(1) of this title) incurred on, before, or after Aug. 5, 1997, but only with respect to any loan interest payment due and paid after Dec. 31, 1997, and to the portion of the 60-month period referred to in section 221(d) of this title after Dec. 31, 1997, see section 202(e) of Pub. L. 105-34, set out as a note under section 62 of this title.

EFFECTIVE DATE

Section applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date) for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105-34, set out as a note under section 25A of this title.

§ 6050T. Returns relating to credit for health insurance costs of eligible individuals

(a) Requirement of reporting

Every person who is entitled to receive payments for any month of any calendar year under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) with respect to any certified individual (as defined in section 7527(c)) shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

(b) Form and manner of returns

A return is described in this subsection if such return—

- (1) is in such form as the Secretary may prescribe, and
- (2) contains—
 - (A) the name, address, and TIN of each individual referred to in subsection (a),
 - (B) the number of months for which amounts were entitled to be received with respect to such individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals),
 - (C) the amount entitled to be received for each such month, and

(D) such other information as the Secretary may prescribe.

(c) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

- (1) the name and address of the person required to make such return and the phone number of the information contact for such person, and
- (2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(Added Pub. L. 107-210, div. A, title II, §202(c)(1), Aug. 6, 2002, 116 Stat. 962.)

EFFECTIVE DATE

Pub. L. 107-210, div. A, title II, §202(e), Aug. 6, 2002, 116 Stat. 963, provided that: “The amendments made by this section [enacting this section and section 7527 of this title and amending sections 6103, 6724, and 7213A of this title] shall take effect on the date of the enactment of this Act [Aug. 6, 2002].”

CONSTRUCTION

Nothing in title II of Pub. L. 107-210 or the amendments by that title, 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.

§ 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements

(a) Requirement of reporting

Any person who makes a charge against the cash value of an annuity contract, or the cash surrender value of a life insurance contract, which is excludible from gross income under section 72(e)(11) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

- (1) the amount of the aggregate of such charges against each such contract for the calendar year,
- (2) the amount of the reduction in the investment in each such contract by reason of such charges, and
- (3) the name, address, and TIN of the individual who is the holder of each such contract.

(b) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

- (1) the name, address, and phone number of the information contact of the person making the payments, and
- (2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 109-280, title VIII, §844(d)(1), Aug. 17, 2006, 120 Stat. 1012.)

EFFECTIVE DATE

Section 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 an Effective Date of 2006 Amendment note under section 72 of this title.

§ 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests

(a) In general

Each applicable exempt organization which makes a reportable acquisition shall make the return described in subsection (c).

(b) Time for making return

Any applicable exempt organization required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary.

(c) Form and manner of returns

A return is described in this subsection if such return—

- (1) is in such form as the Secretary prescribes,
- (2) contains the name, address, and taxpayer identification number of the applicable exempt organization and the issuer of the applicable insurance contract, and
- (3) contains such other information as the Secretary may prescribe.

(d) Definitions

For purposes of this section—

(1) Reportable acquisition

The term “reportable acquisition” means the acquisition by an applicable exempt organization of a direct or indirect interest in any applicable insurance contract in any case in which such acquisition is a part of a structured transaction involving a pool of such contracts.

(2) Applicable insurance contract

(A) In general

The term “applicable insurance contract” means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

(B) Exceptions

Such term shall not include a life insurance, annuity, or endowment contract if—

- (i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured

under the contract independent of any interest of an applicable exempt organization in the contract,

(ii) the sole interest in the contract of an applicable exempt organization or each person other than an applicable exempt organization is as a named beneficiary, or

(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

(I) as a beneficiary of a trust holding an interest in the contract, but only if the person’s designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in subclause (I) or clause (i) or (ii).

(3) Applicable exempt organization

The term “applicable exempt organization” means—

(A) an organization described in section 170(c),

(B) an organization described in section 168(h)(2)(A)(iv), or

(C) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

(e) Termination

This section shall not apply to reportable acquisitions occurring after the date which is 2 years after the date of the enactment of this section.

(Added Pub. L. 109-280, title XII, §1211(a)(1), Aug. 17, 2006, 120 Stat. 1072.)

REFERENCES IN TEXT

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

CODIFICATION

Section 1211(a)(1) of Pub. L. 109-280, which directed the addition of section 6050V at the end of subpart B of part III of subchapter A of chapter 61, without specifying the act to be amended, was executed by adding section 6050V at the end of subpart B of part III of subchapter A of chapter 61 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, §1211(d), Aug. 17, 2006, 120 Stat. 1074, provided that: “The amendments made by this section [enacting this section and amending sections 6721 and 6724 of this title] shall apply to acquisitions of contracts after the date of enactment of this Act [Aug. 17, 2006].”

§ 6050W. Returns relating to payments made in settlement of payment card and third party network transactions

(a) In general

Each payment settlement entity shall make a return for each calendar year setting forth—

- (1) the name, address, and TIN of each participating payee to whom one or more pay-

ments in settlement of reportable payment transactions are made, and

(2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

(b) Payment settlement entity

For purposes of this section—

(1) In general

The term “payment settlement entity” means—

(A) in the case of a payment card transaction, the merchant acquiring entity, and

(B) in the case of a third party network transaction, the third party settlement organization.

(2) Merchant acquiring entity

The term “merchant acquiring entity” means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

(3) Third party settlement organization

The term “third party settlement organization” means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

(4) Special rules related to intermediaries

For purposes of this section—

(A) Aggregated payees

In any case where reportable payment transactions of more than one participating payee are settled through an intermediary—

(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

(B) Electronic payment facilitators

In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

(c) Reportable payment transaction

For purposes of this section—

(1) In general

The term “reportable payment transaction” means any payment card transaction and any third party network transaction.

(2) Payment card transaction

The term “payment card transaction” means any transaction in which a payment card is accepted as payment.

(3) Third party network transaction

The term “third party network transaction” means any transaction which is settled through a third party payment network.

(d) Other definitions

For purposes of this section—

(1) Participating payee

(A) In general

The term “participating payee” means—

(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

(B) Exclusion of foreign persons

Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address.

(C) Inclusion of governmental units

The term “person” includes any governmental unit (and any agency or instrumentality thereof).

(2) Payment card

The term “payment card” means any card which is issued pursuant to an agreement or arrangement which provides for—

(A) one or more issuers of such cards,

(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

(C) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card as payment.

(3) Third party payment network

The term “third party payment network” means any agreement or arrangement—

(A) which involves the establishment of accounts with a central organization by a substantial number of persons who—

(i) are unrelated to such organization,

(ii) provide goods or services, and

(iii) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,

(B) which provides for standards and mechanisms for settling such transactions, and

(C) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

(e) Exception for de minimis payments by third party settlement organizations

A third party settlement organization shall be required to report any information under sub-

section (a) with respect to third party network transactions of any participating payee only if—

- (1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$20,000, and
- (2) the aggregate number of such transactions exceeds 200.

(f) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

- (1) the name, address, and phone number of the information contact of the person required to make such return, and
- (2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically, and if so, the email address of the person required to make such return may be shown in lieu of the phone number.

(g) Regulations

The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.

(Added Pub. L. 110-289, div. C, title III, §3091(a), July 30, 2008, 122 Stat. 2908.)

EFFECTIVE DATE

Section applicable to returns for calendar years beginning after Dec. 31, 2010, with exception for purposes of carrying out any TIN matching program, see section 3091(e) of Pub. L. 110-289, set out as an Effective Date of 2008 Amendment note under section 3406 of this title.

§ 6050X. Information with respect to certain fines, penalties, and other amounts

(a) Requirement of reporting

(1) In general

The appropriate official of any government or any entity described in section 162(f)(5) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

- (A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,
- (B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and
- (C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

(2) Suit or agreement described

(A) In general

A suit or agreement is described in this paragraph if—

(i) it is—

(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is \$600 or more.

(B) Adjustment of reporting threshold

The Secretary shall adjust the \$600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

(3) Time of filing

The return required under this subsection shall be filed at the time the agreement is entered into, as determined by the Secretary.

(b) Statements to be furnished to individuals involved in the settlement

Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

- (1) the name of the government or entity, and
- (2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

(c) Appropriate official defined

For purposes of this section, the term “appropriate official” means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.

(Added Pub. L. 115-97, title I, §13306(b)(1), Dec. 22, 2017, 131 Stat. 2128.)

EFFECTIVE DATE

Pub. L. 115-97, title I, §13306(b)(3), Dec. 22, 2017, 131 Stat. 2129, provided that: “The amendments made by this subsection [enacting this section] shall apply to amounts paid or incurred on or after the date of the enactment of this Act [Dec. 22, 2017], except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.”

§ 6050Y. Returns relating to certain life insurance contract transactions

(a) Requirement of reporting of certain payments

(1) In general

Every person who acquires a life insurance contract or any interest in a life insurance

contract in a reportable policy sale during any taxable year shall make a return for such taxable year (at such time and in such manner as the Secretary shall prescribe) setting forth—

(A) the name, address, and TIN of such person,

(B) the name, address, and TIN of each recipient of payment in the reportable policy sale,

(C) the date of such sale,

(D) the name of the issuer of the life insurance contract sold and the policy number of such contract, and

(E) the amount of each payment.

(2) Statement to be furnished to persons with respect to whom information is required

Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(A) the name, address, and phone number of the information contact of the person required to make such return, and

(B) the information required to be shown on such return with respect to such person, except that in the case of an issuer of a life insurance contract, such statement is not required to include the information specified in paragraph (1)(E).

(b) Requirement of reporting of seller's basis in life insurance contracts

(1) In general

Upon receipt of the statement required under subsection (a)(2) or upon notice of a transfer of a life insurance contract to a foreign person, each issuer of a life insurance contract shall make a return (at such time and in such manner as the Secretary shall prescribe) setting forth—

(A) the name, address, and TIN of the seller who transfers any interest in such contract in such sale,

(B) the investment in the contract (as defined in section 72(e)(6)) with respect to such seller, and

(C) the policy number of such contract.

(2) Statement to be furnished to persons with respect to whom information is required

Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(A) the name, address, and phone number of the information contact of the person required to make such return, and

(B) the information required to be shown on such return with respect to each seller whose name is required to be set forth in such return.

(c) Requirement of reporting with respect to reportable death benefits

(1) In general

Every person who makes a payment of reportable death benefits during any taxable year shall make a return for such taxable year (at such time and in such manner as the Secretary shall prescribe) setting forth—

(A) the name, address, and TIN of the person making such payment,

(B) the name, address, and TIN of each recipient of such payment,

(C) the date of each such payment,

(D) the gross amount of each such payment, and

(E) such person's estimate of the investment in the contract (as defined in section 72(e)(6)) with respect to the buyer.

(2) Statement to be furnished to persons with respect to whom information is required

Every person required to make a return under this subsection shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(A) the name, address, and phone number of the information contact of the person required to make such return, and

(B) the information required to be shown on such return with respect to each recipient of payment whose name is required to be set forth in such return.

(d) Definitions

For purposes of this section:

(1) Payment

The term “payment” means, with respect to any reportable policy sale, the amount of cash and the fair market value of any consideration transferred in the sale.

(2) Reportable policy sale

The term “reportable policy sale” has the meaning given such term in section 101(a)(3)(B).

(3) Issuer

The term “issuer” means any life insurance company that bears the risk with respect to a life insurance contract on the date any return or statement is required to be made under this section.

(4) Reportable death benefits

The term “reportable death benefits” means amounts paid by reason of the death of the insured under a life insurance contract that has been transferred in a reportable policy sale.

(Added Pub. L. 115-97, title I, §13520(a), Dec. 22, 2017, 131 Stat. 2149.)

EFFECTIVE DATE

Section applicable to reportable policy sales (as defined in subsection (d)(2) of this section) after Dec. 31, 2017, and reportable death benefits (as defined in subsection (d)(4) of this section) paid after Dec. 31, 2017, see section 13520(d) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 6047 of this title.

SUBPART C—INFORMATION REGARDING WAGES PAID EMPLOYEES

Sec.	
6051.	Receipts for employees.
6052.	Returns regarding payment of wages in the form of group-term life insurance.
6053.	Reporting of tips.

AMENDMENTS

1965—Pub. L. 89-97, title III, §313(e)(2)(D), July 30, 1965, 79 Stat. 385, added item 6053.

1964—Pub. L. 88-272, title II, §204(c)(3), Feb. 26, 1964, 78 Stat. 37, added item 6052.

§ 6051. Receipts for employees**(a) Requirement**

Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31, a written statement showing the following:

- (1) the name of such person,
- (2) the name of the employee (and an identifying number for the employee if wages as defined in section 3121(a) have been paid),
- (3) the total amount of wages as defined in section 3401(a),
- (4) the total amount deducted and withheld as tax under section 3402,
- (5) the total amount of wages as defined in section 3121(a),
- (6) the total amount deducted and withheld as tax under section 3101,
- [(7) Repealed. Pub. L. 111-226, title II, § 219(a)(3), Aug. 10, 2010, 124 Stat. 2403]
- (8) the total amount of elective deferrals (within the meaning of section 402(g)(3)) and compensation deferred under section 457, including the amount of designated Roth contributions (as defined in section 402A),
- (9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d),
- (10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit),
- (11) the amount contributed to any Archer MSA (as defined in section 220(d)) of such employee or such employee's spouse,
- (12) the amount contributed to any health savings account (as defined in section 223(d)) of such employee or such employee's spouse,
- (13) the total amount of deferrals for the year under a nonqualified deferred compensation plan (within the meaning of section 409A(d)),
- (14) the aggregate cost (determined under rules similar to the rules of section 4980B(f)(4)) of applicable employer-sponsored coverage (as defined in section 4980I(d)(1)), except that this paragraph shall not apply to—
 - (A) coverage to which paragraphs (11) and (12) apply, or
 - (B) the amount of any salary reduction contributions to a flexible spending arrangement (within the meaning of section 125),

(15) the total amount of permitted benefit (as defined in section 9831(d)(3)(C)) for the year under a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2)) with respect to the employee,

(16) the amount includible in gross income under subparagraph (A) of section 83(i)(1) with respect to an event described in subparagraph (B) of such section which occurs in such calendar year, and

(17) the aggregate amount of income which is being deferred pursuant to elections under section 83(i), determined as of the close of the calendar year.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a). The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111. In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.

(b) Special rule as to compensation of members of Armed Forces

In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401(a)).

(c) Additional requirements

The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. The statements required under this section shall also show the proportion of the total amount withheld as tax under section 3101

which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

(d) Statements to constitute information returns

A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary shall, when required by such regulations, be filed with the Secretary.

(e) Railroad employees

(1) Additional requirement

Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

(2) Information to be supplied to employees

Each person required to deduct and withhold tax under section 3201 during any year from an employee who has also received wages during such year subject to the tax imposed by section 3101(b) shall, upon request of such employee, furnish to him a written statement showing—

(A) the total amount of compensation with respect to which the tax imposed by section 3201 was deducted,

(B) the total amount deducted as tax under section 3201, and

(C) the portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.

(f) Statements required in case of sick pay paid by third parties

(1) Statements required from payor

(A) In general

If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

(i) the name and, if there is withholding under section 3402(o), the social security number of such employee,

(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term “third-party sick pay” means any sick pay (as defined in section 3402(o)(2)(C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(o)(1)).

(B) Special rules

(i) Statements are in lieu of other reporting requirements

The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

(ii) Penalties made applicable

For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

(2) Information required to be furnished by employer

Every employer who receives a statement under paragraph (1)(A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

(A) the information shown on the statement furnished under paragraph (1)(A), and

(B) if any portion of the sick pay is excludable from gross income under section 104(a)(3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Aug. 1, 1956, ch. 837, title IV, §412, 70 Stat. 879; Pub. L. 87-293, title II, §202(a)(4), Sept. 22, 1961, 75 Stat. 626; Pub. L. 89-97, title I, §107, title III, §313(e)(1), July 30, 1965, 79 Stat. 337, 384; Pub. L. 90-248, title V, §502(c)(1), (2), Jan. 2, 1968, 81 Stat. 934; Pub. L. 91-172, title VIII, §805(f)(2), Dec. 30, 1969, 83 Stat. 708; Pub. L. 92-603, title II, §293(a)-(c), Oct. 30, 1972, 86 Stat. 1459; Pub. L. 93-406, title II, §1022(k), Sept. 2, 1974, 88 Stat. 943; Pub. L. 94-455, title XIX, §1906(a)(5), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 95-216, title III, §317(b)(3), Dec. 20, 1977, 91 Stat. 1540; Pub. L. 95-600, title I, §105(c), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96-601, §4(e), Dec. 24, 1980, 94 Stat. 3497; Pub. L. 97-248, title III, §§307(a)(7), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 97-362, title I, §107(a), Oct. 25, 1982, 96 Stat. 1731; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99-514, title XI, §1105(b), Oct. 22, 1986, 100 Stat. 2419; Pub. L. 100-647, title I, §§1011B(c)(2)(B), 1018(u)(33), Nov. 10, 1988, 102 Stat. 3489, 3592; Pub. L. 103-465, title VII, §721(b), Dec. 8, 1994, 108 Stat. 5002; Pub. L. 104-191, title III, §301(c)(3), Aug. 21, 1996, 110 Stat. 2049; Pub. L. 106-554, §1(a)(7) [title II, §202(a)(9)], Dec. 21, 2000, 114 Stat. 2763, 2763A-629; Pub. L. 107-16, title VI, §617(d)(1), June 7, 2001, 115 Stat. 105; Pub. L. 108-173, title XII, §1201(d)(3), Dec. 8, 2003, 117 Stat. 2477; Pub. L. 108-357, title VIII, §885(b)(1), Oct. 22, 2004, 118 Stat. 1639; Pub. L. 111-148, title IX, §9002(a), Mar. 23, 2010, 124 Stat. 853; Pub. L. 111-226, title II, §219(a)(3), Aug. 10, 2010, 124 Stat. 2403; Pub. L. 114-113, div. Q, title IV, §409(a), Dec. 18, 2015, 129 Stat. 3121; Pub. L. 114-255, div. C, title XVIII, §18001(a)(6)(A), Dec. 13, 2016, 130 Stat. 1342; Pub.

L. 115-97, title I, §13603(d), Dec. 22, 2017, 131 Stat. 2164.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Social Security Act, referred to in subsecs. (c) and (e)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Part A of title XVIII of the Social Security Act is classified to part A (§1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2017—Subsec. (a)(16), (17). Pub. L. 115-97 added pars. (16) and (17).

2016—Subsec. (a)(15). Pub. L. 114-255 added par. (15).

2015—Subsec. (a)(2). Pub. L. 114-113 substituted “an identifying number for the employee” for “his social security account number”.

2010—Subsec. (a)(7). Pub. L. 111-226 struck out par. (7) which read as follows: “the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).”.

Subsec. (a)(14). Pub. L. 111-148 added par. (14).

2004—Subsec. (a). Pub. L. 108-357, §885(b)(1)(B), inserted at end of concluding provisions “In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.”.

Subsec. (a)(13). Pub. L. 108-357, §885(b)(1)(A), added par. (13).

2003—Subsec. (a)(12). Pub. L. 108-173 added par. (12).

2001—Subsec. (a)(8). Pub. L. 107-16 inserted “, including the amount of designated Roth contributions (as defined in section 402A)” before comma at end.

2000—Subsec. (a)(11). Pub. L. 106-554 substituted “Archer MSA” for “medical savings account”.

1996—Subsec. (a)(11). Pub. L. 104-191 added par. (11).

1994—Subsec. (a)(10). Pub. L. 103-465 added par. (10).

1988—Subsec. (a)(7). Pub. L. 100-647, §1018(u)(33), inserted a comma at end.

Subsec. (a)(9). Pub. L. 100-647, §1011B(c)(2)(B), added par. (9).

1986—Subsec. (a)(8). Pub. L. 99-514 added par. (8).

1983—Subsec. (f)(1)(A). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97-362 substituted “within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31” for “on the day on which the last payment of remuneration is made”.

Subsec. (f)(1)(A). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1)(A) is amended by inserting “subchapter A of” before “chapter 24”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (f). Pub. L. 96-601 added subsec. (f).

1978—Subsec. (a)(7). Pub. L. 95-600 added par. (7).

1977—Subsec. (a). Pub. L. 95-216 directed that the amounts required to be shown by par. (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(5), struck out “and” at end of par. (6), necessitating no change in text, due to Pub. L. 92-603, which made identical amendment in 1972.

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

1974—Subsec. (a). Pub. L. 93-406 inserted “or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash,” after “exemption.”.

1972—Subsec. (a). Pub. L. 92-603, §293(a), struck out reference to section 3201 of this title in introductory text, par. (7), which required written statement to contain total amount of compensation with respect to which tax imposed by section 3201 was deducted, and par. (8), which required written statement to contain total amount deducted as tax under section 3201.

Subsec. (c). Pub. L. 92-603, §293(b), struck out reference to section 3201 of this title.

Subsec. (e). Pub. L. 92-603, §293(c), added subsec. (e). 1969—Subsec. (a). Pub. L. 91-172 inserted “(determined without regard to subsection (n))” after “withhold a tax under section 3402” in introductory provisions.

1968—Subsec. (a). Pub. L. 90-248, §502(c)(1), included reference to section 3201 in introductory provisions and added pars. (7) and (8).

Subsec. (c). Pub. L. 90-248, §502(c)(2), included reference to section 3201 in second sentence.

1965—Subsec. (a). Pub. L. 89-97, §313(e)(1), inserted last sentence providing for inclusion of tips received by an employee in the course of his employment.

Subsec. (c). Pub. L. 89-97, §107, required the statements to show the proportion of the total amount withheld as tax under section 3101 which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

1961—Subsec. (a). Pub. L. 87-293 provided a special rule with respect to the information to be contained on employees’ tax receipts in the case of remuneration paid to volunteers and volunteer leaders in the Peace Corps.

1956—Subsec. (a). Act Aug. 1, 1956, §412(a), inserted provisions prescribing contents of statement in the case of compensation paid for service as a member of the uniformed services.

Subsec. (b). Act Aug. 1, 1956, §412(b), required the furnishing of a statement if during the calendar year any amount was required to be withheld as tax under section 3101 of this title.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to stock attributable to options exercised, or restricted stock units settled, after Dec. 31, 2017, see section 13603(f)(1) 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 calendar years beginning after Dec. 31, 2016, see section 18001(a)(7)(E) of Pub. L. 114-255, set out in a note under section 36B of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §409(b), Dec. 18, 2015, 129 Stat. 3121, provided that: “The amendment 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 2010 AMENDMENT

Amendment by Pub. L. 111-226 applicable to taxable years beginning after Dec. 31, 2010, see section 219(c) of Pub. L. 111-226, set out as a note under section 32 of this title.

Pub. L. 111-148, title IX, §9002(b), Mar. 23, 2010, 124 Stat. 854, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2010.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts deferred after Dec. 31, 2004, with special rules relating to earnings and material modifications and exception for nonelective deferred compensation, see section 885(d) of Pub. L. 108-357, set out as an Effective Date note under section 409A of this title.

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 AMENDMENT

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2005, see section 617(f) of Pub. L. 107-16, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title VII, §721(d)(2), Dec. 8, 1994, 108 Stat. 5002, provided that: “The amendments made by subsections (b) and (c) [amending this section and former section 3507 of this title] shall apply to remuneration paid after December 31, 1994.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(c)(2)(B) of Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1987, see section 1011B(c)(2)(C) of Pub. L. 100-647, set out as a note under section 129 of this title.

Amendment by section 1018(u)(33) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to calendar years beginning after Dec. 31, 1986, but not applicable to employer contributions made during 1987 and attributable to services performed during 1986 under qualified cash or deferred arrangement (as defined in section 401(k) of this title) if, under terms of such arrangement as in effect on Aug. 16, 1986, employee makes election with respect to such contribution before Jan. 1, 1987, and employer identifies amount of such contribution before Jan. 1, 1987, see section 1105(c)(5), (6) of Pub. L. 99-514, as amended, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-362, title I, §107(b), Oct. 25, 1982, 96 Stat. 1731, provided that: “The amendments made by this section [amending this section] shall apply with respect to employees whose employment is terminated after the date of the enactment of this Act [Oct. 25, 1982].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-601 applicable to payments made on or after first day of first calendar month beginning more than 120 days after Dec. 24, 1980, see section 4(f) of Pub. L. 96-601, set out as a note under section 3402 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title I, §105(g)(2), Nov. 6, 1978, 92 Stat. 2776, as amended by Pub. L. 96-222, title I, §101(a)(2)(D),

Apr. 1, 1980, 94 Stat. 195, provided that: “The amendments made by subsections (b), (c), and (e) [enacting former section 3507 of this title and amending this section and section 6302 of this title] shall apply to remuneration paid after June 30, 1979.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable to plan years to which part I of subtitle A of title II of Pub. L. 93-406 applies, see section 1024 of Pub. L. 93-406, set out as a note under section 401 of this title. For description of the plan years to which part I applies, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title II, §293(d), Oct. 30, 1972, 86 Stat. 1459, provided that: “The amendments made by this section [amending this section] shall apply in respect to remuneration paid after December 31, 1971.”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to wages paid after Apr. 30, 1970, see section 805(h) of Pub. L. 91-172, set out as a note under section 3402 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-248, title V, §502(c)(3), Jan. 2, 1968, 81 Stat. 934, provided that: “The amendments made by paragraphs (1) and (2) [amending this section] shall apply in respect of remuneration paid after December 31, 1967.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313(e)(1) of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956, ch. 837, title VI, 70 Stat. 887.

REPEALS; AMENDMENTS AND APPLICATION OF
AMENDMENTS UNAFFECTED

Section 202(a)(4) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Inter-course.

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.

§ 6052. Returns regarding payment of wages in the form of group-term life insurance

(a) Requirement of reporting

Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includible in the employee's gross income under section 79(a). For purposes of this section, the extent to which the cost of group-term life insurance is includible in the employee's gross income under section 79(a) shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance.

(b) Statements to be furnished to employees with respect to whom information is required

Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 88-272, title II, §204(c)(1), Feb. 26, 1964, 78 Stat. 37; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, §1501(c)(14), Oct. 22, 1986, 100 Stat. 2740.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514, in amending subsec. (b) generally, substituted “information is required” for “information is furnished” in heading, and in text substituted reference to employers required to make a return for former reference to employers making a return and reference to employees whose name is required to be set forth for former reference to employees whose name is set forth.

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE

Section applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88-272, set out as a note under section 79 of this title.

§ 6053. Reporting of tips

(a) Reports by employees

Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in

section 3121(a) or section 3401(a)) or which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary.

(b) Statements furnished by employers

If the tax imposed by section 3101 or section 3201 (as the case may be) with respect to tips reported by an employee pursuant to subsection (a) exceeds the tax which can be collected by the employer pursuant to section 3102 or section 3202 (as the case may be), the employer shall furnish to the employee a written statement showing the amount of such excess. The statement required to be furnished pursuant to this subsection shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.

(c) Reporting requirements relating to certain large food or beverage establishments

(1) Report to Secretary

In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

(B) The aggregate amount of charge receipts (other than nonallocable receipts).

(C) The aggregate amount of charged tips shown on such charge receipts.

(D) The sum of—

(i) the aggregate amount reported by employees to the employer under subsection (a), plus

(ii) the amount the employer is required to report under section 6051 with respect to service charges of less than 10 percent.

(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

(2) Furnishing of statement to employees

Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

(A) The name and address of such employer.

(B) The name of the employee.

(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

(3) Employee allocation of 8 percent of gross receipts

(A) In general

For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

- (i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over
- (ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

(B) Method of allocation

The employer shall allocate the amount under subparagraph (A)—

- (i) on the basis of a good faith agreement by the employer and the employees, or
- (ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

(C) The Secretary may lower the percentage required to be allocated

Upon the petition of the employer or the majority of employees of such employer, the Secretary may reduce (but not below 2 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

(4) Large food or beverage establishment

For purposes of this subsection, the term “large food or beverage establishment” means any trade or business (or portion thereof)—

- (A) which provides food or beverages,
- (B) with respect to which the tipping of employees serving food or beverages by customers is customary, and
- (C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary, and an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee.

(5) Employer not to be liable for wrong allocations

The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(B) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(B).

(6) Nonallocable receipts defined

For purposes of this subsection, the term “nonallocable receipts” means receipts which are allocable to—

- (A) carryout sales, or
- (B) services with respect to which a service charge of 10 percent or more is added.

(7) Application to new businesses

The Secretary shall prescribe regulations for the application of this subsection to new businesses.

(8) Certified professional employer organizations

For purposes of any report required by this subsection, in the case of a certified professional employer organization that is treated under section 3511 as the employer of a work site employee, the customer with respect to whom a work site employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer and the Secretary any information the Secretary prescribes as necessary to complete such reporting no later than such time as the Secretary shall prescribe.

(Added Pub. L. 89-97, title III, §313(e)(2)(A), July 30, 1965, 79 Stat. 384; amended Pub. L. 89-212, §2(d), Sept. 29, 1965, 79 Stat. 859; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §314(a), Sept. 3, 1982, 96 Stat. 603; Pub. L. 98-369, div. A, title X, §1072(a), (c)(1), July 18, 1984, 98 Stat. 1052; Pub. L. 113-295, div. B, title II, §206(c)(3), Dec. 19, 2014, 128 Stat. 4071.)

AMENDMENTS

2014—Subsec. (c)(8). Pub. L. 113-295 added par. (8).

1984—Subsec. (c)(3)(C). Pub. L. 98-369, §1072(a), substituted “Upon the petition of the employer or the majority of employees of such employer, the Secretary” for “The Secretary” and “2 percent” for “5 percent”.

Subsec. (c)(4). Pub. L. 98-369, §1072(c)(1), inserted provision that an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee.

1982—Subsec. (c). Pub. L. 97-248 added subsec. (c).

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

1965—Subsec. (a). Pub. L. 89-212, §2(d)(1), inserted “or which are compensation (as defined in section 3231(e))”.

Subsec. (b). Pub. L. 89-212, §2(d)(2), inserted “or section 3201 (as the case may be)” and “or section 3202 (as the case may be)”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable with respect to wages for services performed on or after Jan. 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 1984 AMENDMENT

Pub. L. 98-369, div. A, title X, §1072(c)(2), July 18, 1984, 98 Stat. 1052, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to calendar years beginning after December 31, 1982.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §314(e), Sept. 3, 1982, 96 Stat. 605, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6001 and 6678 of this title, and enacting provisions set out as a note under this section] shall apply to calendar years beginning after December 31, 1982.

“(2) SPECIAL RULE FOR 1983.—For purposes of section 6053(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], in the case of payroll periods ending before

April 1, 1983, an employer must only report with respect to such periods—

- “(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and
- “(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-212 effective only with respect to tips received after 1965, see section 6 of Pub. L. 89-212, set out as a note under section 3201 of this title.

EFFECTIVE DATE

Pub. L. 89-97, title III, §313(f), July 30, 1965, 79 Stat. 385, provided that: “The amendments made by this section [enacting this section and amending sections 451, 3102, 3121, 3401, 3402, 6051, 6652, and 6674 of this title and section 409 of Title 42, The Public Health and Welfare] shall apply only with respect to tips received by employees after 1965.”

REGULATIONS

Pub. L. 98-369, div. A, title X, §1072(b), July 18, 1984, 98 Stat. 1052, provided that: “The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act [July 18, 1984] the applicable recordkeeping requirements for tipped employees.”

THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS

Pub. L. 105-206, title III, §3414, July 22, 1998, 112 Stat. 755, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.”

MODIFICATION OF TIPS ALLOCATION METHOD

Pub. L. 99-514, title XV, §1571, Oct. 22, 1986, 100 Stat. 2765, provided that: “Effective for any payroll period beginning after December 31, 1986, an establishment may utilize the optional method of tips allocation described in the last sentence of section 31.6053-3(f)(1)(iv) of the Internal Revenue Regulations only if such establishment employs less than the equivalent of 25 full-time employees during such payroll period.”

STUDY OF TIP COMPLIANCE

Pub. L. 97-248, title III, §314(c), Sept. 3, 1982, 96 Stat. 605, directed Secretary of the Treasury or his delegate to submit before Jan. 1, 1987, to Committee on Ways and Means of House of Representatives and to Committee on Finance of Senate a report with respect to tip compliance in food and beverage service industry. Such study to include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

SUBPART D—INFORMATION REGARDING HEALTH INSURANCE COVERAGE

Sec.

- 6055. Reporting of health insurance coverage.
- 6056. Certain employers required to report on health insurance coverage.

PRIOR PROVISIONS

A prior subpart D, consisting of section 6056, related to information concerning private foundations, prior to repeal by Pub. L. 96-603, §1(c), Dec. 28, 1980, 94 Stat. 3504.

AMENDMENTS

2010—Pub. L. 111-148, title X, §10108(j)(3)(G), Mar. 23, 2010, 124 Stat. 915, which directed substitution of “Certain employers” for “Large employers” in item 6056 in

the table of sections for subpart D of part III of subchapter A of chapter 1, was executed to this table of sections, which is for subpart D of part III of subchapter A of chapter 61, to reflect the probable intent of Congress.

Pub. L. 111-148, title I, §1514(c), Mar. 23, 2010, 124 Stat. 258, added item 6056.

§ 6055. Reporting of health insurance coverage

(a) In general

Every person who provides minimum essential coverage to an individual during a calendar year shall, at such time as the Secretary may prescribe, make a return described in subsection (b).

(b) Form and manner of return

(1) In general

A return is described in this subsection if such return—

- (A) is in such form as the Secretary may prescribe, and
- (B) contains—

- (i) the name, address and TIN of the primary insured and the name and TIN of each other individual obtaining coverage under the policy,

- (ii) the dates during which such individual was covered under minimum essential coverage during the calendar year,

- (iii) in the case of minimum essential coverage which consists of health insurance coverage, information concerning—

- (I) whether or not the coverage is a qualified health plan offered through an Exchange established under section 1311 of the Patient Protection and Affordable Care Act, and

- (II) in the case of a qualified health plan, the amount (if any) of any advance payment under section 1412 of the Patient Protection and Affordable Care Act of any cost-sharing reduction under section 1402 of such Act or of any premium tax credit under section 36B with respect to such coverage, and

- (iv) such other information as the Secretary may require.

(2) Information relating to employer-provided coverage

If minimum essential coverage provided to an individual under subsection (a) consists of health insurance coverage of a health insurance issuer provided through a group health plan of an employer, a return described in this subsection shall include—

- (A) the name, address, and employer identification number of the employer maintaining the plan,

- (B) the portion of the premium (if any) required to be paid by the employer, and

- (C) if the health insurance coverage is a qualified health plan in the small group market offered through an Exchange, such other information as the Secretary may require for administration of the credit under section 45R (relating to credit for employee health insurance expenses of small employers).

(c) Statements to be furnished to individuals with respect to whom information is reported

(1) In general

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(A) the name and address of the person required to make such return and the phone number of the information contact for such person, and

(B) the information required to be shown on the return with respect to such individual.

(2) Time for furnishing statements

The written statement required under paragraph (1) shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(d) Coverage provided by governmental units

In the case of coverage provided by any governmental unit or any agency or instrumentality thereof, the officer or employee who enters into the agreement to provide such coverage (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

(e) Minimum essential coverage

For purposes of this section, the term “minimum essential coverage” has the meaning given such term by section 5000A(f).

(Added Pub. L. 111-148, title I, § 1502(a), Mar. 23, 2010, 124 Stat. 250.)

REFERENCES IN TEXT

Sections 1311, 1402, and 1412 of the Patient Protection and Affordable Care Act, referred to in subsec. (b)(1)(B)(iii), are classified to sections 18031, 18071, and 18082, respectively, of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Pub. L. 111-148, title I, § 1502(e), Mar. 23, 2010, 124 Stat. 252, provided that: “The amendments made by this section [enacting this section and section 18092 of Title 42, The Public Health and Welfare, and amending section 6724 of this title] shall apply to calendar years beginning after 2013.”

§ 6056. Certain employers required to report on health insurance coverage

(a) In general

Every applicable large employer required to meet the requirements of section 4980H with respect to its full-time employees during a calendar year shall, at such time as the Secretary may prescribe, make a return described in subsection (b).

(b) Form and manner of return

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(A) the name, date, and employer identification number of the employer,

(B) a certification as to whether the employer offers to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan (as defined in section 5000A(f)(2)),

(C) if the employer certifies that the employer did offer to its full-time employees (and their dependents) the opportunity to so enroll—

(i) the length of any waiting period (as defined in section 2701(b)(4) of the Public Health Service Act) with respect to such coverage,

(ii) the months during the calendar year for which coverage under the plan was available,

(iii) the monthly premium for the lowest cost option in each of the enrollment categories under the plan, and

(iv) the employer share of the total allowed costs of benefits provided under the plan,

(D) the number of full-time employees for each month during the calendar year,

(E) the name, address, and TIN of each full-time employee during the calendar year and the months (if any) during which such employee (and any dependents) were covered under any such health benefits plans, and

(F) such other information as the Secretary may require.

The Secretary shall have the authority to review the accuracy of the information provided under this subsection, including the applicable large employer's share under paragraph (2)(C)(iv).

(c) Statements to be furnished to individuals with respect to whom information is reported

(1) In general

Every person required to make a return under subsection (a) shall furnish to each full-time employee whose name is required to be set forth in such return under subsection (b)(2)(E) a written statement showing—

(A) the name and address of the person required to make such return and the phone number of the information contact for such person, and

(B) the information required to be shown on the return with respect to such individual.

(2) Time for furnishing statements

The written statement required under paragraph (1) shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(d) Coordination with other requirements

To the maximum extent feasible, the Secretary may provide that—

(1) any return or statement required to be provided under this section may be provided as part of any return or statement required under section 6051 or 6055, and

(2) in the case of an applicable large employer offering health insurance coverage of a

health insurance issuer, the employer may enter into an agreement with the issuer to include information required under this section with the return and statement required to be provided by the issuer under section 6055.

(e) Coverage provided by governmental units

In the case of any applicable large employer which is a governmental unit or any agency or instrumentality thereof, the person appropriately designated for purposes of this section shall make the returns and statements required by this section.

(f) Definitions

For purposes of this section, any term used in this section which is also used in section 4980H shall have the meaning given such term by section 4980H.

(Added and amended Pub. L. 111-148, title I, § 1514(a), title X, §§ 10106(g), 10108(j)(1)-(3)(D), Mar. 23, 2010, 124 Stat. 256, 911, 914, 915; Pub. L. 112-10, div. B, title VIII, § 1858(b)(5), Apr. 15, 2011, 125 Stat. 169.)

REFERENCES IN TEXT

Section 2701 of the Public Health Service Act, referred to in subsec. (b)(2)(C)(i), was classified to section 300gg of this title, was renumbered section 2704, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended by Pub. L. 111-148, title I, §§ 1201(2), 1563(c)(1), formerly § 1562(c)(1), title X, § 10107(b)(1), Mar. 23, 2010, 124 Stat. 154, 264, 911, and was transferred to section 300gg-3 of this title. A new section 2701, related to fair health insurance premiums, was added and amended by Pub. L. 111-148, title I, § 1201(4), title X, § 10103(a), Mar. 23, 2010, 124 Stat. 155, 892, and is classified to section 300gg of this title.

PRIOR PROVISIONS

A prior section 6056, added Pub. L. 91-172, title I, § 101(d)(3), Dec. 30, 1969, 83 Stat. 521; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, required an annual report by private foundations having at least \$5,000 of assets at any time during a taxable year, and prescribed contents, form and availability of the report, prior to repeal by Pub. L. 96-603, § 1(c), Dec. 28, 1980, 94 Stat. 3504.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-10, § 1858(b)(5)(A), struck out “and every offering employer” after “calendar year”.

Subsec. (b)(2)(C). Pub. L. 112-10, § 1858(b)(5)(B), struck out “in the case of an applicable large employer,” before “the length” in cl. (i), inserted “and” at the end of cl. (iii), struck out “and” after “plan,” at the end of cl. (iv), and struck out cl. (v) which read as follows: “in the case of an offering employer, the option for which the employer pays the largest portion of the cost of the plan and the portion of the cost paid by the employer in each of the enrollment categories under such option.”.

Subsecs. (d)(2), (e). Pub. L. 112-10, § 1858(b)(5)(C), struck out “or offering employer” after “large employer”.

Subsec. (f). Pub. L. 112-10, § 1858(b)(5)(D), amended subsec. (f) generally. Prior to amendment, subsec. (f) defined the term “offering employer” and provided that any term used in this section which was also used in section 4980H of this title would have the meaning given such term by section 4980H.

2010—Pub. L. 111-148, § 10108(j)(3)(A), substituted “Certain” for “Large” in section catchline.

Subsec. (a). Pub. L. 111-148, § 10108(j)(1), inserted “and every offering employer” before “shall”.

Subsec. (b). Pub. L. 111-148, § 10106(g), inserted at end “The Secretary shall have the authority to review the accuracy of the information provided under this subsection, including the applicable large employer’s share under paragraph (2)(C)(iv).”

Subsec. (b)(2)(C)(i). Pub. L. 111-148, § 10108(j)(3)(B)(i), inserted “in the case of an applicable large employer,” before “the length”.

Subsec. (b)(2)(C)(iii). Pub. L. 111-148, § 10108(j)(3)(B)(ii), struck out “and” at end.

Subsec. (b)(2)(C)(iv). Pub. L. 111-148, § 10108(j)(3)(B)(iv), inserted “and” at end.

Pub. L. 111-148, § 10108(j)(3)(B)(iii), which directed substitution of “employer” for “applicable large employer”, was executed by making the substitution for “applicable large employer’s”, to reflect the probable intent of Congress.

Subsec. (b)(2)(C)(v). Pub. L. 111-148, § 10108(j)(3)(B)(v), added cl. (v).

Subsecs. (d)(2), (e). Pub. L. 111-148, § 10108(j)(3)(C), (D), inserted “or offering employer” after “applicable large employer”.

Subsec. (f). Pub. L. 111-148, § 10108(j)(2), amended subsec. (f) generally. Prior to amendment, text read as follows: “For purposes of this section, any term used in this section which is also used in section 4980H shall have the meaning given such term by section 4980H.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-10 effective as if included in the provisions of, and the amendments made by, the provisions of Pub. L. 111-148 to which it relates, see section 1858(d) of Pub. L. 112-10, set out as a note under section 36B of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title X, § 10108(j)(4), Mar. 23, 2010, 124 Stat. 915, provided that: “The amendments made by this subsection [amending this section and section 6724 of this title] shall apply to periods beginning after December 31, 2013.”

EFFECTIVE DATE

Pub. L. 111-148, title I, § 1514(d), Mar. 23, 2010, 124 Stat. 258, provided that: “The amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to periods beginning after December 31, 2013.”

SUBPART E—REGISTRATION OF AND INFORMATION CONCERNING PENSION, ETC., PLANS

Sec. 6057.	Annual registration, etc.
6058.	Information required in connection with certain plans of deferred compensation.
6059.	Periodic report by actuary. ¹

AMENDMENTS

1974—Pub. L. 93-406, title II, § 1031(a), Sept. 2, 1974, 88 Stat. 943, added subpart heading and analysis of sections.

§ 6057. Annual registration, etc.

(a) Annual registration

(1) General rule

Within such period after the end of a plan year as the Secretary may by regulations prescribe, the plan administrator (within the meaning of section 414(g)) of each plan to which the vesting standards of section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 applies for such plan year shall file a registration statement with the Secretary.

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

(2) Contents

The registration statement required by paragraph (1) shall set forth—

- (A) the name of the plan,
- (B) the name and address of the plan administrator,
- (C) the name and taxpayer identifying number of each participant in the plan—
 - (i) who, during such plan year, separated from the service covered by the plan,
 - (ii) who is entitled to a deferred vested benefit under the plan as of the end of such plan year, and
 - (iii) with respect to whom retirement benefits were not paid under the plan during such plan year,
- (D) the nature, amount, and form of the deferred vested benefit to which such participant is entitled, and
- (E) such other information as the Secretary may require.

At the time he files the registration statement under this subsection, the plan administrator shall furnish evidence satisfactory to the Secretary that he has complied with the requirements contained in subsection (e).

(b) Notification of change in status

Any plan administrator required to register under subsection (a) shall also notify the Secretary, at such time as may be prescribed by regulations, of—

- (1) any change in the name of the plan,
- (2) any change in the name or address of the plan administrator,
- (3) the termination of the plan, or
- (4) the merger or consolidation of the plan with any other plan or its division into two or more plans.

(c) Voluntary reports

To the extent provided in regulations prescribed by the Secretary, the Secretary may receive from—

- (1) any plan to which subsection (a) applies, and
- (2) any other plan (including any governmental plan or church plan (within the meaning of section 414)),

such information (including information relating to plan years beginning before January 1, 1974) as the plan administrator may wish to file with respect to the deferred vested benefit rights of any participant separated from the service covered by the plan during any plan year.

(d) Transmission of information to Commissioner of Social Security

The Secretary shall transmit copies of any statements, notifications, reports, or other information obtained by him under this section to the Commissioner of Social Security.

(e) Individual statement to participant

Each plan administrator required to file a registration statement under subsection (a) shall, before the expiration of the time prescribed for the filing of such registration statement, also furnish to each participant described in subsection (a)(2)(C) an individual statement setting

forth the information with respect to such participant required to be contained in such registration statement. Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.

(f) Regulations**(1) In general**

The Secretary, after consultation with the Commissioner of Social Security, may prescribe such regulations as may be necessary to carry out the provisions of this section.

(2) Plans to which more than one employer contributes

This section shall apply to any plan to which more than one employer is required to contribute only to the extent provided in regulations prescribed under this subsection.

(g) Cross references

For provisions relating to penalties for failure to register or furnish statements required by this section, see section 6652(d) and section 6690.

For coordination between Department of the Treasury and the Department of Labor with regard to administration of this section, see section 3004 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93-406, title II, §1031(a), Sept. 2, 1974, 88 Stat. 943; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. B, title VI, §2663(j)(5)(D), July 18, 1984, 98 Stat. 1171; Pub. L. 98-397, title II, §206, Aug. 23, 1984, 98 Stat. 1449; Pub. L. 99-514, title XV, §1501(d)(1)(F), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 103-296, title I, §108(h)(5), Aug. 15, 1994, 108 Stat. 1487.)

REFERENCES IN TEXT

Section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(1), is classified to section 1053 of Title 29, Labor. Section 3004 of such Act, referred to in subsec. (g), is classified to section 1204 of Title 29.

AMENDMENTS

1994—Subsecs. (d), (f)(1). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” in heading and text of subsec. (d) and in text of subsec. (f)(1).

1986—Subsec. (g). Pub. L. 99-514 substituted “section 6652(d)” for “section 6652(e)”.

1984—Subsec. (d). Pub. L. 98-369 substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (e). Pub. L. 98-397 inserted provision that such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.

Subsec. (f). Pub. L. 98-369 substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to returns the due date for which (determined without regard to

extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-397 applicable to plan years beginning after Dec. 31, 1984, except as otherwise provided, see sections 302 and 303 of Pub. L. 98-397, set out as a note under section 1001 of Title 29, Labor.

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Pub. L. 93-406, title X, §1034, Sept. 2, 1974, 88 Stat. 948, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "This part [part 3 (§§1031-1034) of subtitle A of title II of Pub. L. 93-406, enacting this section, sections 6058, 6059, 6690, and 6692 of this title and section 1320b-1 of Title 42, The Public Health and Welfare, and amending sections 6033, 6047, and 6652 of this title] shall take effect upon the date of the enactment of this Act [Sept. 2, 1974]; except that—

"(1) the requirements of section 6059 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to plan years to which part I of this title applies. [For description of plan years to which part I applies, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title].

"(2) the requirements of section 6057 of such Code shall apply only with respect to plan years beginning after December 31, 1975,

"(3) the requirements of section 6058(a) of such Code shall apply only with respect to plan years beginning after the date of the enactment of this Act [Sept. 2, 1974], and

"(4) the amendments made by section 1032 [enacting section 1320b-1 of Title 42] shall take effect on January 1, 1978."

§ 6058. Information required in connection with certain plans of deferred compensation

(a) In general

Every employer who maintains a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation described in part I of subchapter D of chapter 1, or the plan administrator (within the meaning of section 414(g)) of the plan, shall file an annual return stating such information as the Secretary may by regulations prescribe with respect to the qualification, financial conditions, and operations of the plan; except that, in the discretion of the Secretary, the employer may be relieved from stating in its return any information which is reported in other returns.

(b) Actuarial statement in case of mergers, etc.

Not less than 30 days before a merger, consolidation, or transfer of assets or liabilities of a plan described in subsection (a) to another plan, the plan administrator (within the meaning of section 414(g)) shall file an actuarial statement of valuation evidencing compliance with the requirements of section 401(a)(12).

(c) Employer

For purposes of this section, the term "employer" includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan.

(d) Coordination with income tax returns, etc.

An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

(1) no special IRP tax, and

(2) no plan activity other than—

(A) the making of contributions (other than rollover contributions), and

(B) the making of distributions.

(e) Special IRP tax defined

For purposes of this section, the term "special IRP tax" means a tax imposed by—

(1) section 408(f),¹

(2) section 4973, or

(3) section 4974.

(f) Cross references

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

For coordination between the Department of the Treasury and the Department of Labor with respect to the information required under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93-406, title II, §1031(a), Sept. 2, 1974, 88 Stat. 945; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title I, §157(k)(1), Nov. 6, 1978, 92 Stat. 2809; Pub. L. 98-369, div. A, title IV, §491(d)(48), July 18, 1984, 98 Stat. 852; Pub. L. 99-514, title XV, §1501(d)(1)(D), Oct. 22, 1986, 100 Stat. 2740.)

REFERENCES IN TEXT

Section 408(f), referred to in subsec. (e)(1), was repealed by Pub. L. 99-514, title XI, §1123(d)(2), Oct. 22, 1986, 100 Stat. 2475.

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (f), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99-514 substituted "section 6652(e)" for "section 6652(f)".

1984—Subsec. (e). Pub. L. 98-369 struck out par. (2) which included a tax imposed by section 409(c) within term "special IRP tax", and redesignated pars. (3) and (4) as (2) and (3), respectively.

1978—Subsec. (c). Pub. L. 95-600 substituted "an individual retirement plan" for "an individual retirement account or annuity described in section 408".

Subsecs. (d) to (f). Pub. L. 95-600 added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title I, §157(k)(3), Nov. 6, 1978, 92 Stat. 2809, provided that: "The amendments made by para-

¹ See References in Text note below.

graph (1) [amending this section] shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) [amending section 7701 of this title] shall apply to taxable years beginning after December 31, 1974.”

EFFECTIVE DATE

Section effective Sept. 2, 1974, except that the requirements of subsec. (a) shall apply only with respect to plan years beginning after Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

REPORTING SIMPLIFICATION

Pub. L. 109-280, title XI, §1103, Aug. 17, 2006, 120 Stat. 1057, provided that:

“(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

“(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of \$250,000 or less as of the close of the plan year need not file a return for that year.

“(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ‘one-participant retirement plan’ means a retirement plan with respect to which the following requirements are met:

“(A) on the first day of the plan year—

“(i) the plan covered only one individual (or the individual and the individual’s spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

“(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

“(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

“(C) the plan does not provide benefits to anyone except the individual (and the individual’s spouse) or the partners (and their spouses);

“(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

“(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code).

For purposes of this paragraph, the term ‘partner’ includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

“(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

“(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2007.

“(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).”

§ 6059. Periodic report of actuary

(a) General rule

The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 414(g) of each defined benefit plan to which section 412 applies, for the first

plan year for which section 412 applies to the plan and for each third plan year thereafter (or more frequently if the Secretary determines that more frequent reports are necessary).

(b) Actuarial report

The actuarial report of a plan required by subsection (a) shall be prepared and signed by an enrolled actuary (within the meaning of section 7701(a)(35)) and shall contain—

(1) a description of the funding method and actuarial assumptions used to determine costs under the plan,

(2) a certification of the contribution necessary to reduce the minimum required contribution determined under section 430, the accumulated funding deficiency under section 433, or the accumulated funding deficiency determined under section 431, to zero,

(3) a statement—

(A) that to the best of his knowledge the report is complete and accurate, and

(B) the¹ requirements for reasonable actuarial assumptions under section 430(h)(1), 431(c)(3), or 433(c)(3), whichever are applicable, have been complied with.²

(4) such other information as may be necessary to fully and fairly disclose the actuarial position of the plan, and

(5) such other information regarding the plan as the Secretary may by regulations require.

(c) Time and manner of filing

The actuarial report and statement required by this section shall be filed at the time and in the manner provided by regulations prescribed by the Secretary.

(d) Cross reference

For coordination between the Department of the Treasury and the Department of Labor with respect to the report required to be filed under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93-406, title II, §1033(a), Sept. 2, 1974, 88 Stat. 947; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109-280, title I, §114(f), Aug. 17, 2006, 120 Stat. 855; Pub. L. 113-97, title II, §202(c)(10), Apr. 7, 2014, 128 Stat. 1138.)

REFERENCES IN TEXT

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

2014—Subsec. (b)(2). Pub. L. 113-97, §202(c)(10)(A), substituted “430, the accumulated funding deficiency under section 433,” for “430.”

Subsec. (b)(3)(B). Pub. L. 113-97, §202(c)(10)(B), substituted “430(h)(1), 431(c)(3), or 433(c)(3)” for “430(h)(1) or 431(c)(3).”

2006—Subsec. (b)(2). Pub. L. 109-280, §114(f)(1), substituted “the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,” for “the accumulated funding deficiency (as defined in section 412(a)).”

¹ So in original. Probably should be preceded by “that”.

² So in original. The period probably should be a comma.

Subsec. (b)(3)(B). Pub. L. 109-280, §114(f)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “the requirements of section 412(c) (relating to reasonable actuarial assumptions) have been complied with,”.

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

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-97 applicable to years beginning after Dec. 31, 2013, see section 3 of Pub. L. 113-97, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to plan years beginning after 2007, see section 114(g)(1) of Pub. L. 109-280, as added by Pub. L. 110-458, set out as a note under section 401 of this title.

EFFECTIVE DATE

Requirements of section applicable only with respect to plan years to which part I of subtitle A of title II of Pub. L. 93-406 applies, see section 1034(1) of Pub. L. 93-406, set out as an note under section 6057 of this title. For a description of the plan years to which part 1 applies, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§101-108) and B (§§111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280, set out as notes under section 401 of this title.

CONSOLIDATION OF ACTUARIAL REPORTS

Pub. L. 93-406, title X, §1033(c), Sept. 2, 1974, 88 Stat. 948, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The Secretary of the Treasury and the Secretary of Labor shall take such steps as may be necessary to assure coordination to the maximum extent feasible between the actuarial reports required by section 6059 of the Internal Revenue Code of 1986 and by section 103(d) of title I of the Employee Retirement Income Security Act of 1974 [section 1023(d) of Title 29, Labor].”

SUBPART F—INFORMATION CONCERNING TAX RETURN PREPARERS

Sec.
6060. Information returns of tax return preparers.

AMENDMENTS

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(A)(iii), (iv), May 25, 2007, 121 Stat. 201, substituted “Tax Return Preparers” for “Income Tax Return Preparers” in subpart heading and “tax return preparers” for “income tax return preparers” in item 6060.

1976—Pub. L. 94-455, title XII, §1203(e), Oct. 4, 1976, 90 Stat. 1691, added subpart heading and analysis for subpart F.

§ 6060. Information returns of tax return preparers

(a) General rule

Any person who employs a tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each tax return preparer employed by him at any time during such period. For pur-

poses of this section, any individual who in acting as a tax return preparer is not the employee of another tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

(b) Alternative reporting

In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

(c) Return period defined

For purposes of subsection (a), the term “return period” means the 12-month period beginning on July 1 of each year.

(Added Pub. L. 94-455, title XII, §1203(e), Oct. 4, 1976, 90 Stat. 1691; amended Pub. L. 110-28, title VIII, §8246(a)(2)(A)(i), (ii), May 25, 2007, 121 Stat. 201; Pub. L. 113-295, div. A, title II, §221(a)(109), Dec. 19, 2014, 128 Stat. 4053.)

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295, which directed substitution of “year.” for “year” and all that followed, was executed by substituting “year.” for “year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.”, to reflect the probable intent of Congress.

2007—Pub. L. 110-28, §8246(a)(2)(A)(i), substituted “tax return preparers” for “income tax return preparers” in section catchline.

Subsec. (a). Pub. L. 110-28, §8246(a)(2)(A)(ii), substituted “a tax return preparer” for “an income tax return preparer” in two places, “each tax return preparer” for “each income tax return preparer”, and “another tax return preparer” for “another income tax return preparer”.

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 2007 AMENDMENT

Pub. L. 110-28, title VIII, §8246(c), May 25, 2007, 121 Stat. 203, provided that: “The amendments made by this section [amending this section and sections 6103, 6107, 6109, 6503, 6694 to 6696, 7407, 7427, and 7701 of this title] shall apply to returns prepared after the date of the enactment of this Act [May 25, 2007].”

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.

PART IV—SIGNING AND VERIFYING OF RETURNS AND OTHER DOCUMENTS

Sec.
6061. Signing of returns and other documents.
6062. Signing of corporation returns.
6063. Signing of partnership returns.
6064. Signature presumed authentic.
6065. Verification of returns.

§ 6061. Signing of returns and other documents

(a) General rule

Except as otherwise provided by subsection (b) and sections 6062 and 6063, any return, state-

ment, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary.

(b) Electronic signatures

(1) In general

The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may—

(A) waive the requirement of a signature for; or

(B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

(2) Treatment of alternative methods

Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

(3) Published guidance

The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).

(Aug. 16, 1954, ch. 736, 68A Stat. 748; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title II, §2003(a), July 22, 1998, 112 Stat. 724.)

AMENDMENTS

1998—Pub. L. 105-206 designated existing provisions as subsec. (a), inserted subsec. heading, substituted “Except as otherwise provided by subsection (b) and” for “Except as otherwise provided by”, and added subsec. (b).

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

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title II, §2003(f), July 22, 1998, 112 Stat. 725, provided that: “The amendments made by this section [amending this section and section 7502 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

§ 6062. Signing of corporation returns

The return of a corporation with respect to income shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary pursuant to the provisions of section 6012(b)(3), such fiduciary shall sign the return. The fact that an individual's name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

(Aug. 16, 1954, ch. 736, 68A Stat. 748.)

§ 6063. Signing of partnership returns

The return of a partnership made under section 6031 shall be signed by any one of the part-

ners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

(Aug. 16, 1954, ch. 736, 68A Stat. 748.)

§ 6064. Signature presumed authentic

The fact that an individual's name is signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(Aug. 16, 1954, ch. 736, 68A Stat. 749.)

§ 6065. Verification of returns

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 94-455, title XIX, §1906(a)(6), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834.)

AMENDMENTS

1976—Pub. L. 94-455, §1906(a)(6), struck out provisions relating to the authority of the Secretary or his delegate to require that any return, statement, or other document to be made under provision of the internal revenue laws or regulations shall be verified by an oath.

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

Sec.

6071.	Time for filing returns and other documents.
6072.	Time for filing income tax returns.
[6073, 6074. Repealed.]	
6075.	Time for filing estate and gift tax returns.
[6076. Repealed.]	

AMENDMENTS

1988—Pub. L. 100-418, title I, §1941(b)(3)(C), Aug. 23, 1988, 102 Stat. 1324, struck out item 6076 “Time for filing return of windfall profit tax”.

1984—Pub. L. 98-369, div. A, title IV, §412(c)(2), July 18, 1984, 98 Stat. 793, struck out item 6073 “Time for filing declarations of estimated income tax by individuals”.

1980—Pub. L. 96-223, title I, §101(c)(1)(B), Apr. 2, 1980, 94 Stat. 250, added item 6076.

1976—Pub. L. 94-455, title XIX, §1904(b)(10)(A)(iii)(II), Oct. 4, 1976, 90 Stat. 1817, struck out item 6076 “Time for filing interest equalization tax returns”.

1968—Pub. L. 90-364, title I, §103(e)(8), June 28, 1968, 82 Stat. 264, struck out item 6074 “Time for filing declarations of estimated income tax by corporations”.

1964—Pub. L. 88-563, §3(d), Sept. 2, 1964, 78 Stat. 845, added item 6076.

§ 6071. Time for filing returns and other documents

(a) General rule

When not otherwise provided for by this title, the Secretary shall by regulations prescribe the

time for filing any return, statement, or other document required by this title or by regulations.

(b) Electronically filed information returns

Returns made under subpart B of part III of this subchapter (other than returns and statements required to be filed with respect to non-employee compensation) which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.

(c) Returns and statements relating to employee wage information and nonemployee compensation

Forms W-2 and W-3 and any returns or statements required by the Secretary to report non-employee compensation shall be filed on or before January 31 of the year following the calendar year to which such returns relate.

(d) Special taxes

For payment of special taxes before engaging in certain trades and businesses, see section 4901 and section 5732.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 85-859, title II, § 204(1), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title II, § 2002(a), July 22, 1998, 112 Stat. 724; Pub. L. 109-59, title XI, § 11125(b)(21), Aug. 10, 2005, 119 Stat. 1957; Pub. L. 114-113, div. Q, title II, § 201(a), (c), Dec. 18, 2015, 129 Stat. 3076.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-113, § 201(c), substituted “subpart B of part III of this subchapter (other than returns and statements required to be filed with respect to nonemployee compensation)” for “subparts B and C of part III of this subchapter”.

Subsecs. (c), (d). Pub. L. 114-113, § 201(a), added subsec. (c) and redesignated former subsec. (c) as (d).

2005—Subsec. (c). Pub. L. 109-59 substituted “section 5732” for “section 5142”.

1998—Subsecs. (b), (c). Pub. L. 105-206 added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1958—Subsec. (b). Pub. L. 85-859 inserted reference to section 5142 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, § 201(d), Dec. 18, 2015, 129 Stat. 3076, provided that:

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 6402 of this title] shall apply to returns and statements relating to calendar years beginning after the date of the enactment of this Act [Dec. 18, 2015].

“(2) **DATE FOR CERTAIN REFUNDS.**—The amendment made by subsection (b) [amending section 6402 of this title] shall apply to credits or refunds made after December 31, 2016.”

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 1998 AMENDMENT

Pub. L. 105-206, title II, § 2002(c), July 22, 1998, 112 Stat. 724, provided that: “The amendment made by sub-

section (a) [amending this section] shall apply to returns required to be filed after December 31, 1999.”

EFFECTIVE DATE OF 1958 AMENDMENT

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

§ 6072. Time for filing income tax returns

(a) General rule

In the case of returns under section 6012, 6013, or 6017 (relating to income tax under subtitle A), returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fourth month following the close of the fiscal year, except as otherwise provided in the following subsections of this section.

(b) Returns of partnerships and S corporations

Returns of partnerships under section 6031 and returns of S corporations under sections 6012 and 6037 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year. Returns required for a taxable year by section 6011(c)(2) (relating to returns of a DISC) shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(c) Returns by certain nonresident alien individuals and foreign corporations

Returns made by nonresident alien individuals (other than those whose wages are subject to withholding under chapter 24) and foreign corporations (other than those having an office or place of business in the United States or a former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)) under section 6012 on the basis of a calendar year shall be filed on or before the 15th day of June following the close of the calendar year and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the 6th month following the close of the fiscal year.

(d) Returns of cooperative associations

In the case of an income tax return of—

(1) an exempt cooperative association described in section 1381(a)(1), or

(2) an organization described in section 1381(a)(2) which is under an obligation to pay patronage dividends (as defined in section 1388(a)) in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during the most recent taxable year for which it had such net earnings,

a return made on the basis of a calendar year shall be filed on or before the 15th day of September following the close of the calendar year, and a return made on the basis of a fiscal year shall be filed on or before the 15th day of the 9th month following the close of the fiscal year.

(e) Organizations exempt from taxation under section 501(a)

In the case of an income tax return of an organization exempt from taxation under section 501(a) (other than an employees' trust described in section 401(a)), a return shall be filed on or before the 15th day of the 5th month following the close of the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 87-834, §17(b)(3), Oct. 16, 1962, 76 Stat. 1051; Pub. L. 92-178, title V, §504(b), Dec. 10, 1971, 85 Stat. 551; Pub. L. 94-455, title X, §1053(d)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1649, 1834; Pub. L. 95-628, §6(a), Nov. 10, 1978, 92 Stat. 3630; Pub. L. 98-369, div. A, title VIII, §801(d)(13), July 18, 1984, 98 Stat. 997; Pub. L. 110-172, §11(g)(20), Dec. 29, 2007, 121 Stat. 2491; Pub. L. 113-295, div. A, title II, §220(u), Dec. 19, 2014, 128 Stat. 4036; Pub. L. 114-41, title II, §2006(a)(1), July 31, 2015, 129 Stat. 457.)

REFERENCES IN TEXT

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (c), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-41, §2006(a)(1)(B), substituted “or 6017” for “6017, or 6031”.

Subsec. (b). Pub. L. 114-41, §2006(a)(1)(A), in heading, substituted “Returns of partnerships and S corporations” for “Returns of corporations” and, in text, substituted “Returns of partnerships under section 6031 and returns of S corporations under sections 6012 and 6037 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.” for “Returns of corporations under section 6012 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year.”

2014—Subsec. (b). Pub. L. 113-295 substituted “section 6011(c)(2)” for “section 6011(e)(2)”.

2007—Subsec. (c). Pub. L. 110-172 substituted “a former FSC (as defined in section 922 as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)” for “a FSC or former FSC”.

1984—Subsec. (c). Pub. L. 98-369 inserted “or a FSC or former FSC” after “United States”.

1978—Subsec. (e). Pub. L. 95-628 added subsec. (e).

1976—Subsec. (e). Pub. L. 94-455, §1053(d)(3), struck out subsec. (e) which related to income tax due dates postponed in the case of China Trade Act corporations.

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

1971—Subsec. (b). Pub. L. 92-178 required returns of a DISC to be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

1962—Subsec. (d). Pub. L. 87-834 substituted provisions relating to returns by an exempt cooperative association described in section 1381(a)(1), or by an organization described in section 1381(a)(2) which is under an obligation to pay patronage dividends in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during

the most recent taxable year for which it had such net earnings for provisions which related to returns of exempt cooperative associations taxable under the provisions of section 522.

EFFECTIVE DATE OF 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 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-628, §6(b), Nov. 10, 1978, 92 Stat. 3630, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns for taxable years beginning after the date of the enactment of this Act [Nov. 10, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1053(d)(3) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455, set out as a note under section 1504 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

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

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, except as otherwise provided, see section 17(c) of Pub. L. 87-834, set out as an Effective Date note under section 1381 of this title.

FILING OF INCOME TAX RETURNS FOR 1958 BY LIFE INSURANCE COMPANIES

Pub. L. 86-69, §3(i), June 25, 1959, 73 Stat. 140, required every life insurance company subject to the tax imposed by section 802(a) of this title to make a return after June 25, 1959, and on or before Sept. 15, 1959, which return was to constitute the return for such taxable year for all purposes of this title, and no return filed pursuant to section 801 et seq. of this title, relating to life insurance companies, on or before June 25, 1959, was to be considered for any such purposes as a return for such taxable year.

[§ 6073. Repealed. Pub. L. 98-369, div. A, title IV, § 412(a)(2), July 18, 1984, 98 Stat. 792]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 750; Sept. 25, 1962, Pub. L. 87-682, §1(a)(2), (b), (c), 76 Stat. 575; Oct. 4, 1976, Pub. L. 94-455, title X, §1012(c), title XIX, §1906(b)(13)(A), 90 Stat. 1614, 1834; Nov. 10, 1978, Pub. L. 95-628, §7(a), 92 Stat. 3630; Sept. 3, 1982, Pub. L. 97-248, title III, §328(b)(2), 96 Stat. 618, related to time for filing declarations of estimated income tax by individuals.

EFFECTIVE DATE OF REPEAL

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

[§ 6074. Repealed. Pub. L. 90-364, title I, § 103(a), June 28, 1968, 82 Stat. 260]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 751; Feb. 26, 1964, Pub. L. 88-272, title I, § 122(b), 78 Stat. 27, provided for the time of filing declarations of estimated income tax by corporations.

EFFECTIVE DATE OF REPEAL

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

§ 6075. Time for filing estate and gift tax returns

(a) Estate tax returns

Returns made under section 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

(b) Gift tax returns

(1) General rule

Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

(2) Extension where taxpayer granted extension for filing income tax return

Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

(3) Coordination with due date for estate tax return

Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor.

(Aug. 16, 1954, ch. 736, 68A Stat. 751; Pub. L. 91-614, title I, §§101(b), 102(d)(4), Dec. 31, 1970, 84 Stat. 1836, 1842; Pub. L. 94-455, title XX, §2008(b), Oct. 4, 1976, 90 Stat. 1892; Pub. L. 96-167, §8(a)-(c), Dec. 29, 1979, 93 Stat. 1277, 1278; Pub. L. 97-34, title IV, §442(d)(3), Aug. 13, 1981, 95 Stat. 322; Pub. L. 107-16, title V, §542(b)(3), June 7, 2001, 115 Stat. 83; Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300.)

AMENDMENTS

2010—Subsecs. (a), (b)(3). Pub. L. 111-312 amended subsecs. (a) and (b)(3) to read as if amendment by Pub. L. 107-16, §542(b)(3), had never been enacted. See 2001 Amendment notes below.

2001—Subsec. (a). Pub. L. 107-16, §542(b)(3)(A), amended subsec. (a) generally. Prior to amendment, text read as follows: "Returns made under section 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death."

Subsec. (b)(3). Pub. L. 107-16, §542(b)(3)(B), substituted "section 6018 return" for "estate tax return" in heading and "(relating to returns relating to large transfers at death)" for "(relating to estate tax returns)" in text.

1981—Subsec. (b). Pub. L. 97-34 substituted in par. (1) the rule for filing gift tax returns on or before the 15th day of April following the close of the calendar year for

prior provision for such filing on or before, in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or, in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter, redesignated former par. (3) as (2), and, as so redesignated, substituted "under section 6019 for such calendar year" for "under section 6019 for the fourth calendar quarter of such taxable year", struck out former par. (2) setting forth special rule where gifts in a calendar quarter totalled \$25,000 or less, added par. (3), and struck out par. (4) respecting application of the special rule to non-residents not citizens of the United States.

1979—Subsec. (b)(1). Pub. L. 96-167, §8(a), substituted "(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or" for "the 15th day of the second month following the close of the calendar quarter", and added subpar. (B).

Subsec. (b)(2). Pub. L. 96-167, §8(c), substituted "the date prescribed by paragraph (1) for filing the return for" for "the 15th day of the second month after" in provisions preceding subpar. (A), and struck out "the close of" before "the first subsequent" in subpar. (a) and before "the fourth calendar quarter" in subpar. (B).

Subsec. (b)(3), (4). Pub. L. 96-167, §8(b), added par. (3) and redesignated former par. (3) as (4).

1976—Subsec. (b). Pub. L. 94-455 designated existing provisions as par. (1) and added pars. (2) and (3).

1970—Subsec. (a). Pub. L. 91-614, §101(b), substituted "9 months" for "15 months".

Subsec. (b). Pub. L. 91-614, §102(d)(4), substituted "the 15th day of the second month following the close of the calendar quarter" for "the 15th day of April following the close of the calendar year".

EFFECTIVE DATE OF 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.

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 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-167, §8(d), Dec. 29, 1979, 93 Stat. 1278, provided that: "The amendments made by this section [amending this section] shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act [Dec. 29, 1979]."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XX, §2008(d)(2), Oct. 4, 1976, 90 Stat. 1893, provided that: "The amendment made by subsection (b) [amending this section] shall apply to gifts made after December 31, 1976."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of

Pub. L. 91-614, set out as a note under section 2501 of this title.

EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS

Pub. L. 111-312, title III, §301(d)(1), Dec. 17, 2010, 124 Stat. 3300, provided that: “In the case of the estate of a decedent dying after December 31, 2009, and before the date of the enactment of this Act [Dec. 17, 2010], the due date for—

“(A) filing any return under section 6018 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) as such section is in effect after the date of the enactment of this Act without regard to any election under subsection (c),

“(B) making any payment of tax under chapter 11 of such Code, and

“(C) making any disclaimer described in section 2518(b) of such Code of an interest in property passing by reason of the death of such decedent,

“shall not be earlier than the date which is 9 months after the date of the enactment of this Act.”

[§ 6076. Repealed. Pub. L. 100-418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96-223, title I, §101(c)(1)(A), Apr. 2, 1980, 94 Stat. 250, related to time for filing return of windfall profit tax.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

PART VI—EXTENSION OF TIME FOR FILING RETURNS

Sec.

6081. Extension of time for filing returns.

§ 6081. Extension of time for filing returns

(a) General rule

The Secretary may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

(b) Automatic extension for corporation income tax returns

An extension of 6 months for the filing of the return of income taxes imposed by subtitle A shall be allowed any corporation if, in such manner and at such time as the Secretary may by regulations prescribe, there is filed on behalf of such corporation the form prescribed by the Secretary, and if such corporation pays, on or before the date prescribed for payment of the tax, the amount properly estimated as its tax; but this extension may be terminated at any time by the Secretary by mailing to the taxpayer notice of such termination at least 10 days prior to the date for termination fixed in such notice. In the case of any return for a taxable year of a C corporation which ends on December 31 and begins before January 1, 2026, the first sentence of this subsection shall be applied by substituting “5 months” for “6 months”. In the case of any return for a taxable year of a C corporation which ends on June 30 and begins before January 1, 2026, the first sentence of this subsection shall be applied by substituting “7 months” for “6 months”.

(c) Cross references

For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.

(Aug. 16, 1954, ch. 736, 68A Stat. 751; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §234(b)(2)(B), Sept. 3, 1982, 96 Stat. 503; Pub. L. 107-134, title I, §112(d)(2), Jan. 23, 2002, 115 Stat. 2435; Pub. L. 114-41, title II, §2006(c)(1), July 31, 2015, 129 Stat. 459.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-41 substituted “6 months” for “3 months” in first sentence and inserted at end “In the case of any return for a taxable year of a C corporation which ends on December 31 and begins before January 1, 2026, the first sentence of this subsection shall be applied by substituting ‘5 months’ for ‘6 months’”. In the case of any return for a taxable year of a C corporation which ends on June 30 and begins before January 1, 2026, the first sentence of this subsection shall be applied by substituting “7 months” for “6 months”.

2002—Subsec. (c). Pub. L. 107-134 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “For time for performing certain acts postponed by reason of war, see section 7508.”

1982—Subsec. (b). Pub. L. 97-248 struck out “or the first installment thereof required under section 6152” after “the amount properly estimated as its tax”.

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

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-41, title II, §2006(c)(2), July 31, 2015, 129 Stat. 459, provided that: “The amendments made by this subsection [amending this section] shall apply to returns for taxable years beginning after December 31, 2015.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-134, title I, §112(f), Jan. 23, 2002, 115 Stat. 2435, provided that: “The amendments made by this section [enacting section 1148 of Title 29, Labor, and amending this section, sections 6161, 6404, 7508, and 7508A of this title, and section 1302 of Title 29] shall apply to disasters and terroristic or military actions occurring on or after September 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 the date of the enactment of this Act [Jan. 23, 2002].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 234(e) of Pub. L. 97-248, set out as a note under section 6655 of this title.

MODIFICATION OF DUE DATES BY REGULATION

Pub. L. 114-41, title II, §2006(b), July 31, 2015, 129 Stat. 458, as amended by Pub. L. 114-94, div. C, title XXXII, §32104(a), Dec. 4, 2015, 129 Stat. 1738, provided that: “In the case of returns for taxable years beginning after December 31, 2015, the Secretary of the Treasury, or the Secretary’s designee, shall modify appropriate regulations to provide as follows:

“(1) The maximum extension for the returns of partnerships filing Form 1065 shall be a 6-month period ending on September 15 for calendar year taxpayers.

“(2) The maximum extension for the returns of trusts filing Form 1041 shall be a 5½-month period ending on September 30 for calendar year taxpayers.

“[(3) Repealed. Pub. L. 114-94, div. C, title XXXII, §32104(a), Dec. 4, 2015, 129 Stat. 1738.]

“(4) The maximum extension for the returns of organizations exempt from income tax filing Form 990 (series) shall be an automatic 6-month period ending on November 15 for calendar year filers.

“(5) The maximum extension for the returns of organizations exempt from income tax that are required to file Form 4720 returns of excise taxes shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

“(6) The maximum extension for the returns of trusts required to file Form 5227 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

“(7) The maximum extension for filing Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction, shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

“(8) The maximum extension for a taxpayer required to file Form 8870 shall be an automatic 6-month period beginning on the due date for filing the return (without regard to any extensions).

“(9) The due date of Form 3520-A, Annual Information Return of a Foreign Trust with a United States Owner, shall be the 15th day of the 3d month after the close of the trust's taxable year, and the maximum extension shall be a 6-month period beginning on such day.

“(10) The due date of Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, for calendar year filers shall be April 15 with a maximum extension for a 6-month period ending on October 15.

“(11) The due date of FinCEN Report 114 (relating to Report of Foreign Bank and Financial Accounts) shall be April 15 with a maximum extension for a 6-month period ending on October 15 and with provision for an extension under rules similar to the rules in Treas. Reg. section 1.6081-5. For any taxpayer required to file such Form for the first time, any penalty for failure to timely request for, or file, an extension, may be waived by the Secretary.”

[Pub. L. 114-94, div. C, title XXXII, §32104(b), Dec. 4, 2015, 129 Stat. 1738, provided that: “The amendment made by this section [amending section 2006(b) of Pub. L. 114-41, set out above] shall apply to returns for taxable years beginning after December 31, 2015.”]

PART VII—PLACE FOR FILING RETURNS OR OTHER DOCUMENTS

Sec.

6091. Place for filing returns or other documents.

§ 6091. Place for filing returns or other documents

(a) General rule

When not otherwise provided for by this title, the Secretary shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) Tax returns

In the case of returns of tax required under authority of part II of this subchapter—

(1) Persons other than corporations

(A) General rule

Except as provided in subparagraph (B), a return (other than a corporation return) shall be made to the Secretary—

- (i) in the internal revenue district in which is located the legal residence or

principal place of business of the person making the return, or

- (ii) at a service center serving the internal revenue district referred to in clause (i),

as the Secretary may by regulations designate.

(B) Exception

Returns of—

- (i) persons who have no legal residence or principal place of business in any internal revenue district,

- (ii) citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States,

- (iii) persons who claim the benefits of section 911 (relating to citizens or residents of the United States living abroad), section 931 (relating to income from sources within Guam, American Samoa, or the Northern Mariana Islands), or section 933 (relating to income from sources within Puerto Rico),

- (iv) nonresident alien persons, and

- (v) persons with respect to whom an assessment was made under section 6851(a) or 6852(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate.

(2) Corporations

(A) General rule

Except as provided in subparagraph (B), a return of a corporation shall be made to the Secretary—

- (i) in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or

- (ii) at a service center serving the internal revenue district referred to in clause (i), as the Secretary may by regulations designate.

(B) Exception

Returns of—

- (i) corporations which have no principal place of business or principal office or agency in any internal revenue district,

- (ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and¹

- (iii) foreign corporations, and

- (iv) corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate.

(3) Estate tax returns

(A) General rule

Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary—

¹ So in original. The word “and” probably should not appear.

(i) in the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) at a service center serving the internal revenue district referred to in clause (i), as the Secretary may by regulations designate.

(B) Exception

If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary may by regulations designate.

(4) Hand-carried returns

Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary by hand-carrying shall, under regulations prescribed by the Secretary, be made in the internal revenue district referred to in paragraph (1)(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be.

(5) Exceptional cases

Notwithstanding paragraph (1), (2), (3), or (4) of this subsection, the Secretary may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary.

(6) Alcohol, tobacco, and firearms returns, etc.

In the case of any return of tax imposed by section 4181 or subtitle E (relating to taxes on alcohol, tobacco, and firearms), subsection (a) shall apply (and this subsection shall not apply).

(Aug. 16, 1954, ch. 736, 68A Stat. 752; Pub. L. 89-713, §1(a), Nov. 2, 1966, 80 Stat. 1107; Pub. L. 91-614, title I, §101(i), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 94-455, title X, §§1051(h)(4), 1052(c)(6), 1053(d)(4), title XII, §1204(c)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1647, 1648, 1649, 1697, 1834; Pub. L. 95-615, §§202(g)(5), formerly §202(f)(5), 207(b), Nov. 8, 1978, 92 Stat. 3100, 3108, renumbered §202(g)(5), Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 97-34, title I, §§111(b)(3), 112(b)(6), Aug. 13, 1981, 95 Stat. 194, 195; Pub. L. 99-514, title XII, §1272(d)(10), title XVIII, §1879(r)(1), Oct. 22, 1986, 100 Stat. 2594, 2912; Pub. L. 100-203, title X, §10713(b)(2)(A), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 101-239, title VII, §7841(f), Dec. 19, 1989, 103 Stat. 2429.)

AMENDMENTS

1989—Subsec. (b)(6). Pub. L. 101-239 inserted “section 4181 or” before “subtitle E”.

1987—Subsec. (b)(1)(B)(v). Pub. L. 100-203 inserted reference to section 6852(a).

1986—Subsec. (b)(1)(B)(iii). Pub. L. 99-514, §1272(d)(10), substituted “Guam, American Samoa, or the Northern Mariana Islands” for “possessions of the United States”.

Subsec. (b)(6). Pub. L. 99-514, §1879(r)(1), added par. (6).

1981—Subsec. (b)(1)(B)(iii). Pub. L. 97-34 substituted “section 911 (relating to citizens or residents of the United States living abroad)” for “section 911 (relating

to income earned by employees in certain camps)” and struck out “section 913 (relating to deduction for certain expenses of living abroad)”.

1978—Subsec. (b)(1)(B)(iii). Pub. L. 95-615 substituted “(relating to income earned by employees in certain camps)” for “(relating to earned income from sources without the United States)” and inserted “section 913 (relating to deduction for certain expenses of living abroad),” before “section 931”.

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

Subsec. (b)(1)(B). Pub. L. 94-455, §§1204(c)(3)(A), 1906(b)(13)(A), added cl. (v) and struck out in provision following cl. (v) “or his delegate” after “Secretary”.

Subsec. (b)(2)(B). Pub. L. 94-455, §1503(d)(4), in cl. (ii), struck out provision which permitted returns of a corporation claiming the benefits of section 941 of this title, relating to the special deduction for China Trade corporations, to be made at such place as the Secretary may designate by regulation.

Pub. L. 94-455, §§1052(c)(6), struck out provision which permitted returns of a corporation claiming the benefits of section 922 of this title, relating to the special deduction for Western Hemisphere trade corporations to be made at such place as the Secretary may designate by regulation.

Pub. L. 94-455, §§1051(h)(4), 1204(c)(3)(B), 1906(b)(13)(A), substituted “section 936 (relating to possession tax credit)” for “section 931 (relating to income from sources within possessions of the United States),” for taxable years beginning after Dec. 31, 1975, added cl. (iv), and struck out in provision following cl. (iv) “or his delegate” after “Secretary”.

1970—Subsec. (b)(3). Pub. L. 91-614, §101(i)(1), substituted provisions requiring an estate tax return to be filed in the internal revenue district in which the decedent was domiciled at the time of his death or at a service center serving that district, as the Secretary or his delegate may determine by regulations, and in the case of a decedent who was not domiciled in an internal revenue district, or who had no domicile, his return is to be filed at such place as the Secretary or his delegate designates for provisions requiring estate tax returns to be filed in the internal revenue district in which the decedent was domiciled at the time of his death or, if there was no such domicile in an internal revenue district, then at such place as the Secretary or his delegate by regulations designates.

Subsec. (b)(4). Pub. L. 91-614, §101(i)(2), permitted the executor, who desires to file an estate tax return in person, to do so by hand carrying it to the appropriate internal revenue district office.

1966—Subsec. (b)(1). Pub. L. 89-713, §1(a)(1), authorized the Secretary to promulgate regulations allowing individuals to file tax returns either in the internal revenue district in which the taxpayer's legal residence or principal place of business is located or at a service center serving that district, designated as subpar. (B)(1) the existing provisions which authorized the Secretary to prescribe the place without limitations as to the Secretary's range of alternative choices for the filing of returns of persons who have no legal residence or principal place of business in any internal revenue district, and added subpar. (B)(ii) to (iv).

Subsec. (b)(2). Pub. L. 89-713, §1(a)(1), authorized the Secretary to promulgate regulations allowing corporations to file tax returns either in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation or at a service center serving that district, designated as subpar. (B)(i) the existing provisions which authorized the Secretary to prescribe the place without limitations as to the Secretary's range of alternative choices for the filing of returns of corporations having no principal place of business or principal office or agency of the corporation, and added subpar. (B)(ii), (iii).

Subsec. (b)(4), (5). Pub. L. 89-713, §1(a)(2), (3), added par. (4), redesignated former par. (4) as (5), and, in par. (5), substituted “paragraph (1), (2), (3), or (4)” for “paragraph (1), (2), or (3)”.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, §10713(c), Dec. 22, 1987, 101 Stat. 1330-470, provided that: "The amendments made by this section [enacting sections 6852 and 7409 of this title and amending this section and sections 6211 to 6213, 6863, 7429, and 7611 of this title] shall take effect on the date of the enactment of this Act [Dec. 22, 1987]."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1272(d)(10) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

Pub. L. 99-514, title XVIII, §1879(r)(2), Oct. 22, 1986, 100 Stat. 2912, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 22, 1986]."

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1051(h)(4) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1975, see section 1051(i)(1) of Pub. L. 94-455, set out as a note under section 27 of this title.

Amendment by section 1052(c)(6) of Pub. L. 94-455, applicable with respect to taxable years beginning after Dec. 31, 1979, see section 1052(d) of Pub. L. 94-455, set out as a note under section 170 of this title.

Amendment by section 1053(d)(4) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94-455, set out as a note under section 1504 of this title.

Amendment by section 1204(c)(3) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-713, §6, Nov. 2, 1966, 80 Stat. 1111, provided that: "Except as otherwise provided in this Act, the amendments made by this Act [amending this section, sections 6103, 6107, and 6151 of this title, section 3237 of Title 18, Crimes and Criminal Procedure, and section 1395x of Title 42, The Public Health and Welfare] shall take effect upon the date of the enactment of this Act [Nov. 2, 1966]."

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the

first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

PART VIII—DESIGNATION OF INCOME TAX
PAYMENTS TO PRESIDENTIAL ELECTION
CAMPAIGN FUND

Sec.

6096. Designation by individuals.

AMENDMENTS

1966—Pub. L. 89-809, title III, §302(a), Nov. 13, 1966, 80 Stat. 1587, added part VIII and analysis.

§ 6096. Designation by individuals

(a) In general

Every individual (other than a nonresident alien) whose income tax liability for the taxable year is \$3 or more may designate that \$3 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of \$6 or more, each spouse may designate that \$3 shall be paid to the fund.

(b) Income tax liability

For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof).

(c) Manner and time of designation

A designation under subsection (a) may be made with respect to any taxable year—

- (1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or
- (2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

(Added Pub. L. 89-809, title III, §302(a), Nov. 13, 1966, 80 Stat. 1587; amended Pub. L. 92-178, title VIII, §802(a), Dec. 10, 1971, 85 Stat. 573; Pub. L. 93-53, §6(a), July 1, 1973, 87 Stat. 138; Pub. L. 94-12, title II, §§203(b)(4), 208(d)(4), Mar. 29, 1975, 89 Stat. 30, 35; Pub. L. 94-455, title IV, §401(a)(2)(C), title V, §504(c)(2), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1555, 1565, 1834; Pub. L. 95-30, title II, §202(d)(6), May 23, 1977, 91 Stat. 151; Pub. L. 95-618, title I, §101(b)(4), Nov. 9, 1978, 92 Stat. 3180; Pub. L. 96-223, title II, §§231(b)(2), 232(b)(3)(C), Apr. 2, 1980, 94 Stat. 272, 276; Pub. L. 97-34, title II, §221(c)(1), title III, §331(e)(1), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 97-414, §4(c)(2), Jan. 4, 1983, 96 Stat. 2056; Pub. L. 98-369, div. A, title IV, §474(r)(31), July 18, 1984, 98 Stat. 845; Pub. L.

103-66, title XIII, §13441(a), Aug. 10, 1993, 107 Stat. 567.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-66 substituted “\$6” for “\$2” and “\$3” for “\$1” wherever appearing.

1984—Subsec. (b). Pub. L. 98-369 substituted “allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)” for “allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H”.

1983—Subsec. (b). Pub. L. 97-414 inserted reference to section 44H.

1981—Subsec. (b). Pub. L. 97-34, §331(e)(1), inserted reference to section 44G.

Pub. L. 97-34, §221(c)(1), inserted reference to section 44F.

1980—Subsec. (b). Pub. L. 96-223, §§231(b)(2), 232(b)(3)(C), inserted reference to sections 44D and 44E.

1978—Subsec. (b). Pub. L. 95-618 inserted reference to section 44C.

1977—Subsec. (b). Pub. L. 95-30 inserted reference to section 44B.

1976—Subsec. (b). Pub. L. 94-455, §§401(a)(2)(C), 504(c)(2), inserted reference to section 42 in subsec. (a) as in effect on day before date of enactment of Pub. L. 94-12 and reference to section 44A.

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

1975—Subsec. (b). Pub. L. 94-12 inserted reference to sections 42 and 44.

1973—Subsec. (a). Pub. L. 93-53 struck out “for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all candidates for election to the offices of President and Vice President of the United States,” after “Fund” and substituted “section 9006(a)” for “section 9006(a)(1)”.

Subsec. (b). Pub. L. 93-53 struck out reference to sections 32(2) and 35, and inserted reference to sections 40 and 41.

Subsec. (c). Pub. L. 93-53 provided that if designation is made at the time of filing the return of the tax imposed by chapter 1 for the taxable year, the designation shall be made either on the first page of the return or on the page bearing the taxpayer’s signature.

1971—Subsec. (a). Pub. L. 92-178 substituted “\$1 shall be paid over to the Presidential Election Campaign Fund for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all candidates for election to the offices of President and Vice President of the United States, in accordance with the provisions of section 9006(a)(1)” for “\$1 shall be paid into the Presidential Election Campaign Fund established by section 303 of the Presidential Election Campaign Fund Act of 1966” and provided, in the case of a joint return of husband and wife having an income tax liability of \$2 or more, that each spouse may designate that \$1 shall be paid to any such account in the fund.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13441(b), Aug. 10, 1993, 107 Stat. 568, provided that: “The amendments made by subsection (a) [amending this section] apply with respect to tax returns required to be filed after December 31, 1993.”

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-414 applicable to amounts paid or incurred after Dec. 31, 1982, in taxable years

ending after such date, see section 4(d) of Pub. L. 97-414, set out as an Effective Date note under section 28 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(c)(1) of Pub. L. 97-34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97-34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(e)(1) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 231(b)(2) of Pub. L. 96-223, applicable to taxable years ending after Dec. 31, 1979, see section 231(c) of Pub. L. 96-223, set out as an Effective Date note under section 45K of this title.

Amendment by section 232(b)(3)(C) of Pub. L. 96-223 applicable to sales or uses after Sept. 30, 1980, in taxable years ending after that date, see section 232(h)(1) of Pub. L. 96-223, set out as an Effective Date note under section 40 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 applicable to taxable years ending on or after Apr. 20, 1977, see section 101(c) of Pub. L. 95-618, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Amendment by section 401(a)(2)(C) of Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but ceasing to be applicable to taxable years ending after Dec. 31, 1978, see section 401(e) of Pub. L. 94-455, as amended, set out as an Effective Date of 1976 Amendment note under section 32 of this title.

Amendment by section 504(c)(2) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, see section 508 of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 3 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years ending after Dec. 31, 1974, and to cease to apply to taxable years ending after Dec. 31, 1975, see section 209(a) of Pub. L. 94-12, set out as a note under section 3 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT: DESIGNATION TO THE PRESIDENTIAL ELECTION CAMPAIGN FUND

Pub. L. 93-53, §6(d), July 1, 1973, 87 Stat. 139, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section and sections 9003, 9006, 9007, and 9012 of this title] shall apply with respect to taxable years beginning after December 31, 1972. Any designation made under section 6096 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall, for purposes of section 9006(a) of such Code (as amended by subsection (b)), be treated solely as a designation to the Presidential Election Campaign Fund.”

EFFECTIVE DATE OF SECTION AND EFFECTIVE DATE OF 1971 AMENDMENT

Provisions of this section, together with amendment of subsec. (a) of this section by Pub. L. 92-178, applica-

ble only to taxable years ending on or after Dec. 31, 1972, see section 802(b)(2) of Pub. L. 92-178, set out as a note under section 9001 of this title.

EFFECTIVE DATE

Pub. L. 89-809, title III, §302(c), Nov. 13, 1966, 80 Stat. 1588, provided that: “The amendments made by this section [enacting this section] shall apply with respect to income tax liability for taxable years beginning after December 31, 1966.”

SHORT TITLE

Pub. L. 89-809, title III, §301, Nov. 13, 1966, 80 Stat. 1587, provided that: “This title [enacting this section and sections 971, 972, and 973 of former Title 31, Money and Finance] may be cited as the ‘Presidential Election Campaign Fund Act of 1966’.”

ADOPTION OF GUIDELINES

Pub. L. 90-26, § 5, June 13, 1967, 81 Stat. 58, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Funds which become available under the Presidential Election Campaign Fund Act of 1966 [this section and section 971 et seq. of former Title 31, Money and Finance] shall be appropriated and disbursed only after the adoption by law of guidelines governing their distribution. Section 6096 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall become applicable only after the adoption by law of such guidelines.

“(b) Guidelines adopted in accordance with this section shall state expressly that they are intended to comply with this section.”

Subchapter B—Miscellaneous Provisions

Sec.

- 6101. Period covered by returns or other documents.
- 6102. Computations on returns or other documents.
- 6103. Confidentiality and disclosure of returns and return information.
- 6104. Publicity of information required from certain exempt organizations and certain trusts.
- 6105. Confidentiality of information arising under treaty obligations.
- 6106. Publicity of unemployment tax returns.¹
- 6107. Tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.
- 6108. Publication of statistics of income.²
- 6109. Identifying numbers.
- 6110. Public inspection of written determinations.
- 6111. Disclosure of reportable transactions.
- 6112. Material advisors of reportable transactions must keep lists of advisees, etc.
- 6113. Disclosure of nondeductibility of contributions.
- 6114. Treaty-based return positions.
- 6115. Disclosure related to quid pro quo contributions.
- 6116. Requirement for prisons located in United States to provide information for tax administration.
- 6117. Cross reference.

AMENDMENTS

2011—Pub. L. 112-41, title V, §502(b), Oct. 21, 2011, 125 Stat. 460, added items 6116 and 6117 and struck out former item 6116 “Cross reference”.

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(C)(ii), May 25, 2007, 121 Stat. 201, substituted “Tax return preparer” for “Income tax return preparer” in item 6107.

¹Section repealed by Pub. L. 94-455 without corresponding amendment of subchapter analysis.

²Section catchline amended by Pub. L. 94-455 without corresponding amendment of subchapter analysis.

2004—Pub. L. 108-357, title VIII, §815(b)(1), (4), Oct. 22, 2004, 118 Stat. 1582, 1583, substituted “Disclosure of reportable transactions” for “Registration of tax shelters” in item 6111 and “Material advisors of reportable transactions must keep lists of advisees, etc.” for “Organizers and sellers of potentially abusive tax shelters must keep lists of investors” in item 6112.

2000—Pub. L. 106-554, §1(a)(7) [title III, §304(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634, added item 6105.

1993—Pub. L. 103-66, title XIII, §13173(c)(1), Aug. 10, 1993, 107 Stat. 456, added item 6115 and redesignated former item 6115 as 6116.

1988—Pub. L. 100-647, title I, §1012(aa)(5)(C)(i), Nov. 10, 1988, 102 Stat. 3533, added item 6114 and redesignated former item 6114 as 6115.

1987—Pub. L. 100-203, title X, §10701(c)(1), Dec. 22, 1987, 101 Stat. 1330-459, added item 6113 and redesignated former item 6113 as 6114.

1984—Pub. L. 98-369, div. A, title I, §141(c)(1), 142(c)(1), July 18, 1984, 98 Stat. 680, 682, added items 6111 and 6112 and redesignated former item 6111 as 6113.

1976—Pub. L. 94-455, title XII, §§1201(c), 1202(a)(2), 1203(i)(2), title XIX, §1906(b)(1), (2), Oct. 4, 1976, 90 Stat. 1667, 1685, 1694, 1833, substituted in item 6103 “Confidentiality and disclosure of returns and return information” for “Publicity of returns and disclosure of information as to persons filing income tax returns”, struck out item 6105 “Compilation of relief from excess profits tax cases”, added items 6107 and 6110, redesignated former item 6110 as 6111, and as so redesignated substituted “reference” for “references”.

1968—Pub. L. 90-618, title II, §203(b), Oct. 22, 1968, 82 Stat. 1235, struck out item 6107 “List of special taxpayers for public inspection”.

1966—Pub. L. 89-713, §4(b), Nov. 2, 1966, 80 Stat. 1109, substituted “disclosure of information as to persons filing income tax returns” for “lists of taxpayers” in item 6103.

1961—Pub. L. 87-397, §1(c)(1), Oct. 5, 1961, 75 Stat. 829, added item 6109 and redesignated former item 6109 as 6110.

§ 6101. Period covered by returns or other documents

When not otherwise provided for by this title, the Secretary may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document required by this title or by regulations, shall be made.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6102. Computations on returns or other documents

(a) Amounts shown on internal revenue forms

The Secretary is authorized to provide with respect to any amount required to be shown on a form prescribed for any internal revenue return, statement, or other document, that if such amount of such item is other than a whole-dollar amount, either—

(1) the fractional part of a dollar shall be disregarded; or

(2) the fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by \$1.

(b) Election not to use whole dollar amounts

Any person making a return, statement, or other document shall be allowed, under regula-

tions prescribed by the Secretary, to make such return, statement, or other document without regard to subsection (a).

(c) Inapplicability to computation of amount

The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 6103. Confidentiality and disclosure of returns and return information

(a) General rule

Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local law enforcement agency receiving information under subsection (i)(1)(C) or (7)(A), any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section or section 6104(c), and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), subsection (k)(10), paragraph (6), (10), (12), (16), (19), (20), or (21) of subsection (l), paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term “officer or employee” includes a former officer or employee.

(b) Definitions

For purposes of this section—

(1) Return

The term “return” means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information

The term “return information” means—

(A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax

withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and

(D) any agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) Taxpayer return information

The term “taxpayer return information” means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration

The term “tax administration”—

(A) means—

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) State

(A) In general

The term “State” means—

(i) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American

Samoa, and the Commonwealth of the Northern Mariana Islands,

(ii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any municipality—

(I) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

(II) which imposes a tax on income or wages, and

(III) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure, and

(iii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any governmental entity—

(I) which is formed and operated by a qualified group of municipalities, and

(II) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

(B) Regional income tax agencies

For purposes of subparagraph (A)(iii)—

(i) Qualified group of municipalities

The term “qualified group of municipalities” means, with respect to any governmental entity, 2 or more municipalities—

(I) each of which imposes a tax on income or wages,

(II) each of which, under the authority of a State statute, administers the laws relating to the imposition of such taxes through such entity, and

(III) which collectively have a population in excess of 250,000 (as determined under the most recent decennial United States census data available).

(ii) References to State law, etc.

For purposes of applying subparagraph (A)(iii) to the subsections referred to in such subparagraph, any reference in such subsections to State law, proceedings, or tax returns shall be treated as references to the law, proceedings, or tax returns, as the case may be, of the municipalities which form and operate the governmental entity referred to in such subparagraph.

(iii) Disclosure to contractors and other agents

Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a governmental entity referred to in subparagraph (A)(iii) unless such entity, to the satisfaction of the Secretary—

(I) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of subsection (p)(4)) to protect the confidentiality of such returns or return information,

(II) agrees to conduct an on-site review every 3 years (or a mid-point review in the case of contracts or agreements of

less than 3 years in duration) of each contractor or other agent to determine compliance with such requirements,

(III) submits the findings of the most recent review conducted under subclause (II) to the Secretary as part of the report required by subsection (p)(4)(E), and

(IV) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subclause (IV) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this clause shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration and a rule similar to the rule of subsection (p)(8)(B) shall apply for purposes of this clause.

(6) Taxpayer identity

The term “taxpayer identity” means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) Inspection

The terms “inspected” and “inspection” mean any examination of a return or return information.

(8) Disclosure

The term “disclosure” means the making known to any person in any manner whatever a return or return information.

(9) Federal agency

The term “Federal agency” means an agency within the meaning of section 551(1) of title 5, United States Code.

(10) Chief executive officer

The term “chief executive officer” means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

(11) Terrorist incident, threat, or activity

The term “terrorist incident, threat, or activity” means an incident, threat, or activity involving an act of domestic terrorism (as defined in section 2331(5) of title 18, United States Code) or international terrorism (as defined in section 2331(1) of such title).

(c) Disclosure of returns and return information to designee of taxpayer

The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be dis-

closed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(d) Disclosure to State tax officials and State and local law enforcement agencies

(1) In general

Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

(2) Disclosure to State audit agencies

(A) In general

Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

(B) State audit agency

For purposes of subparagraph (A), the term “State audit agency” means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.

(3) Exception for reimbursement under section 7624

Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made.

(4) Availability and use of death information

(A) In general

No returns or return information may be disclosed under paragraph (1) to any agency,

body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the Secretary of Health and Human Services.

(B) Contractual requirements

A contract meets the requirements of this subparagraph if—

(i) such contract requires the State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

(ii) such contract does not include any restriction on the use of information obtained by such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals.

Any information obtained by the Secretary of Health and Human Services under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

(C) Special exception

The provisions of subparagraph (A) shall not apply to any State which on July 1, 1993, was not, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(5) Disclosure for combined employment tax reporting

(A) In general

The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

(B) Termination

The Secretary may not make any disclosure under this paragraph after December 31, 2007.

(6) Limitation on disclosure regarding regional income tax agencies treated as States

For purposes of paragraph (1), inspection by or disclosure to an entity described in subsection (b)(5)(A)(iii) shall be for the purpose of, and only to the extent necessary in, the administration of the laws of the member mu-

municipalities in such entity relating to the imposition of a tax on income or wages. Such entity may not redisclose any return or return information received pursuant to paragraph (1) to any such member municipality.

(e) Disclosure to persons having material interest

(1) In general

The return of a person shall, upon written request, be open to inspection by or disclosure to—

(A) in the case of the return of an individual—

- (i) that individual,
- (ii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513; or
- (iii) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(g);

(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(D) in the case of the return of a corporation or a subsidiary thereof—

- (i) any person designated by resolution of its board of directors or other similar governing body,
- (ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,
- (iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,
- (iv) if the corporation was an S corporation, any person who was a shareholder during any part of the period covered by such return during which an election under section 1362(a) was in effect, or
- (v) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

(E) in the case of the return of an estate—

- (i) the administrator, executor, or trustee of such estate, and
- (ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

(F) in the case of the return of a trust—

- (i) the trustee or trustees, jointly or separately, and
- (ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will

be affected by information contained therein.

(2) Incompetency

If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

(3) Deceased individuals

The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

- (A) the administrator, executor, or trustee of his estate, and
- (B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

(4) Title 11 cases and receivership proceedings

If—

(A) there is a trustee in a title 11 case in which the debtor is the person with respect to whom the return is filed, or

(B) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver,

such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such trustee or receiver, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(5) Individual's title 11 case

(A) In general

In any case to which section 1398 applies (determined without regard to section 1398(b)(1)), any return of the debtor for the taxable year in which the case commenced or any preceding taxable year shall, upon written request, be open to inspection by or disclosure to the trustee in such case.

(B) Return of estate available to debtor

Any return of an estate in a case to which section 1398 applies shall, upon written request, be open to inspection by or disclosure to the debtor in such case.

(C) Special rule for involuntary cases

In an involuntary case, no disclosure shall be made under subparagraph (A) until the order for relief has been entered by the court having jurisdiction of such case unless such court finds that such disclosure is appropriate for purposes of determining whether an order for relief should be entered.

(6) Attorney in fact

Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), (4), (5), (8), or (9) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

(7) Return information

Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

(8) Disclosure of collection activities with respect to joint return

If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

(9) Disclosure of certain information where more than 1 person subject to penalty under section 6672

If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.

(10) Limitation on certain disclosures under this subsection

In the case of an inspection or disclosure under this subsection relating to the return of a partnership, S corporation, trust, or an estate, the information inspected or disclosed shall not include any supporting schedule, attachment, or list which includes the taxpayer identity information of a person other than the entity making the return or the person conducting the inspection or to whom the disclosure is made.

(11) Disclosure of information regarding status of investigation of violation of this section

In the case of a person who provides to the Secretary information indicating a violation of section 7213, 7213A, or 7214 with respect to any return or return information of such person, the Secretary may disclose to such person (or such person's designee)—

(A) whether an investigation based on the person's provision of such information has been initiated and whether it is open or closed,

(B) whether any such investigation substantiated such a violation by any individual, and

(C) whether any action has been taken with respect to such individual (including

whether a referral has been made for prosecution of such individual).

(f) Disclosure to Committees of Congress**(1) Committee on Ways and Means, Committee on Finance, and Joint Committee on Taxation**

Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(2) Chief of Staff of Joint Committee on Taxation

Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(3) Other committees

Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

(4) Agents of committees and submission of information to Senate or House of Representatives**(A) Committees described in paragraph (1)**

Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee

or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) Other committees

Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) Disclosure by whistleblower

Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) Disclosure to President and certain other persons

(1) In general

Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

(A) the name and address of the taxpayer whose return or return information is to be disclosed,

(B) the kind of return or return information which is to be disclosed,

(C) the taxable period or periods covered by such return or return information, and

(D) the specific reason why the inspection or disclosure is requested.

(2) Disclosure of return information as to Presidential appointees and certain other Federal Government appointees

The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

(3) Restriction on disclosure

The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

(4) Restriction on disclosure to certain employees

Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

(5) Reporting requirements

Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons

for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(h) Disclosure to certain Federal officers and employees for purposes of tax administration, etc.

(1) Department of the Treasury

Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(2) Department of Justice

In a matter involving tax administration, a return or return information shall be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, any proceeding before a Federal grand jury or preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court, but only if—

(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;

(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

(3) Form of request

In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return in-

formation relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return the information so requested.

(4) Disclosure in judicial and administrative tax proceedings

A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

(A) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;

(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(5) Withholding of tax from social security benefits

Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a non-resident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).

(6) Internal Revenue Service Oversight Board

(A) In general

Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an of-

ficer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

(B) Exception for reports to the Board

If—

(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties; and

(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.

(i) Disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration

(1) Disclosure of returns and return information for use in criminal investigations

(A) In general

Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party, or pertaining to the case of a missing or exploited child,

(ii) any investigation which may result in such a proceeding, or

(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, or to such a case of a missing or exploited child,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Application for order

The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code,

may authorize an application to a Federal district court judge or magistrate judge for the order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act (or any criminal investigation or proceeding, in the case of a matter relating to a missing or exploited child), and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

(C) Disclosure to state and local law enforcement agencies in the case of matters pertaining to a missing or exploited child

(i) In general

In the case of an investigation pertaining to a missing or exploited child, the head of any Federal agency, or his designee, may disclose any return or return information obtained under subparagraph (A) to officers and employees of any State or local law enforcement agency, but only if—

(I) such State or local law enforcement agency is part of a team with the Federal agency in such investigation, and

(II) such information is disclosed only to such officers and employees who are personally and directly engaged in such investigation.

(ii) Limitation on use of information

Information disclosed under this subparagraph shall be solely for the use of such officers and employees in locating the missing child, in a grand jury proceeding, or in any preparation for, or investigation which may result in, a judicial or administrative proceeding.

(iii) Missing child

For purposes of this subparagraph, the term “missing child” shall have the meaning given such term by section 403 of the Missing Children’s Assistance Act (42 U.S.C. 5772).¹

(iv) Exploited child

For purposes of this subparagraph, the term “exploited child” means a minor with respect to whom there is reason to believe that a specified offense against a minor (as defined by section 111(7) of the Sex Offender Registration and Notification Act (42 U.S.C. 16911(7)))¹ has or is occurring.

¹ See References in Text note below.

(2) Disclosure of return information other than taxpayer return information for use in criminal investigations

(A) In general

Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

- (i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),
- (ii) any investigation which may result in such a proceeding, or
- (iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Requirements

A request meets the requirements of this subparagraph if the request is in writing and sets forth—

- (i) the name and address of the taxpayer with respect to whom the requested return information relates;
- (ii) the taxable period or periods to which such return information relates;
- (iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and
- (iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

(C) Taxpayer identity

For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

(3) Disclosure of return information to apprise appropriate officials of criminal or terrorist activities or emergency circumstances

(A) Possible violations of Federal criminal law

(i) In general

Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal

law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

(ii) Taxpayer identity

If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

(B) Emergency circumstances

(i) Danger of death or physical injury

Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

(ii) Flight from Federal prosecution

Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

(C) Terrorist activities, etc.

(i) In general

Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(ii) Disclosure to the Department of Justice

Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(iii) Taxpayer identity

For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(4) Use of certain disclosed returns and return information in judicial or administrative proceedings

(A) Returns and taxpayer return information

Except as provided in subparagraph (C), any return or taxpayer return information

obtained under paragraph (1) or (7)(C) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

(B) Return information (other than taxpayer return information)

Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), (3)(A) or (C), or (7) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

(C) Confidential informant; impairment of investigations

No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(D) Consideration of confidentiality policy

In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

(E) Reversible error

The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

(5) Disclosure to locate fugitives from justice

(A) In general

Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

(B) Application for order

Any person described in paragraph (1)(B) may authorize an application to a Federal

district court judge or magistrate judge for an order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

(6) Confidential informants; impairment of investigations

The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A) or (C), (5), (7), or (8) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) Disclosure upon request of information relating to terrorist activities, etc.

(A) Disclosure to law enforcement agencies

(i) In general

Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.

(ii) Disclosure to State and local law enforcement agencies

The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

(iii) Requirements

A request meets the requirements of this clause if—

(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of any terrorist incident, threat, or activity, and

(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iv) Limitation on use of information

Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

(v) Taxpayer identity

For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(B) Disclosure to intelligence agencies**(i) In general**

Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

(ii) Requirements

A request meets the requirements of this subparagraph if the request—

(I) is made by an individual described in clause (iii), and

(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iii) Requesting individuals

An individual described in this subparagraph is an individual—

(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity.

(iv) Taxpayer identity

For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(C) Disclosure under ex parte orders**(i) In general**

Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court

judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. Return or return information opened to inspection or disclosure pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to such terrorist incident, threat, or activity.

(ii) Application for order

The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity, and

(II) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

(D) Special rule for ex parte disclosure by the IRS**(i) In general**

Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subparagraph (C)(ii)(I) are met.

(ii) Limitation on use of information

Information disclosed under clause (i)—

(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

The head of such Federal agency may disclose such information to officers and em-

ployees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(8) Comptroller General

(A) Returns available for inspection

Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the Government Accountability Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury, which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) Audits of other agencies

(i) In general

Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997, for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the Government Accountability Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) Information from Secretary

If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency re-

ferred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the Government Accountability Office for the purpose of, and to the extent necessary in, making such audit.

(iii) Requirement of notification upon completion of audit

Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) Certain restrictions made applicable

The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) Disapproval by Joint Committee on Taxation

Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

(j) Statistical use

(1) Department of Commerce

Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis, as the Secretary may prescribe by regulation for the purpose of, but only to the extent nec-

essary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(2) Federal Trade Commission

Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

(3) Department of Treasury

Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

(4) Anonymous form

No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(5) Department of Agriculture

Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105-113).

(6) Congressional Budget Office

Upon written request by the Director of the Congressional Budget Office, the Secretary shall furnish to officers and employees of the Congressional Budget Office return information for the purpose of, but only to the extent necessary for, long-term models of the social security and medicare programs.

(k) Disclosure of certain returns and return information for tax administration purposes

(1) Disclosure of accepted offers-in-compromise

Return information shall be disclosed to members of the general public to the extent

necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

(2) Disclosure of amount of outstanding lien

If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

(3) Disclosure of return information to correct misstatements of fact

The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

(4) Disclosure to competent authority under tax convention

A return or return information may be disclosed to a competent authority of a foreign government which has an income tax or gift and estate tax convention, or other convention or bilateral agreement relating to the exchange of tax information, with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention or bilateral agreement.

(5) State agencies regulating tax return preparers

Taxpayer identity information with respect to any tax return preparer, and information as to whether or not any penalty has been assessed against such tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of tax return preparers.

(6) Disclosure by certain officers and employees for investigative purposes

An internal revenue officer or employee and an officer or employee of the Office of Treasury Inspector General for Tax Administration may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the

enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

(7) Disclosure of excise tax registration information

To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose—

(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

(B) the registration status of any person.

(8) Levies on certain government payments

(A) Disclosure of return information in levies on Financial Management Service

In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

(i) return information, including taxpayer identity information,

(ii) the amount of any unpaid liability under this title (including penalties and interest), and

(iii) the type of tax and tax period to which such unpaid liability relates.

(B) Restriction on use of disclosed information

Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

(C) Applicable government payment

For purposes of this paragraph, the term “applicable government payment” means—

(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.

(9) Disclosure of information to administer section 6311

The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent au-

thorized by written procedures promulgated by the Secretary.

(10) Disclosure of certain returns and return information to certain prison officials

(A) In general

Under such procedures as the Secretary may prescribe, the Secretary may disclose to officers and employees of the Federal Bureau of Prisons and of any State agency charged with the responsibility for administration of prisons any returns or return information with respect to individuals incarcerated in Federal or State prison systems whom the Secretary has determined may have filed or facilitated the filing of a false or fraudulent return to the extent that the Secretary determines that such disclosure is necessary to permit effective Federal tax administration.

(B) Disclosure to contractor-run prisons

Under such procedures as the Secretary may prescribe, the disclosures authorized by subparagraph (A) may be made to contractors responsible for the operation of a Federal or State prison on behalf of such Bureau or agency.

(C) Restrictions on use of disclosed information

Any return or return information received under this paragraph shall be used only for the purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility and in administrative and judicial proceedings arising from such administrative actions.

(D) Restrictions on redisclosure and disclosure to legal representatives

Notwithstanding subsection (h)—

(i) Restrictions on redisclosure

Except as provided in clause (ii), any officer, employee, or contractor of the Federal Bureau of Prisons or of any State agency charged with the responsibility for administration of prisons shall not disclose any information obtained under this paragraph to any person other than an officer or employee or contractor of such Bureau or agency personally and directly engaged in the administration of prison facilities on behalf of such Bureau or agency.

(ii) Disclosure to legal representatives

The returns and return information disclosed under this paragraph may be disclosed to the duly authorized legal representative of the Federal Bureau of Prisons, State agency, or contractor charged with the responsibility for administration of prisons, or of the incarcerated individual accused of filing the false or fraudulent return who is a party to an action or proceeding described in subparagraph (C), solely in preparation for, or for use in, such action or proceeding.

(11) Disclosure of return information to Department of State for purposes of passport revocation under section 7345

(A) In general

The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

- (i) the taxpayer identity information with respect to such taxpayer, and
- (ii) the amount of such seriously delinquent tax debt.

(B) Restriction on disclosure

Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 32101 of the FAST Act.

(12) Qualified tax collection contractors

Persons providing services pursuant to a qualified tax collection contract under section 6306 may, if speaking to a person who has identified himself or herself as having the name of the taxpayer to which a tax receivable (within the meaning of such section) relates, identify themselves as contractors of the Internal Revenue Service and disclose the business name of the contractor, and the nature, subject, and reason for the contact. Disclosures under this paragraph shall be made only in such situations and under such conditions as have been approved by the Secretary.

(I) Disclosure of returns and return information for purposes other than tax administration

(1) Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board

The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation

The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to

the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) Disclosure that applicant for Federal loan has tax delinquent account

(A) In general

Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) Restriction on disclosure

Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) Included Federal loan program defined

For purposes of this paragraph, the term “included Federal loan program” means any program under which the United States or a Federal agency makes, guarantees, or insures loans.

(4) Disclosure of returns and return information for use in personnel or claimant representative matters

The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of title 31, United States Code,

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) Social Security Administration

Upon written request by the Commissioner of Social Security, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of—

(A) carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program; or

(B) providing information regarding the mortality status of individuals for epidemio-

logical and similar research in accordance with section 1106(d) of the Social Security Act.

(6) Disclosure of return information to Federal, State, and local child support enforcement agencies

(A) Return information from Internal Revenue Service

The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) Disclosure to certain agents

The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

(i) The address and social security account number (or numbers) of such individual.

(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.

(C) Restriction on disclosure

Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) Disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act, the Food and Nutrition Act of 2008 of 1977,² or title 38, United States Code, or certain housing assistance programs

(A) Return information from Social Security Administration

The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

(B) Return information from Internal Revenue Service

The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

(C) Restriction on disclosure

The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

(D) Programs to which rule applies

The programs to which this paragraph applies are:

(i) a State program funded under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act or subsidies provided under section 1860D-14 of such Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this title;

(vi) assistance provided under the Food and Nutrition Act of 2008;

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (includ-

² So in original. See 2008 Amendment note below.

ing payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(II) parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(III) health-care services furnished under sections 1710(a)(2)(G), 1710(a)(3), and 1710(b) of such title; and

(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployment and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule; and

(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV).

(8) Disclosure of certain return information by Social Security Administration to Federal, State, and local child support enforcement agencies

(A) In general

Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a Federal or State or local child support enforcement agency return information from returns with respect to social security account numbers, net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) Restriction on disclosure

The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) State or local child support enforcement agency

For purposes of this paragraph, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).

(9) Disclosure of alcohol fuel producers to administrators of State alcohol laws

Notwithstanding any other provision of this section, the Secretary may disclose—

(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.

(10) Disclosure of certain information to agencies requesting a reduction under subsection (c), (d), (e), or (f) of section 6402

(A) Return information from Internal Revenue Service

The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c), (d), (e), or (f) of section 6402, to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5)³ of section 6402, and to officers and employees of the Department of the Treasury in connection with such reduction—

(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

(iii) the amount of such reduction,

(iv) whether such taxpayer filed a joint return, and

(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(B)(i)⁴ Restriction on use of disclosed information

Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c), (d), (e), or (f) of section 6402 is sought for purposes of collecting the debt with respect to which the

³So in original. Subsection (f)(5) does not relate to requests.

⁴So in original. Cl. (i) designation probably should precede "Any".

reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c), (d), (e), or (f) of section 6402.

(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.

(11) Disclosure of return information to carry out Federal Employees' Retirement System
(A) In general

The Commissioner of Social Security shall, on written request, disclose to the Office of Personnel Management return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5).

(B) Restriction on disclosure

The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, the administration of chapters 83 and 84 of title 5, United States Code.

(12) Disclosure of certain taxpayer identity information for verification of employment status of medicare beneficiary and spouse of medicare beneficiary

(A) Return information from Internal Revenue Service

The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

(B) Return information from Social Security Administration

The Commissioner of Social Security shall, upon written request from the Administrator of the Centers for Medicare & Medicaid Services, disclose to the Administrator the following information:

(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)), above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year.

(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages, above an amount (if any) specified by the Secretary of

Health and Human Services, from a qualified employer in a previous year—

(I) the name and TIN of the medicare beneficiary, and

(II) the name and TIN of the spouse.

(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

(C) Disclosure by Centers for Medicare & Medicaid Services

With respect to the information disclosed under subparagraph (B), the Administrator of the Centers for Medicare & Medicaid Services may disclose—

(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the "employee") for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

(D) Special rules

(i) Restrictions on disclosure

Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

(ii) Timely response to requests

Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

(E) Definitions

For purposes of this paragraph—

(i) Medicare beneficiary

The term “medicare beneficiary” means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818.

(ii) Group health plan

The term “group health plan” means any group health plan (as defined in section 5000(b)(1)).

(iii) Qualified employer

The term “qualified employer” means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

(13) Disclosure of return information to carry out income contingent repayment of student loans**(A) In general**

The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer’s income. Such return information shall be limited to—

- (i) taxpayer identity information with respect to such taxpayer,
- (ii) the filing status of such taxpayer, and
- (iii) the adjusted gross income of such taxpayer.

(B) Restriction on use of disclosed information

Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

(C) Applicable student loan

For purposes of this paragraph, the term “applicable student loan” means—

- (i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and
- (ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

(D) Termination

This paragraph shall not apply to any request made after December 31, 2007.

(14) Disclosure of return information to United States Customs Service

The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary

may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

- (A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or
- (B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.

(15) Disclosure of returns filed under section 6050I

The Secretary may, upon written request, disclose to officers and employees of—

- (A) any Federal agency,
- (B) any agency of a State or local government, or
- (C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.

(16) Disclosure of return information for purposes of administering the District of Columbia Retirement Protection Act of 1997**(A) In general**

Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection⁵ 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual’s eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

⁵ So in original. Probably should be “section”.

(B) Disclosure for use in judicial or administrative proceedings

Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(17) Disclosure to National Archives and Records Administration

The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(8), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.

(18) Disclosure of return information for purposes of carrying out a program for advance payment of credit for health insurance costs of eligible individuals

The Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent necessary to carry out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).

(19) Disclosure of return information for purposes of providing transitional assistance under medicare discount card program

(A) In general

The Secretary, upon written request from the Secretary of Health and Human Services pursuant to carrying out section 1860D-31 of the Social Security Act, shall disclose to officers, employees, and contractors of the Department of Health and Human Services with respect to a taxpayer for the applicable year—

(i)(I) whether the adjusted gross income, as modified in accordance with specifications of the Secretary of Health and Human Services for purposes of carrying out such section, of such taxpayer and, if applicable, such taxpayer's spouse, for the applicable year, exceeds the amounts specified by the Secretary of Health and Human Services in order to apply the 100 and 135 percent of the poverty lines under such section, (II) whether the return was a joint return, and (III) the applicable year, or

(ii) if applicable, the fact that there is no return filed for such taxpayer for the applicable year.

(B) Definition of applicable year

For the purposes of this subsection, the term “applicable year” means the most recent taxable year for which information is available in the Internal Revenue Service's taxpayer data information systems, or, if there is no return filed for such taxpayer for such year, the prior taxable year.

(C) Restriction on use of disclosed information

Return information disclosed under this paragraph may be used only for the purposes of determining eligibility for and administering transitional assistance under section 1860D-31 of the Social Security Act.

(20) Disclosure of return information to carry out Medicare part B premium subsidy adjustment and part D base beneficiary premium increase

(A) In general

The Secretary shall, upon written request from the Commissioner of Social Security, disclose to officers, employees, and contractors of the Social Security Administration return information of a taxpayer whose premium (according to the records of the Secretary) may be subject to adjustment under section 1839(i) or increase under section 1860D-13(a)(7) of the Social Security Act. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer,

(iii) the adjusted gross income of such taxpayer,

(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911 to the extent such information is available,

(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available,

(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available,

(vii) such other information relating to the liability of the taxpayer as is prescribed by the Secretary by regulation as might indicate in the case of a taxpayer who is an individual described in subsection (i)(4)(B)(iii) of section 1839 of the Social Security Act that the amount of the premium of the taxpayer under such section may be subject to adjustment under subsection (i) of such section or increase under section 1860D-13(a)(7) of such Act and the amount of such adjustment, and

(viii) the taxable year with respect to which the preceding information relates.

(B) Restriction on use of disclosed information

(i) In general

Return information disclosed under subparagraph (A) may be used by officers, em-

ployees, and contractors of the Social Security Administration only for the purposes of, and to the extent necessary in, establishing the appropriate amount of any premium adjustment under such section 1839(i) or increase under such section 1860D-13(a)(7) or for the purpose of resolving taxpayer appeals with respect to any such premium adjustment or increase.

(ii) Disclosure to other agencies

Officers, employees, and contractors of the Social Security Administration may disclose—

(I) the taxpayer identity information and the amount of the premium subsidy adjustment or premium increase with respect to a taxpayer described in subparagraph (A) to officers, employees, and contractors of the Centers for Medicare and Medicaid Services, to the extent that such disclosure is necessary for the collection of the premium subsidy amount or the increased premium amount,

(II) the taxpayer identity information and the amount of the premium subsidy adjustment or the increased premium amount with respect to a taxpayer described in subparagraph (A) to officers and employees of the Office of Personnel Management and the Railroad Retirement Board, to the extent that such disclosure is necessary for the collection of the premium subsidy amount or the increased premium amount,

(III) return information with respect to a taxpayer described in subparagraph (A) to officers and employees of the Department of Health and Human Services to the extent necessary to resolve administrative appeals of such premium subsidy adjustment or increased premium, and

(IV) return information with respect to a taxpayer described in subparagraph (A) to officers and employees of the Department of Justice for use in judicial proceedings to the extent necessary to carry out the purposes described in clause (i).

(21) Disclosure of return information to carry out eligibility requirements for certain programs

(A) In general

The Secretary, upon written request from the Secretary of Health and Human Services, shall disclose to officers, employees, and contractors of the Department of Health and Human Services return information of any taxpayer whose income is relevant in determining any premium tax credit under section 36B or any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act or eligibility for participation in a State medicaid program under title XIX of the Social Security Act, a State's children's health insurance program under title XXI of the Social Security Act, or a basic health program under section 1331 of Patient Protection and Affordable Care Act. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer,

(iii) the number of individuals for whom a deduction is allowed under section 151 with respect to the taxpayer (including the taxpayer and the taxpayer's spouse),

(iv) the modified adjusted gross income (as defined in section 36B) of such taxpayer and each of the other individuals included under clause (iii) who are required to file a return of tax imposed by chapter 1 for the taxable year,

(v) such other information as is prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for such credit or reduction (and the amount thereof), and

(vi) the taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available.

(B) Information to exchange and State agencies

The Secretary of Health and Human Services may disclose to an Exchange established under the Patient Protection and Affordable Care Act or its contractors, or to a State agency administering a State program described in subparagraph (A) or its contractors, any inconsistency between the information provided by the Exchange or State agency to the Secretary and the information provided to the Secretary under subparagraph (A).

(C) Restriction on use of disclosed information

Return information disclosed under subparagraph (A) or (B) may be used by officers, employees, and contractors of the Department of Health and Human Services, an Exchange, or a State agency only for the purposes of, and to the extent necessary in—

(i) establishing eligibility for participation in the Exchange, and verifying the appropriate amount of, any credit or reduction described in subparagraph (A),

(ii) determining eligibility for participation in the State programs described in subparagraph (A).

(22) Disclosure of return information to Department of Health and Human Services for purposes of enhancing Medicare program integrity

(A) In general

The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information with respect to a taxpayer who has applied to enroll, or reenroll, as a provider of services or supplier under the Medicare program under title XVIII of the Social Security Act. Such return information shall be limited to—

(i) the taxpayer identity information with respect to such taxpayer;

(ii) the amount of the delinquent tax debt owed by that taxpayer; and

(iii) the taxable year to which the delinquent tax debt pertains.

(B) Restriction on disclosure

Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services for the purposes of, and to the extent necessary in, establishing the taxpayer's eligibility for enrollment or reenrollment in the Medicare program, or in any administrative or judicial proceeding relating to, or arising from, a denial of such enrollment or reenrollment, or in determining the level of enhanced oversight to be applied with respect to such taxpayer pursuant to section 1866(j)(3) of the Social Security Act.

(C) Delinquent tax debt

For purposes of this paragraph, the term "delinquent tax debt" means an outstanding debt under this title for which a notice of lien has been filed pursuant to section 6323, but the term does not include a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, or a debt with respect to which a collection due process hearing under section 6330 is requested, pending, or completed and no payment is required.

(m) Disclosure of taxpayer identity information

(1) Tax refunds

The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims

(A) In general

Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31.

(B) Special rule for consumer reporting agency

In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with sections 3711, 3717, and 3718 of title 31.

(3) National Institute for Occupational Safety and Health

Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely

for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

(4) Individuals who owe an overpayment of Federal Pell Grants or who have defaulted on student loans administered by the Department of Education

(A) In general

Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

(ii) who has defaulted on a loan—

(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan.

(B) Disclosure to educational institutions, etc.

Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B or D of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under subpart 1 of part A, or part D or E, of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

(5) Individuals who have defaulted on student loans administered by the Department of Health and Human Services

(A) In general

Upon written request by the Secretary of Health and Human Services, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made under part C¹ of title VII of the Public Health Service Act or under subpart II of part B of title VIII of such Act, for use only by officers, employees, or agents of the Department of Health and Human Services for purposes of locating such taxpayer for purposes of collecting such loan.

(B) Disclosure to schools and eligible lenders

Any mailing address disclosed under subparagraph (A) may be disclosed by the Secretary of Health and Human Services to—

(i) any school with which the Secretary of Health and Human Services has an agreement under subpart II¹ of part C of title VII of the Public Health Service Act or subpart II¹ of part B of title VIII of such Act, or

(ii) any eligible lender (within the meaning of section 737(4)¹ of such Act) participating under subpart I¹ of part C of title VII of such Act,

for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such subparts for the purposes of collecting such loans.

(6) Blood Donor Locator Service

(A) In general

Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

(B) Restriction on disclosure

The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

(C) Safeguards

The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.

(7) Social security account statement furnished by Social Security Administration

Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.

(n) Certain other persons

Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such re-

turns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

(o) Disclosure of returns and return information with respect to certain taxes

(1) Taxes imposed by subtitle E

(A) In general

Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

(B) Use in certain proceedings

Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.

(2) Taxes imposed by chapter 35

Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

(p) Procedure and recordkeeping

(1) Manner, time, and place of inspections

Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) Procedure

(A) Reproduction of returns

A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) Disclosure of return information

Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) Use of reproductions

Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be

admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) Records of inspection and disclosure

(A) System of recordkeeping

Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section and section 6104(c). Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections⁶ (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (8)(A)(ii), (k)(1), (2), (6), (8), or (9), (l)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), or (18), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) Report by the Secretary

The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

(C) Public report on disclosures

The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (7)(A)(ii), or (l)(6), and the Government Accountability Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests or otherwise,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made.⁷

(4) Safeguards

Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (10), or (11), (l)(1), (2), (3), (5), (10), (11), (13), (14), (17), or (22) or (o)(1)(A), the Government Accountability Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(1)(C), (3)(B)(i), or 7(A)(ii),⁸ or (k)(10), (l)(6), (7), (8), (9), (12), (15), or (16), any appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10), subsection (l)(10), (16), (18), (19), or (20), or any entity described in subsection (l)(21), shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission, the Government Accountability Office, or the Congressional Budget Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d),

⁶ So in original. Probably should be “subsection”.

⁷ So in original. The comma probably should be a period.

⁸ So in original. Probably should be “(7)(A)(ii),”.

(i)(3)(B)(i), (k)(10), or (l)(6), (7), (8), (9), or (16), any appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (l)(10), (16), (18), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,

(ii) in the case of an agency described in subsections⁶ (h)(2), (h)(5), (i)(1), (2), (3), (5) or (7), (j)(1), (2), or (5), (k)(8), (10), or (11), (l)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), (17), or (22), or (o)(1)(A) or any entity described in subsection (l)(21),⁹ the Government Accountability Office, or the Congressional Budget Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, and

(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission, including an agency, an appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (l)(10), (16), (18), (19), or (20) or any entity described in subsection (l)(21),⁹ or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency, an appropriate State officer (as defined in section 6104(c)), or any other person described in subsection (k)(10) or subsection (l)(10), (16), (18), (19), or (20) or any entity described in subsection (l)(21),⁹ or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met. In the case of

any agency which receives any mailing address under paragraph (2), (4), (6), or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under paragraph (6)(A), (10), (12)(B), or (16) of subsection (l) and which discloses any such information to any agent, or any person including an agent described in subsection (l)(10) or (16), this paragraph shall apply to such agency and each such agent or other person (except that, in the case of an agent, or any person including an agent described in subsection (l)(10) or (16), any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term “return information” includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

(5) Report on procedures and safeguards

After the close of each calendar year, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions, the Government Accountability Office, and the Congressional Budget Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) Audit of procedures and safeguards

(A) Audit by Comptroller General

The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions and the Congressional Budget Office pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

(B) Records of inspection and reports by the Comptroller General

The Comptroller General shall—

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the Government Accountability Office under subsection (i)(8)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

⁹ So in original.

(7) Administrative review

The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

(8) State law requirements**(A) Safeguards**

Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) Disclosure of returns or return information in State returns

Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(q) Regulations

The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Pub. L. 88-563, §3(c), Sept. 2, 1964, 78 Stat. 844; Pub. L. 89-44, title VI, §601(a), June 21, 1965, 79 Stat. 153; Pub. L. 89-713, §4(a), Nov. 2, 1966, 80 Stat. 1109; Pub. L. 93-406, title II, §1022(h), Sept. 2, 1974, 88 Stat. 941; Pub. L. 94-202, §8(g), Jan. 2, 1976, 89 Stat. 1139; Pub. L. 94-455, title XII, §1202(a)(1), Oct. 4, 1976, 90 Stat. 1667; Pub. L. 95-210, §5, Dec. 13, 1977, 91 Stat. 1491; Pub. L. 95-600, title V, §503, title VII, §701(bb)(1)(A), (B), (2)-(5), Nov. 6, 1978, 92 Stat. 2879, 2921-2923; Pub. L. 96-249, title I, §127(a)(1), (2)(A)-(C), May 26, 1980, 94 Stat. 365, 366, as amended Pub. L. 96-611, §11(a)(1), Dec. 28, 1980, 94 Stat. 3573, and Pub. L. 98-369, div. A, title IV, §453(b)(5), July 18, 1984, 98 Stat. 820; Pub. L. 96-265, title IV, §408(a)-(2)(C), June 9, 1980, 94 Stat. 468, as amended Pub. L. 96-611, §11(a)(2)(A)-(B)(iii), Dec. 28, 1980, 94 Stat. 3573; Pub. L. 96-499, title III, §302(a), Dec. 5, 1980, 94 Stat. 2604; Pub. L. 96-589, §3(c), Dec. 24, 1980, 94 Stat. 3401; Pub. L. 96-598, §3(a), Dec. 24, 1980, 94 Stat. 3487; Pub. L. 97-34, title VII, §701(a), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97-248, title III, §§356(a), (b)(1), 358(a), (b), Sept. 3, 1982, 96 Stat. 641, 645, 646, 648; Pub. L. 97-258, §3(f)(4)-(6), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 97-365, §§7(a), (b), 8(a)-(c)(1), Oct. 25, 1982, 96 Stat. 1752-1754; Pub. L. 97-452, §2(c)(4), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98-21, title I, §121(c)(3)(A), (B), Apr. 20, 1983, 97 Stat. 83; Pub. L. 98-369, div. A, title IV, §§449(a),

453(a)-(b)(3), (6), div. B, title VI, §§2651(k), 2653(b)(3), 2663(j)(5)(E), July 18, 1984, 98 Stat. 818, 820, 1150, 1155, 1171; Pub. L. 98-378, §§19(b), 21(f)(1)-(4), Aug. 16, 1984, 98 Stat. 1322, 1325, 1326; Pub. L. 99-92, §8(h), Aug. 16, 1985, 99 Stat. 399; Pub. L. 99-335, title III, §310(a), (b), June 6, 1986, 100 Stat. 607, 608; Pub. L. 99-386, title II, §206(b), Aug. 22, 1986, 100 Stat. 823; Pub. L. 99-514, title XIV, §1411(b), title XV, §1568(a), title XVIII, §1899A(53), Oct. 22, 1986, 100 Stat. 2715, 2764, 2961; Pub. L. 100-485, title VII, §701(b)(1), (2)(A), (B), Oct. 13, 1988, 102 Stat. 2425, 2426; Pub. L. 100-647, title I, §§1012(bb)(3)(A), (B), 1014(e)(4), title VI, §6251, title VIII, §8008(c)(1), (2)(A), Nov. 10, 1988, 102 Stat. 3534, 3561, 3752, 3786, 3787; Pub. L. 100-690, title VII, §§7601(b)(1), (2), 7602(c), (d)(2), Nov. 18, 1988, 102 Stat. 4504, 4508; Pub. L. 101-239, title VI, §6202(a)(1)(A), (B), title VII, §7841(d)(1), Dec. 19, 1989, 103 Stat. 2226, 2227, 2428; Pub. L. 101-508, title IV, §4203(a)(2), title V, §5111(b)(1), (2), title VIII, §8051(a), title XI, §§11101(d)(6), 11212(b)(3), 11313(a), Nov. 5, 1990, 104 Stat. 1388-107, 1388-272, 1388-273, 1388-349, 1388-405, 1388-431, 1388-455; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102-568, title VI, §602(b), Oct. 29, 1992, 106 Stat. 4342; Pub. L. 103-66, title XIII, §§13401(a), 13402(a), (b), 13403(a), (b), 13444(a), 13561(a)(2), (e)(2)(B), Aug. 10, 1993, 107 Stat. 563-565, 570, 593, 595; Pub. L. 103-182, title V, §522(a), (b), Dec. 8, 1993, 107 Stat. 2161; Pub. L. 103-296, title I, §108(h)(6), title III, §311(b), Aug. 15, 1994, 108 Stat. 1487, 1525; Pub. L. 104-134, title III, §31001(g)(2), (i)(2), Apr. 26, 1996, 110 Stat. 1321-363, 1321-364; Pub. L. 104-168, title IV, §403(a), title IX, §902(a), title XII, §§1206(a)-(b)(4), 1207, July 30, 1996, 110 Stat. 1459, 1466, 1472, 1473; Pub. L. 104-188, title I, §1704(t)(41), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 104-193, title I, §110(l)(2), formerly (l)(3), (l)(4), (5), title III, §316(g)(4), Aug. 22, 1996, 110 Stat. 2173, 2219, renumbered Pub. L. 105-33, title V, §5514(a)(2), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-33, title IV, §4631(c)(2), title V, §5514(a)(1), title XI, §11024(b)(1)-(7), Aug. 5, 1997, 111 Stat. 486, 620, 721, 722; Pub. L. 105-34, title IX, §976(c), title X, §§1023(a), 1026(a), (b)(1), title XII, §§1201(b)(2), 1205(c)(1), (3), 1283(a), (b), Aug. 5, 1997, 111 Stat. 899, 923-925, 994, 998, 1038; Pub. L. 105-65, title V, §542(b), Oct. 27, 1997, 111 Stat. 1412; Pub. L. 105-206, title I, §1101(b), title III, §§3702(a), (b), 3708(a), 3711(b), title VI, §§6007(f)(4), 6009(d), 6012(b)(2), (4), 6019(c), 6023(22), July 22, 1998, 112 Stat. 696, 776-778, 781, 810, 812, 819, 823, 826; Pub. L. 105-277, div. J, title I, §1006, title IV, §§4002(a), (h), 4006(a)(1), (2), Oct. 21, 1998, 112 Stat. 2681-900, 2681-906, 2681-907, 2681-912; Pub. L. 106-170, title V, §521(a)(1), Dec. 17, 1999, 113 Stat. 1925; Pub. L. 106-554, §1(a)(7) [title III, §§304(a), 310(a), 313(c), 319(8)(B),(17)], Dec. 21, 2000, 114 Stat. 2763, 2763A-632, 2763A-638, 2763A-643, 2763A-646, 2763A-647; Pub. L. 107-134, title II, §201(a)-(c)(8), Jan. 23, 2002, 115 Stat. 2440-2444; Pub. L. 107-147, title IV, §416(c)(1), Mar. 9, 2002, 116 Stat. 55; Pub. L. 107-210, div. A, title II, §202(b)(1), (2), Aug. 6, 2002, 116 Stat. 961; Pub. L. 107-296, title XI, §1112(j), Nov. 25, 2002, 116 Stat. 2277; Pub. L. 107-330, title III, §306, Dec. 6, 2002, 116 Stat. 2827; Pub. L. 108-89, title II, §201(a), Oct. 1, 2003, 117 Stat. 1132; Pub. L. 108-173, title I, §§101(e)(6), 105(e)(1)-(3), title VIII, §811(c)(1)-(2)(B), title IX, §900(e)(3), Dec. 8, 2003,

117 Stat. 2151, 2167, 2368, 2369, 2372; Pub. L. 108-311, title III, §§311(a), 317, 320(a), (b), title IV, §408(a)(24), Oct. 4, 2004, 118 Stat. 1180-1182, 1192; Pub. L. 108-357, title IV, §413(c)(27), Oct. 22, 2004, 118 Stat. 1509; Pub. L. 108-429, title II, §2004(a)(22), Dec. 3, 2004, 118 Stat. 2592; Pub. L. 109-135, title III, §305(a)(1), (b)(1), (c)(1), title IV, §§406(a), 412(rr)(3), (4), (yy), Dec. 21, 2005, 119 Stat. 2609, 2634, 2640; Pub. L. 109-280, title XII, §1224(b)(1)-(3), Aug. 17, 2006, 120 Stat. 1093; Pub. L. 109-432, div. A, title I, §122(a)(1), (b)(1), (c)(1), title IV, §421(a), (b), Dec. 20, 2006, 120 Stat. 2944, 2971, 2972; Pub. L. 110-28, title VIII, §8246(a)(2)(B), May 25, 2007, 121 Stat. 201; Pub. L. 110-142, §8(c)(1), Dec. 20, 2007, 121 Stat. 1807; Pub. L. 110-172, §11(a)(34)(A), Dec. 29, 2007, 121 Stat. 2487; Pub. L. 110-234, title IV, §4002(b)(1)(B), (H), (2)(O), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-245, title I, §108(a), (b), June 17, 2008, 122 Stat. 1631; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (H), (2)(O), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 110-328, §3(b), Sept. 30, 2008, 122 Stat. 3572; Pub. L. 110-343, div. C, title IV, §402(a), (b), Oct. 3, 2008, 122 Stat. 3875, 3876; Pub. L. 110-428, §2(a), (b), Oct. 15, 2008, 122 Stat. 4839; Pub. L. 111-3, title VII, §702(f)(1), (2), Feb. 4, 2009, 123 Stat. 110; Pub. L. 111-148, title I, §1414(a)(1), (b), (c), title III, §3308(b)(2), Mar. 23, 2010, 124 Stat. 236, 237, 474; Pub. L. 111-152, title I, §1004(a)(1)(B), Mar. 30, 2010, 124 Stat. 1034; Pub. L. 111-192, title I, §103(a), June 25, 2010, 124 Stat. 1282; Pub. L. 111-198, §4(a)-(d), July 2, 2010, 124 Stat. 1356, 1357; Pub. L. 112-240, title II, §209(a)-(b)(2), Jan. 2, 2013, 126 Stat. 2324, 2325; Pub. L. 114-94, div. C, title XXXII, §§32101(c), 32102(d), Dec. 4, 2015, 129 Stat. 1731, 1734; Pub. L. 114-113, div. Q, title IV, §403(a), Dec. 18, 2015, 129 Stat. 3117; Pub. L. 114-184, §2(a)-(b)(2)(B), June 30, 2016, 130 Stat. 536, 537.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsecs. (h)(4)(D) and (i)(4)(A)(ii), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Section 403 of the Missing Children's Assistance Act, referred to in subsec. (i)(1)(C)(iii), is section 403 of title IV of Pub. L. 93-415, which was formerly classified to section 5772 of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 11292 of Title 34, Crime Control and Law Enforcement.

Section 111 of the Sex Offender Registration and Notification Act, referred to in subsec. (i)(1)(C)(iv), is section 111 of title I of Pub. L. 109-248, which was classified to section 16911 of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 20911 of Title 34, Crime Control and Law Enforcement.

The District of Columbia Retirement Protection Act of 1997, referred to in subsecs. (i)(7)(B)(i) and (l)(16), is subtitle A (§§11001-11087) of title XI of Pub. L. 105-33, Aug. 5, 1997, 111 Stat. 715, which amended this section and section 7213 of this title and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Tables.

The Census of Agriculture Act of 1997, referred to in subsec. (j)(5), is Pub. L. 105-113, Nov. 21, 1997, 111 Stat. 2274, which enacted section 2204g of Title 7, Agriculture, amended sections 1991 and 2276 of Title 7 and section 9 of Title 13, Census, repealed section 142 of Title 13, and enacted provisions set out as a note under section 1991 of Title 7. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 2201 of Title 7 and Tables.

Section 32101 of the FAST Act, referred to in subsec. (k)(11)(B), is section 32101 of Pub. L. 114-94, which en-

acted section 7345 of this title and section 2714a of Title 22, Foreign Relations and Intercourse, and amended this section and sections 6320, 6331, and 7508 of this title.

The Social Security Act, referred to in subsecs. (l)(1)(A), (B), (5), (6)(A)(i), (7), (8)(B), (12)(C)(ii)(I), (E)(i), (19)(A), (C), (20)(A), (B)(i), (21)(A), (22)(A), (B), (m)(6), (7), and (p)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Parts A and D of title IV and parts A and B of title XVIII of the Act are classified generally to parts A (§601 et seq.) and D (§651 et seq.) of subchapter IV and parts A (§1395c et seq.) and B (§1395j et seq.) of subchapter XVIII, respectively, of chapter 7 of Title 42. Titles I, X, XIV, XVI, XVIII, XIX, and XXI of the Act are classified generally to subchapters I (§301 et seq.), X (§1201 et seq.), XIV (§1351 et seq.), XVI (§1381 et seq.), XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of Title 42. Sections 232, 454, 1106, 1131, 1141, 1143, 1616, 1818, 1839, 1860D-13, 1860D-14, 1860D-31, 1862, and 1866 of the Act are classified to sections 432, 654, 1306, 1320b-1, 1320b-11, 1320b-13, 1382e, 1395i-2, 1395r, 1395w-113, 1395w-114, 1395w-141, 1395y, and 1395cc, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Retirement Act, referred to in subsec. (l)(1)(C), probably means the Railroad Retirement Act of 1974, which is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (l)(2), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829. Titles I and IV of the Employee Retirement Income Security Act of 1974 are classified generally to subchapters I (§1001 et seq.) and IV (§1301 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 212(a) of Pub. L. 93-66, referred to in subsec. (l)(7)(D)(iii), (vii), is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

The Food and Nutrition Act of 2008, referred to in subsec. (l)(7)(D)(vi), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Higher Education Act of 1965, referred to in subsecs. (l)(13)(C) and (m)(4)(A)(i), (ii)(I), (B)(i), (ii), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Subpart 1 of part A of title IV of the Act is classified generally to subpart 1 (§1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20, Education. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), D (§1087a et seq.), and E (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Patient Protection and Affordable Care Act, referred to in subsec. (l)(21)(A), (B), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. Sections 1331 and 1402 of the Act are classified to sections 18051 and 18071, respectively, 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 18001 of Title 42 and Tables.

Section 3(a)(1) of the Migration and Refugee Assistance Act of 1962, referred to in subsec. (m)(4)(A)(ii)(II), is classified to section 2602(a)(1) of Title 22, Foreign Relations and Intercourse.

The Public Health Service Act, referred to in subsec. (m)(5), is act July 1, 1944, ch. 373, 58 Stat. 682. Part C and subparts I and II of part C of title VII of the Act were classified generally to part C (§294 et seq.) and subparts I (§294 et seq.) and II (§294m et seq.), respec-

tively, of part C of subchapter V of chapter 6A of Title 42, The Public Health and Welfare, and were omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102-408 enacted a new part C, relating to training in primary health care, which is classified to part C (§293j et seq.) of subchapter V of chapter 6A of Title 42. See subparts I (§292 et seq.) and II (§292q et seq.), respectively, of part A of revised subchapter V of chapter 6A of Title 42. Subpart II of part B of title VIII of such Act was redesignated part E of title VIII of such Act by Pub. L. 105-392, title I, §123(2), Nov. 13, 1998, 112 Stat. 3562, and is classified generally to part E (§297a et seq.) of subchapter VI of chapter 6A of Title 42. Section 737 of the Act was classified to section 294j of Title 42 and was omitted in the general revision of subchapter V by Pub. L. 102-408. Pub. L. 102-408 enacted a new section 737 of act July 1, 1944, relating to scholarships, which is classified to section 293a of Title 42. See section 292o(2) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The American Jobs Creation Act of 2004, referred to in subsec. (o)(1)(B), is Pub. L. 108-357, Oct. 22, 2004, 118 Stat. 1418. Section 625 of the Act is classified to section 518d of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title of 2004 Amendments note set out under section 1 of this title 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.

Section 1224(b)(1) to (3) of Pub. L. 109-280, which directed the amendment of section 6103 without specifying the act to be amended, was executed to this section, which is section 6103 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2016—Subsec. (a)(2). Pub. L. 114-184, §2(b)(2)(A), substituted “subsection (i)(1)(C) or (7)(A)” for “subsection (i)(7)(A)”.

Subsec. (i)(1)(A)(i). Pub. L. 114-184, §2(a)(1), inserted “or pertaining to the case of a missing or exploited child,” after “may be a party,”.

Subsec. (i)(1)(A)(iii). Pub. L. 114-184, §2(a)(2), inserted “or to such a case of a missing or exploited child,” after “may be a party,”.

Subsec. (i)(1)(B)(iii). Pub. L. 114-184, §2(a)(3), inserted “(or any criminal investigation or proceeding, in the case of a matter relating to a missing or exploited child)” after “concerning such act”.

Subsec. (i)(1)(C). Pub. L. 114-184, §2(b)(1), added subpar. (C).

Subsec. (p)(4). Pub. L. 114-184, §2(b)(2)(B), substituted “(i)(1)(C), (3)(B)(i),” for “(i)(3)(B)(i)” in introductory provisions.

2015—Subsec. (e)(11). Pub. L. 114-113 added par. (11).

Subsec. (k)(11). Pub. L. 114-94, §32101(c)(1), added par. (11).

Subsec. (k)(12). Pub. L. 114-94, §32102(d), added par. (12).

Subsec. (p)(4). Pub. L. 114-94, §32101(c)(2), substituted “, (10), or (11)” for “or (10)” in introductory provisions and in subpar. (F)(ii).

2013—Subsec. (a)(3). Pub. L. 112-240, §209(b)(1), inserted “subsection (k)(10),” after “subsection (e)(1)(D)(iii),”.

Subsec. (k)(10). Pub. L. 112-240, §209(a), amended par. (10) generally. Prior to amendment, par. (10) related to disclosure of certain return information to certain prison officials.

Subsec. (p)(4). Pub. L. 112-240, §209(b)(2)(A), (C), inserted “subsection (k)(10),” before “subsection (l)(10),” in introductory provisions and “subsection (k)(10) or”

before “subsection (l)(10),” in two places in concluding provisions.

Subsec. (p)(4)(F)(i). Pub. L. 112-240, §209(b)(2)(B), inserted “subsection (k)(10) or” before “subsection (l)(10),”.

2010—Subsec. (a)(3). Pub. L. 111-148, §1414(b), substituted “(20), or (21)” for “or (20)”.

Subsec. (k)(10). Pub. L. 111-198, §4(d), substituted “to certain prison officials” for “of prisoners to Federal Bureau of Prisons” in heading.

Subsec. (k)(10)(A). Pub. L. 111-198, §4(a), inserted “and the head of any State agency charged with the responsibility for administration of prisons” after “the head of the Federal Bureau of Prisons” and substituted “Federal or State prison” for “Federal prison”.

Subsec. (k)(10)(B). Pub. L. 111-198, §4(b), inserted “and the head of any State agency charged with the responsibility for administration of prisons” after “the head of the Federal Bureau of Prisons” and “or agency” after “such Bureau”.

Subsec. (l)(20). Pub. L. 111-148, §3308(b)(2)(A), inserted “and part D base beneficiary premium increase” after “part B premium subsidy adjustment” in heading.

Subsec. (l)(20)(A). Pub. L. 111-148, §3308(b)(2)(B)(i), inserted “or increase under section 1860D-13(a)(7)” after “section 1839(i)” in introductory provisions.

Subsec. (l)(20)(A)(vii). Pub. L. 111-148, §3308(b)(2)(B)(ii), inserted “or increase under section 1860D-13(a)(7) of such Act” after “subsection (i) of such section”.

Subsec. (l)(20)(B). Pub. L. 111-148, §3308(b)(2)(C), designated existing provisions as cl. (i) and inserted heading, inserted “or increase under such section 1860D-13(a)(7) or for the purpose of resolving taxpayer appeals with respect to any such premium adjustment or increase” before period at end, and added cl. (ii).

Subsec. (l)(21). Pub. L. 111-148, §1414(a)(1), added par. (21).

Subsec. (l)(21)(A)(iv). Pub. L. 111-152, §1004(a)(1)(B), substituted “modified adjusted gross” for “modified gross”.

Subsec. (l)(22). Pub. L. 111-192, §103(a)(1), added par. (22).

Subsec. (p)(4). Pub. L. 111-198, §4(c), inserted “(k)(10),” before “(l)(6)” in introductory provisions.

Pub. L. 111-192, §103(a)(2), substituted “(17), or (22)” for “or (17)” in introductory provisions.

Pub. L. 111-148, §1414(c)(1), (3), inserted “, or any entity described in subsection (l)(21),” after “or (20)” in introductory provisions and “or any entity described in subsection (l)(21),” after “or (20)” in two places in concluding provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 111-192, §103(a)(2), substituted “(17), or (22)” for “or (17)” in introductory provisions.

Pub. L. 111-148, §1414(c)(2), inserted “or any entity described in subsection (l)(21),” after “or (o)(1)(A)” in introductory provisions.

2009—Subsec. (o)(1). Pub. L. 111-3, §702(f)(1), designated existing provisions as subpar. (A), inserted heading, realigned margins, and added subpar. (B).

Subsec. (p)(4). Pub. L. 111-3, §702(f)(2), substituted “(o)(1)(A)” for “(o)(1)” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 111-3, §702(f)(2), substituted “(o)(1)(A)” for “(o)(1)” in introductory provisions.

2008—Subsec. (a)(3). Pub. L. 110-328, §3(b)(1), inserted “(10),” after “(6),”.

Subsec. (i)(3)(C)(iv). Pub. L. 110-343, §402(a), struck out cl. (iv). Text read as follows: “No disclosure may be made under this subparagraph after December 31, 2007.”

Subsec. (i)(7)(E). Pub. L. 110-343, §402(b), struck out subpar. (E). Text read as follows: “No disclosure may be made under this paragraph after December 31, 2007.”

Subsec. (k)(10). Pub. L. 110-428, §2(a), added par. (10).

Subsec. (l)(7). Pub. L. 110-246, §4002(b)(1)(H), (2)(O), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act” in heading.

Pub. L. 110-245, §108(a), struck out “Clause (viii) shall not apply after September 30, 2008.” at end of concluding provisions.

Subsec. (l)(7)(D)(vi). Pub. L. 110-246, § 4002(b)(1)(B), (2)(O), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (l)(7)(D)(viii)(III). Pub. L. 110-245, § 108(b), substituted “sections 1710(a)(2)(G), 1710(a)(3), and 1710(b)” for “sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”.

Subsec. (l)(10). Pub. L. 110-328, § 3(b)(2)(A), substituted “(c), (d), (e), or (f)” for “(c), (d), or (e)” in heading.

Subsec. (l)(10)(A). Pub. L. 110-328, § 3(b)(2)(A), (B), in introductory provisions, substituted “(c), (d), (e), or (f)” for “(c), (d), or (e)” and inserted “, to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section 6402,” after “section 6402”.

Subsec. (l)(10)(B). Pub. L. 110-328, § 3(b)(2)(C), inserted cl. (i) designation after “(B)” and added cl. (ii).

Pub. L. 110-328, § 3(b)(2)(A), substituted “(c), (d), (e), or (f)” for “(c), (d), or (e)” in two places.

Subsec. (p)(4). Pub. L. 110-428, § 2(b), substituted “(k)(8) or (10)” for “(k)(8)” in introductory provisions.

Pub. L. 110-328, § 3(b)(3)(A), (C), in introductory provisions, substituted “(l)(10), (16),” for “(l)(16),” and, in concluding provisions, substituted “(l)(10), (16),” for “(l)(16),” the first two places appearing, inserted “(10),” after “paragraph (6)(A),” and substituted “(l)(10) or (16)” for “(l)(16)” the last two places appearing.

Subsec. (p)(4)(F)(i). Pub. L. 110-328, § 3(b)(3)(B), substituted “(l)(10), (16),” for “(l)(16),”.

Subsec. (p)(4)(F)(ii). Pub. L. 110-428, § 2(b), substituted “(k)(8) or (10)” for “(k)(8)”.

2007—Subsec. (b)(5)(A)(i). Pub. L. 110-172 struck out “the Canal Zone,” after “the Virgin Islands,”.

Subsec. (e)(10). Pub. L. 110-142 added par. (10).

Subsec. (k)(5). Pub. L. 110-28 substituted “tax return preparer” for “income tax return preparer” in two places and “tax return preparers” for “income tax return preparers” in two places.

2006—Subsec. (a)(2). Pub. L. 109-280, § 1224(b)(1), inserted “or section 6104(c)” after “this section”. See Codification note above.

Subsec. (b)(5). Pub. L. 109-432, § 421(a), reenacted heading without change and amended text of par. (5) generally. Prior to amendment, text read as follows: “The term ‘State’ means—

“(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and

“(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality—

“(i) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

“(ii) which imposes a tax on income or wages, and

“(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.”

Subsec. (d)(5)(B). Pub. L. 109-432, § 122(a)(1), substituted “2007” for “2006”.

Subsec. (d)(6). Pub. L. 109-432, § 421(b), added par. (6).

Subsec. (i)(3)(C)(iv), (7)(E). Pub. L. 109-432, § 122(b)(1), substituted “2007” for “2006”.

Subsec. (l)(13)(D). Pub. L. 109-432, § 122(c)(1), substituted “2007” for “2006”.

Subsec. (p)(3)(A). Pub. L. 109-280, § 1224(b)(2), inserted “and section 6104(c)” after “this section” in first sentence. See Codification note above.

Subsec. (p)(4). Pub. L. 109-280, § 1224(b)(3)(A), (C), inserted “, any appropriate State officer (as defined in section 6104(c)),” before “or any other person” in introductory provisions and “, an appropriate State officer (as defined in section 6104(c)),” after “including an agency” in two places in concluding provisions. See Codification note above.

Subsec. (p)(4)(F)(i). Pub. L. 109-280, § 1224(b)(3)(B), inserted “any appropriate State officer (as defined in section 6104(c)),” before “or any other person”. See Codification note above.

2005—Subsec. (d)(5)(B). Pub. L. 109-135, § 305(a)(1), substituted “December 31, 2006” for “December 31, 2005”.

Subsec. (i)(3)(C)(iv). Pub. L. 109-135, § 305(b)(1), substituted “December 31, 2006” for “December 31, 2005”.

Subsec. (i)(7)(E). Pub. L. 109-135, § 305(b)(1), substituted “December 31, 2006” for “December 31, 2005”.

Subsec. (i)(8)(A), (B)(i), (ii). Pub. L. 109-135, § 412(rr)(3), substituted “Government Accountability Office” for “General Accounting Office”.

Subsec. (l)(13)(D). Pub. L. 109-135, § 305(c)(1), substituted “December 31, 2006” for “December 31, 2005”.

Subsec. (l)(17). Pub. L. 109-135, § 406(a), substituted “subsection (f), (i)(8), or (p)” for “subsection (f), (i)(7), or (p)”.

Subsec. (p)(3)(C)(i). Pub. L. 109-135, § 412(rr)(4), substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions.

Subsec. (p)(4). Pub. L. 109-135, § 412(yy)(3), in concluding provisions, substituted “If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met.” for “If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (17), (19), or (20), or the Government Accountability Office or the Congressional Budget Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (17), (19), or (20), or the Government Accountability Office or the Congressional Budget Office until he determines that such requirements have been or will be met.” after “public record thereof.”

Pub. L. 109-135, § 412(yy)(1), reenacted heading without change and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (13), (14), or (17), or (o)(1), the Government Accountability Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (7)(A)(ii), or (l)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16), (17), (19), or (20) shall, as a condition for receiving returns or return information—”.

Pub. L. 109-135, § 412(rr)(4), substituted “Government Accountability Office” for “General Accounting Office” wherever appearing.

Subsec. (p)(4)(F)(i). Pub. L. 109-135, § 412(yy)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), or (16), or any other person described in subsection (l)(16), (17), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner.”.

Subsec. (p)(5), (6)(B)(i). Pub. L. 109-135, § 412(rr)(4), substituted “Government Accountability Office” for “General Accounting Office”.

2004—Subsec. (d)(5). Pub. L. 108-311, § 311(a), amended heading and text generally. Prior to amendment, text

read as follows: “The Secretary shall disclose taxpayer identities and signatures for purposes of the demonstration project described in section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.”

Subsec. (e)(1)(D)(iv) to (vi). Pub. L. 108-357, § 413(c)(27), redesignated cls. (v) and (vi) as (iv) and (v), respectively, and struck out former cl. (iv) which read as follows: “if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company.”

Subsec. (i)(3)(C)(iv). Pub. L. 108-311, § 320(a), substituted “December 31, 2005” for “December 31, 2003”.

Subsec. (i)(7)(A)(v). Pub. L. 108-311, § 320(b), added cl. (v).

Subsec. (i)(7)(E). Pub. L. 108-311, § 320(a), substituted “December 31, 2005” for “December 31, 2003”.

Subsec. (l)(13)(D). Pub. L. 108-311, § 317, substituted “December 31, 2005” for “December 31, 2004”.

Subsec. (p)(4). Pub. L. 108-429, which directed the substitution of “or (18)” for “or (17)” after “any other person described in subsection (l)(16)” wherever appearing, could not be executed because the phrase “or (17)” did not appear subsequent to amendment by Pub. L. 108-173. See 2003 Amendment notes below.

Pub. L. 108-311, § 408(a)(24), which directed substitution of “subsection (l)(16) or (18)” for “subsection (l)(16) or (17)” wherever appearing, could not be executed because “subsection (l)(16) or (17)” did not appear subsequent to amendment by Pub. L. 108-173. See 2003 Amendment note below.

2003—Subsec. (a)(3). Pub. L. 108-173, § 811(c)(2)(A), substituted “(19), or (20)” for “or (19)”.

Pub. L. 108-173, § 105(e)(2), substituted “(16), or (19)” for “or (16)”.

Subsec. (l)(7)(D)(ii). Pub. L. 108-173, § 101(e)(6), inserted “or subsidies provided under section 1860D-14 of such Act” after “Social Security Act”.

Subsec. (l)(12)(B). Pub. L. 108-173, § 900(e)(3)(A), substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” in introductory provisions.

Subsec. (l)(12)(C). Pub. L. 108-173, § 900(e)(3)(B), substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” in heading and introductory provisions.

Subsec. (l)(13)(D). Pub. L. 108-89 substituted “December 31, 2004” for “September 30, 2003”.

Subsec. (l)(19). Pub. L. 108-173, § 105(e)(1), added par. (19).

Subsec. (l)(20). Pub. L. 108-173, § 811(c)(1), added par. (20).

Subsec. (p)(4). Pub. L. 108-173, § 811(c)(2)(B), substituted “(l)(16), (17), (19), or (20)” for “(l)(16), (17), or (19)” wherever appearing.

Pub. L. 108-173, § 105(e)(3), substituted “(l)(16), (17), or (19)” for “(l)(16) or (17)” wherever appearing.

2002—Subsec. (a)(2). Pub. L. 107-134, § 201(c)(1), inserted “any local law enforcement agency receiving information under subsection (i)(7)(A),” after “State.”

Subsec. (b)(11). Pub. L. 107-134, § 201(c)(2), added par. (11).

Subsec. (i)(3). Pub. L. 107-134, § 201(c)(3), inserted “or terrorist” after “criminal” in heading.

Subsec. (i)(3)(C). Pub. L. 107-134, § 201(a), added subpar. (C).

Subsec. (i)(4)(A). Pub. L. 107-134, § 201(c)(4)(A), inserted “or (7)(C)” after “paragraph (1)” in introductory provisions.

Subsec. (i)(4)(B). Pub. L. 107-134, § 201(c)(4)(B), substituted “(3)(A) or (C), or (7)” for “or (3)(A)”.

Subsec. (i)(6). Pub. L. 107-134, § 201(c)(5), substituted “(3)(A) or (C)” for “(3)(A)” and “(7), or (8)” for “or (7)”.

Subsec. (i)(7). Pub. L. 107-134, § 201(b), added par. (7). Former par. (7) redesignated (8).

Subsec. (i)(8). Pub. L. 107-134, § 201(b), redesignated par. (7) as (8).

Subsec. (i)(8)(A)(i). Pub. L. 107-296 substituted “, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,” for “or the Bureau of Alcohol, Tobacco and Firearms”.

Subsec. (l)(7)(D). Pub. L. 107-330 substituted “September 30, 2008” for “September 30, 2003” in second sentence of concluding provisions.

Subsec. (l)(8). Pub. L. 107-147, § 416(c)(1)(A), substituted “Federal, State, and local” for “State and local” in heading.

Subsec. (l)(8)(A). Pub. L. 107-147, § 416(c)(1)(B), inserted “Federal or” before “State or local”.

Subsec. (l)(18). Pub. L. 107-210, § 202(b)(1), added par. (18).

Subsec. (p)(3)(A). Pub. L. 107-210, § 202(b)(2)(A), substituted “(17), or (18)” for “or (17)”.

Pub. L. 107-134, § 201(c)(6)(A), substituted “(8)(A)(ii)” for “(7)(A)(ii)”.

Subsec. (p)(3)(C)(i). Pub. L. 107-134, § 201(c)(6)(B), substituted “(i)(3)(B)(i) or (7)(A)(ii)” for “(i)(3)(B)(i)” in introductory provisions.

Subsec. (p)(4). Pub. L. 107-210, § 202(b)(2)(B), inserted “or (17)” after “any other person described in subsection (l)(16)” wherever appearing.

Pub. L. 107-134, § 201(c)(7)(A), in introductory provisions, substituted “(i)(1), (2), (3), (5), or (7),” for “(i)(1), (2), (3), or (5),” and “(i)(3)(B)(i) or (7)(A)(ii),” for “(i)(3)(B)(i),”.

Subsec. (p)(4)(F)(ii). Pub. L. 107-134, § 201(c)(7)(B), substituted “(i)(1), (2), (3), (5) or (7),” for “(i)(1), (2), (3), or (5),” in introductory provisions.

Subsec. (p)(6)(B)(i). Pub. L. 107-134, § 201(c)(8), substituted “(i)(8)(A)(ii)” for “(i)(7)(A)(ii)”.

2000—Subsec. (b)(2)(D). Pub. L. 106-554, § 1(a)(7) [title III, § 304(a)], added subpar. (D).

Subsec. (e)(1)(D)(v). Pub. L. 106-554, § 1(a)(7) [title III, § 319(8)(B)], amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or”.

Subsec. (j)(6). Pub. L. 106-554, § 1(a)(7) [title III, § 310(a)(1)], added par. (6).

Subsec. (k)(6). Pub. L. 106-554, § 1(a)(7) [title III, § 313(c)], substituted “certain” for “internal revenue” in heading and inserted “and an officer or employee of the Office of Treasury Inspector General for Tax Administration” after “internal revenue officer or employee” in text.

Subsec. (p)(4). Pub. L. 106-554, § 1(a)(7) [title III, §§ 310(a)(2)(A)(i), (iv), 319(17)(A)], in introductory provisions, inserted “the Congressional Budget Office,” after “General Accounting Office,” struck out second comma after “(13)”, and substituted “(7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16) shall, as a condition” for “(7), (8), (9), (12), or (15) shall, as a condition”, and in concluding provisions, inserted “or the Congressional Budget Office” after “General Accounting Office” in two places.

Subsec. (p)(4)(E). Pub. L. 106-554, § 1(a)(7) [title III, § 310(a)(2)(A)(ii)], substituted “commission, the General Accounting Office, or the Congressional Budget Office” for “commission or the General Accounting Office”.

Subsec. (p)(4)(F)(ii). Pub. L. 106-554, § 1(a)(7) [title III, §§ 310(a)(2)(A)(iii), 319(17)(B)], struck out second comma after “(14)” and substituted “the General Accounting Office, or the Congressional Budget Office,” for “or the General Accounting Office,”.

Subsec. (p)(5). Pub. L. 106-554, § 1(a)(7) [title III, § 310(a)(2)(B)], substituted “commissions, the General Accounting Office, and the Congressional Budget Office” for “commissions and the General Accounting Office”.

Subsec. (p)(6)(A). Pub. L. 106-554, § 1(a)(7) [title III, § 310(a)(2)(C)], inserted “and the Congressional Budget Office” after “commissions”.

1999—Subsec. (b)(2)(C). Pub. L. 106-170 added subpar. (C).

1998—Subsec. (d)(5). Pub. L. 105-206, § 6009(d), substituted “section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.” for “section 967 of the Taxpayer Relief Act of 1997.”

Subsec. (e)(1)(A)(ii) to (iv). Pub. L. 105-206, § 6007(f)(4), redesignated cls. (iii) and (iv) as (ii) and (iii), respectively, and struck out former cl. (ii) which read as follows: “if property transferred by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately, of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644.”

Subsec. (e)(6). Pub. L. 105-206, § 6019(c), substituted “(5), (8), or (9)” for “or (5)”.

Subsec. (f)(5). Pub. L. 105-206, § 3708(a), added par. (5).

Subsec. (h)(4)(A). Pub. L. 105-206, § 6023(22), inserted “if” before “the taxpayer is a party to”.

Subsec. (h)(5). Pub. L. 105-277, § 4002(a), redesignated par. (5), relating to Internal Revenue Service Oversight Board, as (6).

Pub. L. 105-206, § 1101(b), added par. (5), relating to Internal Revenue Service Oversight Board.

Subsec. (h)(6). Pub. L. 105-277, § 4002(a), redesignated par. (5), relating to Internal Revenue Service Oversight Board, as (6).

Subsec. (j)(5). Pub. L. 105-277, § 4006(a)(1), added par. (5).

Subsec. (k)(8), (9). Pub. L. 105-206, § 6012(b)(2), redesignated par. (8), relating to disclosure of information to administer section 6311, as (9).

Subsec. (l)(10). Pub. L. 105-206, § 3711(b), in heading substituted “subsection (c), (d), or (e) of section 6402” for “section 6402(c) or 6402(d)” and in text substituted “(c), (d), or (e)” for “(c) or (d)” wherever appearing.

Subsec. (l)(13)(D). Pub. L. 105-277, § 1006, substituted “September 30, 2003” for “September 30, 1998”.

Subsec. (l)(17). Pub. L. 105-206, § 3702(a), added par. (17).

Subsec. (p)(3)(A). Pub. L. 105-277, § 4002(h), inserted “(f)(5),” after “(c), (e),”.

Pub. L. 105-206, § 6012(b)(4), provided that section 1205(c)(3) of Pub. L. 105-34 shall be applied as if it struck “or (8)” and inserted “(8), or (9)”. See 1997 Amendment note below.

Pub. L. 105-206, § 3702(b)(1), substituted “(16), or (17)” for “or (16)”.

Subsec. (p)(4). Pub. L. 105-277, § 4006(a)(2), substituted “(j)(1), (2), or (5)” for “(j)(1) or (2)” in introductory provisions.

Pub. L. 105-206, § 3702(b)(2), substituted “, (14), or (17)” for “or (14)” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 105-277, § 4006(a)(2), substituted “(j)(1), (2), or (5)” for “(j)(1) or (2)”.

Pub. L. 105-206, § 3702(b)(3), substituted “, (15), or (17)” for “or (15)”.

1997—Subsec. (a)(3). Pub. L. 105-33, § 11024(b)(2), substituted “(6), (12), or (16)” for “(6) or (12)”.

Subsec. (d)(5). Pub. L. 105-34, § 976(c), added par. (5).

Subsec. (e)(1)(A)(iv). Pub. L. 105-34, § 1201(b)(2), struck out “or 59(j)” after “section 1(g)”.

Subsec. (h)(5), (6). Pub. L. 105-34, § 1283(a), redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: “In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.”

Subsec. (i)(7)(B)(i). Pub. L. 105-33, § 11024(b)(3), inserted “or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997,” after “(other than an agency referred to in subparagraph (A))”.

Subsec. (k)(8). Pub. L. 105-34, § 1205(c)(1), added par. (8) relating to disclosure of information to administer section 6311.

Pub. L. 105-34, § 1026(a), added par. (8) relating to levies on certain government payments.

Subsec. (l)(7)(D). Pub. L. 105-65 struck out at end “Clause (ix) shall not apply after September 30, 1998.”

Pub. L. 105-34, § 1023(a), which directed amendment of subsec. (l)(7)(D)(viii) by striking “1998” and inserting “2003”, was executed by substituting “2003” for “1998” after “Clause (viii) shall not apply after September 30,” in concluding provisions to reflect the probable intent of Congress. The word “1998” did not appear in subsec. (l)(7)(D)(viii).

Subsec. (l)(10). Pub. L. 105-33, § 5514(a)(1), repealed Pub. L. 104-193, § 110(l)(4). See 1996 Amendment notes below.

Subsec. (l)(12)(F). Pub. L. 105-33, § 4631(c)(2), struck out heading and text of subpar. (F). Text read as follows: “Subparagraphs (A) and (B) shall not apply to—

“(i) any request made after September 30, 1998, and

“(ii) any request made before such date for information relating to—

“(I) 1997 or thereafter in the case of subparagraph (A), or

“(II) 1998 or thereafter in the case of subparagraph (B).”

Subsec. (l)(16). Pub. L. 105-33, § 11024(b)(1), added par. (16).

Subsec. (p)(3)(A). Pub. L. 105-34, § 1205(c)(3), which directed the substitution of “(6), or (8)” for “or (6)” was executed by substituting “(8), or (9)” for “or (8)”. See 1998 Amendment note above.

Pub. L. 105-34, § 1026(b)(1)(A), substituted “(6), or (8)” for “or (6)”.

Pub. L. 105-33, § 11024(b)(4), substituted “(15), or (16)” for “or (15)”.

Subsec. (p)(4). Pub. L. 105-34, § 1283(b), substituted “(h)(5)” for “(h)(6)” in introductory provisions and in subpar. (F)(ii).

Pub. L. 105-34, § 1026(b)(1)(B), inserted “(k)(8),” after “(j)(1) or (2),” in introductory provisions and in subpar. (F)(ii).

Pub. L. 105-33, § 11024(b)(7)(B)–(F), substituted “to such agency, body, or commission, including an agency or any other person described in subsection (l)(16),” for “to such agency, body, or commission”, and “, (12)(B), or (16)” for “or (12)(B)”, and inserted “or any person including an agent described in subsection (l)(16),” before “this paragraph shall”, “or other person” before “(except that”, and “or any person including an agent described in subsection (l)(16),” before “any report”. Amendments were executed to provisions following subpar. (F)(iii) to reflect the probable intent of Congress, notwithstanding directory language directing amendment of “section 6103(p)(4)(F) in the matter following clause (iii)”.

Pub. L. 105-33, § 11024(b)(7)(A), which directed amendment of “section 6103(p)(4)(F) in the matter following clause (iii)” by inserting after “any such agency, body or commission” and before the words “for the General Accounting Office” the words “, including an agency or any other person described in subsection (l)(16),” was executed by making the insertion after “any such agency, body, or commission” and before “or the General Accounting Office” in concluding provisions following subpar. (F)(iii) to reflect the probable intent of Congress.

Pub. L. 105-33, § 11024(b)(5), which directed substitution of “(12), or (16), or any other person described in subsection (l)(16)” for “or (12)” in introductory provisions, could not be executed because the words “or (12)” did not appear subsequent to amendment by Pub. L. 104-168, § 1206(b)(3)(C). See 1996 Amendments note below.

Pub. L. 105-33, § 5514(a)(1), repealed Pub. L. 104-193, § 110(l)(5). See 1996 Amendments note below.

Subsec. (p)(4)(F)(i). Pub. L. 105-33, §11024(b)(6), substituted “(9), or (16), or any other person described in subsection (l)(16)” for “or (9).”

1996—Subsec. (a)(3). Pub. L. 104-193, §316(g)(4)(B)(i), substituted “paragraph (6) or (12) of subsection (l)” for “(l)(12).”

Subsec. (c). Pub. L. 104-168, §1207, substituted “request for or consent to such disclosure” for “written request for or consent to such disclosure.”

Subsec. (e)(1)(A)(iv). Pub. L. 104-188, §1704(t)(41), substituted “section 1(g) or 59(j)” for “section 1(i) or 59(j).”

Subsec. (e)(8). Pub. L. 104-168, §403(a), added par. (8).

Subsec. (e)(9). Pub. L. 104-168, §902(a), added par. (9).

Subsec. (i)(8). Pub. L. 104-168, §1206(b)(1), struck out par. (8) which read as follows:

“(8) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose returns filed under section 6050I to officers and employees of any Federal agency whose official duties require such disclosure for the administration of Federal criminal statutes not related to tax administration.”

Subsec. (l)(3)(C). Pub. L. 104-134, §31001(i)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this paragraph, the term ‘included Federal loan program’ means any program—

“(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

“(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program.”

Subsec. (l)(6)(B). Pub. L. 104-193, §316(g)(4)(A), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (l)(6)(C). Pub. L. 104-193, §316(g)(4)(B)(ii), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.”

Pub. L. 104-193, §316(g)(4)(A), redesignated subpar. (B) as (C).

Subsec. (l)(7)(D)(i). Pub. L. 104-193, §110(l)(2), formerly §110(l)(3), as renumbered by Pub. L. 105-33, §5514(a)(2), substituted “a State program funded” for “aid to families with dependent children provided under a State plan approved.”

Subsec. (l)(10). Pub. L. 104-193, §110(l)(4)(A), which directed substitution of “(c), (d), or (e)” for “(c) or (d)” wherever appearing, was repealed by Pub. L. 105-33, §5514(a)(1).

Subsec. (l)(10)(A). Pub. L. 104-134, §31001(g)(2), inserted “and to officers and employees of the Department of the Treasury in connection with such reduction” after “6402” in introductory provisions.

Subsec. (l)(10)(B). Pub. L. 104-193, §110(l)(4)(B), which directed insertion, at end, of “Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.”, was repealed by Pub. L. 105-33, §5514(a)(1).

Subsec. (l)(15). Pub. L. 104-168, §1206(a), added par. (15).

Subsec. (p)(3)(A). Pub. L. 104-168, §1206(b)(2), substituted “or (7)(A)(ii)” for “(7)(A)(ii), or (8)” and “(14), or (15)” for “or (14).”

Subsec. (p)(4). Pub. L. 104-193, §316(g)(4)(B)(iii), substituted “paragraph (6)(A) or (12)(B) of subsection (l)” for “subsection (l)(12)(B)” in provisions following subpar. (F)(iii).

Pub. L. 104-193, §110(l)(5), which directed substitution, in introductory provisions, of “(9), (10), or (12)” for “(9), or (12)” and “(5)” for “(5), (10)”, was repealed by Pub. L. 105-33, §5514(a)(1).

Pub. L. 104-168, §1206(b)(3)(B), which directed amendment of introductory provisions of par. (4) by substitut-

ing “(i)(3)(B)(i),” for “(i)(3)(B)(i), or (8)”, was executed by making the substitution for “(i)(3)(B)(i) or (8)” to reflect the probable intent of Congress.

Pub. L. 104-168, §1206(b)(3)(A), (C), substituted “or (5)” for “(5), or (8)” and “(9), (12), or (15)” for “(9), or (12)” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 104-168, §1206(b)(4), substituted “or (5)” for “(5), or (8)” and “(14), or (15)” for “or (14).”

1994—Subsec. (l)(5). Pub. L. 103-296, §311(b), substituted “for the purpose of—” for “for the purpose of”, inserted subpar. (A) designation, substituted “program; or” for “program.”, and added subpar. (B).

Pub. L. 103-296, §108(h)(6), substituted “Social Security Administration” for “Department of Health and Human Services” in heading and “Commissioner of Social Security” for “Secretary of Health and Human Services” in text.

1993—Subsec. (d)(4). Pub. L. 103-66, §1344(a), added par. (4).

Subsec. (l)(7). Pub. L. 103-66, §13403(b), inserted “, or certain housing assistance programs” after “Code” in heading.

Subsec. (l)(7)(D). Pub. L. 103-66, §§13401(a), 13403(a)(4), in closing provisions, substituted “September 30, 1998” for “September 30, 1997” in second sentence and inserted at end “Clause (ix) shall not apply after September 30, 1998.”

Subsec. (l)(7)(D)(ix). Pub. L. 103-66, §13403(a)(1)–(3), added cl. (ix).

Subsec. (l)(12)(B)(i). Pub. L. 103-66, §13561(a)(2)(A), inserted “, above an amount (if any) specified by the Secretary of Health and Human Services,” after “section 3401(a).”

Subsec. (l)(12)(B)(ii). Pub. L. 103-66, §13561(a)(2)(B), inserted “, above an amount (if any) specified by the Secretary of Health and Human Services,” after “wages”.

Subsec. (l)(12)(E)(ii). Pub. L. 103-66, §13561(e)(2)(B), amended heading and text of cl. (ii) generally. Prior to amendment, text read as follows: “The term ‘group health plan’ means—

“(I) any group health plan (as defined in section 5000(b)(1)), and

“(II) any large group health plan (as defined in section 5000(b)(2)).”

Subsec. (l)(12)(F)(i). Pub. L. 103-66, §13561(a)(2)(C)(i), substituted “1998” for “1995”.

Subsec. (l)(12)(F)(ii)(I). Pub. L. 103-66, §13561(a)(2)(C)(ii), substituted “1997” for “1994”.

Subsec. (l)(12)(F)(ii)(II). Pub. L. 103-66, §13561(a)(2)(C)(iii), substituted “1998” for “1995”.

Subsec. (l)(13). Pub. L. 103-66, §13402(a), added par. (13).

Subsec. (l)(14). Pub. L. 103-182, §522(a), added par. (14).

Subsec. (m)(4). Pub. L. 103-66, §13402(b)(1), amended par. heading generally, substituting “Individuals who owe an overpayment of Federal Pell grants or who have defaulted on student loans administered by the Department of Education” for “Individuals who have defaulted on student loans administered by the Department of Education”.

Subsec. (m)(4)(A). Pub. L. 103-66, §13402(b)(1), amended heading and text subpar. (A) generally. Prior to amendment, text read as follows: “Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

“(i) made under part B or E of title IV of the Higher Education Act of 1965, or

“(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education, for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.”

Subsec. (m)(4)(B)(i). Pub. L. 103-66, §13402(b)(2)(A), substituted “under part B or D” for “under part B”.

Subsec. (m)(4)(B)(ii). Pub. L. 103-66, §13402(b)(2)(B), substituted “under subpart 1 of part A, or part D or E, of title IV” for “under part E of title IV”.

Subsec. (p)(3)(A). Pub. L. 103-182, § 522(b), substituted “(13), or (14)” for “or (13)”.

Pub. L. 103-66, § 13402(b)(3)(A), substituted “(11), (12), or (13), (m)” for “(11), or (12), (m)”.

Subsec. (p)(4). Pub. L. 103-182, § 522(b), substituted “(13), or (14)” for “or (13)” in introductory provisions.

Pub. L. 103-66, § 13402(b)(3)(B)(i), substituted “(10), (11), or (13),” for “(10), or (11),” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 103-182, § 522(b), substituted “(13), or (14)” for “or (13)”.

Pub. L. 103-66, § 13402(b)(3)(B)(ii), substituted “(11), (12), or (13),” for “(11), or (12),”.

1992—Subsec. (l)(7)(D). Pub. L. 102-568, § 602(b)(1), substituted “September 30, 1997” for “September 30, 1992” in concluding provisions.

Subsec. (l)(7)(D)(vii)(II), (III). Pub. L. 102-568, § 602(b)(2), substituted “1315” for “415” in subcl. (II) and “sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)” for “section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)” in subcl. (III).

1990—Subsec. (e)(1)(A)(iv). Pub. L. 101-508, § 11101(d)(6), which directed the substitution of “section 1(g)” for “section 1(j)”, could not be executed because “section 1(j)” did not appear in text after amendment by Pub. L. 100-647, § 1014(e)(4). See 1988 Amendment note below.

Subsec. (k)(7). Pub. L. 101-508, § 11212(b)(3), added par. (7).

Subsec. (l)(7). Pub. L. 101-508, § 8051(a), substituted “, the Food Stamp Act of 1977, or title 38, United States Code” for “or the Food Stamp Act of 1977” in heading and added cl. (viii) and concluding provisions at end of subpar. (D).

Subsec. (l)(12)(F). Pub. L. 101-508, § 4203(a)(2), substituted “September 30, 1995” for “September 30, 1991” in cl. (i), “1994” for “1990” in cl. (ii)(I), and “1995” for “1991” in cl. (ii)(II).

Subsec. (m)(7). Pub. L. 101-508, § 5111(b)(1), added par. (7).

Subsec. (n). Pub. L. 101-508, § 11313(a), substituted “the programming” for “and the programming” and inserted “and the providing of other services.”

Subsec. (p)(4). Pub. L. 101-508, § 5111(b)(2), which directed the substitution of “paragraph (2), (4), (6), or (7) of subsection (m)” for “subsection (m)(2), (4), or (6)” in the provisions of par. (4) “following subparagraph (f)(iii)”, was executed by making the substitution in the provisions following subpar. (F)(iii), to reflect the probable intent of Congress.

1989—Subsec. (a)(3). Pub. L. 101-239, § 6202(a)(1)(B)(i), inserted “(l)(12),” after “subsection (e)(1)(D)(iii),”.

Subsec. (d)(1). Pub. L. 101-239, § 7841(d)(1), struck out “45,” after “32, 44,”.

Subsec. (l)(12). Pub. L. 101-239, § 6202(a)(1)(A), added par. (12).

Subsec. (p)(3)(A). Pub. L. 101-239, § 6202(a)(1)(B)(ii), substituted “(11), or (12)” for “or (11)”.

Subsec. (p)(4). Pub. L. 101-239, § 6202(a)(1)(B)(v), inserted “or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent” after “address to any agency” in penultimate sentence.

Pub. L. 101-239, § 6202(a)(1)(B)(iii), substituted “(9), or (12) shall” for “or (9) shall” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 101-239, § 6202(a)(1)(B)(iv), substituted “(11), or (12)” for “or (11)”.

1988—Subsec. (b)(5)(A). Pub. L. 100-647, § 1012(bb)(3)(B), substituted “and the Commonwealth of the Northern Mariana Islands” for “the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau”.

Subsec. (b)(5)(B)(i). Pub. L. 100-647, § 6251, substituted “250,000” for “2,000,000”.

Subsec. (d). Pub. L. 100-690, § 7602(d)(2), amended subsec. (d) heading generally, inserting “and State and local law enforcement agencies” after “officials”.

Subsec. (d)(3). Pub. L. 100-690, § 7602(c), added par. (3).

Subsec. (e)(1)(A)(iv). Pub. L. 100-647, § 1014(e)(4), substituted “section 1(i) or 59(j)” for “section 1(j)”.

Subsec. (i)(8). Pub. L. 100-690, § 7601(b)(1), added par. (8).

Subsec. (k)(4). Pub. L. 100-647, § 1012(bb)(3)(A), substituted “or other convention or bilateral agreement” and “such convention or bilateral agreement” for “or other convention” and “such convention”, respectively.

Subsec. (l)(10). Pub. L. 100-485, § 701(b)(1), amended par. (10) generally. Prior to amendment, par. (10) read as follows:

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

“(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

“(ii) the amount of such reduction; and

“(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

“(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).”

Subsec. (l)(11), (12). Pub. L. 100-485, § 701(b)(2)(A), redesignated former par. (12) as (11) and struck out former par. (11) which related to disclosure of certain information to State agencies seeking a reduction under section 6402(c) and restricted use of that information.

Subsec. (m)(6). Pub. L. 100-647, § 8008(c)(1), added par. (6).

Subsec. (p)(3)(A). Pub. L. 100-690, § 7601(b)(2)(A), substituted “, (7)(A)(ii), or (8)” for “or (7)(A)(ii)”.

Pub. L. 100-485, § 701(b)(2)(B), substituted “(10), or (11)” for “(10), (11), or (12)”.

Subsec. (p)(4). Pub. L. 100-690, § 7601(b)(2)(B), in introductory provisions substituted “(5), or (8)” for “or (5)” and “(i)(3)(B)(i) or (8)” for “(i)(3)(B)(i),”.

Pub. L. 100-647, § 8008(c)(2)(A)(ii), (iii), in concluding provisions substituted “(m)(2), (4), or (6)” for “(m)(2) or (4)” and inserted at end “For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term ‘return information’ includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).”

Pub. L. 100-485, § 701(b)(2)(B), substituted “(10), or (11)” for “(10), (11), or (12)” in introductory provisions.

Subsec. (p)(4)(F)(i). Pub. L. 100-647, § 8008(c)(2)(A)(i)(I), substituted “manner,” for “manner; and”.

Subsec. (p)(4)(F)(ii). Pub. L. 100-690, § 7601(b)(2)(C), substituted “(5), or (8)” for “or (5)”.

Pub. L. 100-485, § 701(b)(2)(B), substituted “(10), or (11)” for “(10), (11), or (12)”.

Subsec. (p)(4)(F)(iii). Pub. L. 100-647, § 8008(c)(2)(A)(i), added cl. (iii).

1986—Subsec. (b)(5). Pub. L. 99-514, § 1568(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “The term ‘State’ means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.”

Subsec. (b)(10). Pub. L. 99-514, § 1568(a)(2), added par. (10).

Subsec. (e)(1)(A)(iv). Pub. L. 99-514, § 1411(b), added cl. (iv).

Subsec. (l)(7)(D)(v). Pub. L. 99-514, § 1899A(53), substituted “this title” for “this Code”.

Subsec. (l)(12). Pub. L. 99-335, § 310(a), added par. (12).

Subsec. (p)(3)(A). Pub. L. 99-335, § 310(b)(1), substituted “(10), (11), or (12)” for “(10), or (11)”.

Subsec. (p)(4). Pub. L. 99-335, § 310(b)(2), substituted “(10), (11), or (12)” for “(10), or (11)” in provisions preceding subpar. (A) and in subpar. (F)(ii).

Subsec. (p)(5). Pub. L. 99-386 substituted “year” for “quarter”.

1985—Subsec. (m)(4). Pub. L. 99-92, §8(h)(1), inserted “administered by the Department of Education” in heading.

Subsec. (m)(5). Pub. L. 99-92, §8(h)(2), added par. (5).
1984—Subsec. (a)(2). Pub. L. 98-369, §2651(k)(2), substituted “, any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D)” for “or of any local child support enforcement agency”.

Subsec. (d)(1). Pub. L. 98-369, §449(a), substituted “44, 45, 51” for “44, 51”.

Subsec. (l)(5). Pub. L. 98-369, §2663(j)(5)(E), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” in heading and text.

Subsec. (l)(6)(A)(i). Pub. L. 98-378, §19(b)(1), inserted “social security account number (or numbers, if the individual involved has more than one such number).”.

Subsec. (l)(7). Pub. L. 98-369, §2651(k)(1), substituted provisions relating to information disclosure to Federal, State and local agencies administering programs under the Social Security Act or the Food Stamp Act of 1977 for former provisions which related to information disclosure by the Social Security Administration to the Department of Agriculture and State food stamp agencies.

Pub. L. 98-369, §453(b)(5), amended directory language of Pub. L. 96-249, §127(a)(1). See 1980 Amendment note below.

Subsec. (l)(8). Pub. L. 98-369, §453(b)(6), directed that the par. (7) added by Pub. L. 96-265 be redesignated as par. (8). See 1980 Amendment note below.

Subsec. (l)(8)(A). Pub. L. 98-378, §19(b)(2), substituted “social security account numbers, net earnings” for “net earnings”.

Subsec. (l)(9). Pub. L. 98-369, §453(a), added par. (9).

Subsec. (l)(10). Pub. L. 98-369, §2653(b)(3)(A), added par. (10).

Subsec. (l)(11). Pub. L. 98-378, §21(f)(1), added par. (11).

Subsec. (p)(3)(A). Pub. L. 98-378, §21(f)(2), substituted “(10), or (11)” for “or (10)”.

Pub. L. 98-369, §2653(b)(3)(B)(i), substituted “(9), or (10)” for “or (9)”.

Pub. L. 98-369, §453(b)(1), which directed that “(5), (7), (8), or (9)” be substituted for “(5), or (7)”, was executed by substituting “(5), (7), (8), or (9)” for “(5), (7), or (8)” to reflect the probable intent of Congress.

Subsec. (p)(4). Pub. L. 98-378, §21(f)(3), substituted “(10), or (11)” for “or (10)” in provisions preceding subpar. (A).

Pub. L. 98-369, §2653(b)(3)(B)(ii), substituted “(l)(1), (2), (3), (5), or (10)” for “(l)(1), (2), (3), or (5)” in provisions preceding subpar. (A).

Pub. L. 98-369, §453(b)(2), which directed that “(7), (8), or (9)” be substituted for “or (7)” in provisions preceding subpar. (A), was executed by substituting “(7), (8), or (9)” for “(7), or (8)” to reflect the probable intent of Congress.

Subsec. (p)(4)(F)(i). Pub. L. 98-369, §453(b)(3), which directed that “(l)(6), (7), (8), or (9)” be substituted for “(l)(6) or (7)”, was executed by substituting “(l)(6), (7), (8), or (9)” for “(l)(6), (7), or (8)” to reflect the probable intent of Congress.

Subsec. (p)(4)(F)(ii). Pub. L. 98-378, §21(f)(4), substituted “(10), or (11)” for “or (10)”.

Pub. L. 98-369, §2653(b)(3)(B)(iii), substituted “(l)(1), (2), (3), (5), or (10)” for “(l)(1), (2), (3), or (5)”.

1983—Subsec. (h)(6). Pub. L. 98-21, §121(c)(3)(A), added par. (6).

Subsec. (m)(2). Pub. L. 97-452 substituted “sections 3711, 3717, and 3718 of title 31” for “section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)”, wherever appearing.

Subsec. (p)(4). Pub. L. 98-21, §121(c)(3)(B), inserted “(h)(6),” after “(h)(2),” in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 98-21, §121(c)(3)(B), inserted “(h)(6),” after “(h)(2),”.

1982—Subsec. (a)(3). Pub. L. 97-365, §8(c)(1), substituted “paragraph (2) or (4)(B) of subsection (m)” for “subsection (m)(4)(B)”.

Subsec. (i)(1) to (5). Pub. L. 97-248, §356(a), added pars. (1) to (5). Former pars. (1) to (5) were struck out.

Subsec. (i)(6). Pub. L. 97-248, §356(a), added par. (6). Former par. (6) redesignated (7).

Subsec. (i)(7). Pub. L. 97-258, §3(f)(4), substituted “section 713 of title 31, United States Code” for “section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67)” in subpar. (A)(i). Notwithstanding the directory language that amendment be made to subsec. (i)(6), the amendment was executed to subsec. (i)(7) to reflect the probable intent of Congress and the intervening redesignation of subsec. (i)(6) as (i)(7) by Pub. L. 97-248.

Pub. L. 97-248, §§356(a), 358(a), (b), redesignated former par. (6) as (7) and, in par. (7) as so redesignated, substituted “subparagraph (C)” for “subparagraph (B)” in subpar. (A), added subpar. (B), redesignated former subpar. (B) as (C), and in subpar. (C) as so redesignated substituted “subparagraph (A) or (B)” for “subparagraph (A)”.

Subsec. (l)(3). Pub. L. 97-365, §7(a), substituted provisions relating to the disclosure to heads of Federal agencies administering Federal loan programs whether or not an applicant for a loan under such program has a tax delinquent account, for provisions which related to disclosure of returns and return information to Privacy Protection Study Commission.

Subsec. (l)(4)(A)(ii). Pub. L. 97-258, §3(f)(5), substituted “section 330 of title 31, United States Code” for “section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026)”.

Subsec. (m)(2). Pub. L. 97-365, §8(a), designated existing provisions as subpar. (A), inserted reference to exception provided by subpar. (B) and substituted “disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer” for “disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding)”, and added subpar. (B).

Pub. L. 97-258, §3(f)(6), substituted “section 3711 of title 31, United States Code” for “section 3 of the Federal Claims Collection Act of 1966”.

Subsec. (p)(3)(A). Pub. L. 97-248, §356(b)(1)(A), substituted “(7)(A)(ii)” for “(6)(A)(ii)”.

Subsec. (p)(3)(C)(i). Pub. L. 97-365, §7(b)(1), substituted “(l)(6)” for “(l)(3) or (6)”.

Pub. L. 97-248, §356(b)(1)(B), inserted “, (i)(3)(B)(i),” after “described in subsection (d)”.

Subsec. (p)(3)(C)(i)(II). Pub. L. 97-248, §356(b)(1)(C), inserted “or otherwise” after “such requests”.

Subsec. (p)(4). Pub. L. 97-365, §7(b)(2), substituted “(l)(1), (2), (3),” for “(l)(1), (2),” and “(l)(6),” for “(l)(3), (6),” in introductory provisions, and in subpar. (F)(ii) substituted “(l)(1), (2), (3), or (5), or (o)(1),” for “(l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3)”.

Pub. L. 97-365, §8(b), inserted last sentence providing that in the case of any agency which receives any mailing address under subsection (m)(2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency).

Pub. L. 97-248, §356(b)(1)(D), (E), substituted “(i)(1), (2), (3), or (5)” for “(i)(1), (2), or (5)” wherever appearing, and inserted “, (i)(3)(B)(i),” after “(d)” wherever appearing.

Subsec. (p)(6)(B)(i). Pub. L. 97-248, §356(b)(1)(F), substituted “subsection (i)(7)(A)(ii)” for “subsection (i)(6)(A)(ii)”.

1981—Subsec. (b)(2). Pub. L. 97-34 inserted prohibition against disclosure of methods for selection of tax returns for audit.

1980—Subsec. (d). Pub. L. 96-598 designated existing provision as par. (1), inserted heading “In general” and

in text substituted “to receive the returns” for “to receive the return”, and added par. (2).

Subsec. (e)(4). Pub. L. 96-589, §3(c)(1), added par. (4). Former par. (4), relating to public inspection of returns of persons whose property was in the hands of a trustee in bankruptcy or receiver, was struck out.

Subsec. (e)(5). Pub. L. 96-589, §3(c)(1), added par. (5). Former par. (5) redesignated (6).

Subsec. (e)(6). Pub. L. 96-589, §3(c)(1), (2), redesignated former par. (5) as (6), and in par. (6) as so redesignated, inserted reference to par. (5). Former par. (6) redesignated (7).

Subsec. (e)(7). Pub. L. 96-589, §3(c)(1), redesignated former par. (6) as (7).

Subsec. (l)(7). Pub. L. 96-249, §127(a)(1), as amended by Pub. L. 96-611, §11(a)(1), and Pub. L. 98-369, §453(b)(5), added par. (7). Paragraph as originally enacted by Pub. L. 96-249 was designated subsec. (i)(7), but was redesignated subsec. (l)(7) through amendment by Pub. L. 96-611 and Pub. L. 98-369.

Subsec. (l)(8). Pub. L. 96-265, §408(a)(1), as amended by Pub. L. 96-611, §11(a)(2)(A), added par. (8). Paragraph as originally enacted by Pub. L. 96-265 was designated (7), but was redesignated (8) through the amendment by Pub. L. 96-611.

Subsec. (m)(4)(A). Pub. L. 96-499 substituted references to Secretary of Education for references to Commissioner of Education, designated existing provisions in part as cl. (i) and, as so designated, inserted reference to part B of title IV of the Higher Education Act of 1965, added cl. (ii), and provided that such disclosures were for use only by officers, employees, or agents of the Department of Education.

Subsec. (m)(4)(B). Pub. L. 96-499 substituted references to Secretary of Education for references to Commissioner of Education, designated existing provisions in part as cl. (ii), and added cl. (i).

Subsec. (p)(3)(A). Pub. L. 96-265, §408(a)(2)(A), as amended by Pub. L. 96-611, §11(a)(2)(B)(i), substituted “(l)(1), (4)(B), (5), (7), or (8)” for “(l)(1), (4)(B), (5), or (7)”. Section 408(a)(2)(A) of Pub. L. 96-265 was amended by Pub. L. 96-611 to reflect the redesignations of subsec. (l)(7) and (8) by Pub. L. 96-611.

Pub. L. 96-249, §127(a)(2)(A), substituted “(l)(1), (4)(B), (5), or (7)” for “(l)(1) or (4)(B) or (5)”.

Subsec. (p)(4). Pub. L. 96-265, §408(a)(2)(B), as amended by Pub. L. 96-611, §11(a)(2)(B)(ii), substituted “(l)(3), (6), (7), or (8)” for “(l)(3), (6), or (7)” in introductory provisions. Section 408(a)(2)(B) of Pub. L. 96-265 was amended by Pub. L. 96-611 to reflect the redesignations of subsec. (l)(7) and (8) by Pub. L. 96-611.

Pub. L. 96-249, §127(a)(2)(B), substituted “(l)(3), (6), or (7)” for “(l)(3) or (6)” in provisions preceding subpar. (A).

Subsec. (p)(4)(F)(i). Pub. L. 96-265, §408(a)(2)(C), as amended by Pub. L. 96-611, §11(a)(2)(B)(iii), substituted “(l)(6), (7), or (8)” for “(l)(6) or (7)”. Section 408(a)(2)(C) of Pub. L. 96-265 was amended by Pub. L. 96-611 to reflect the redesignations of subsec. (l)(7) and (8) by Pub. L. 96-611.

Pub. L. 96-249, §127(a)(2)(C), substituted “(l)(6) or (7)” for “(l)(6)”.

1978—Subsec. (a)(3). Pub. L. 95-600, §701(bb)(1)(B), inserted “, subsection (m)(4)(B),” after “subsection (e)(1)(D)(iii)”.

Subsec. (d). Pub. L. 95-600, §701(bb)(2), inserted “31,” after “21, 23, 24,”.

Subsec. (h)(2). Pub. L. 95-600, §503(a), substituted “In a matter involving tax administration, a” for “A”, “officers and employees” for “attorneys” after “open to inspection by or disclosure to”, inserted “any proceeding before a Federal grand jury or” after “for their use in”, and struck out “in a matter involving tax administration” after “or any Federal or State court”.

Subsec. (h)(2)(A). Pub. L. 95-600, §503(b)(1), substituted “the proceeding” for “such proceeding” and inserted “or the proceeding arose out of, or in connection with, determining the taxpayer’s civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title”.

Subsec. (h)(4)(A). Pub. L. 95-600, §503(b)(2), substituted “the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer’s civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title” for “if the taxpayer is a party to such proceeding”.

Subsec. (i)(2), (3). Pub. L. 95-600, §701(bb)(3), (4), inserted provisions relating to name and address of taxpayer not being treated as return information.

Subsec. (k)(4). Pub. L. 95-600, §701(bb)(5), struck out reference to income tax in heading and inserted provisions relating to gift and estate tax and exchange of tax information.

Subsec. (m). Pub. L. 95-600, §701(bb)(1)(A), reenacted pars. (1) to (3) without change and added par. (4).

1977—Subsec. (m). Pub. L. 95-210 changed the statement in the existing provisions describing the Secretary’s authority by substituting provisions that the Secretary “may disclose” for provisions under which the Secretary was “authorized to disclose”, inserted headings at beginning of existing pars. (1) and (2), and added par. (3).

1976—Pub. L. 94-455 among other changes, substituted provisions treating income tax returns as public records and allowing inspection only under regulation approved by the President except in certain enumerated situations for provisions treating return information as confidential and not subject to disclosure except in limited situations and inserted provisions defining “return” and “return information” and provisions prohibiting tax information from being furnished by the Internal Revenue Service to another agency unless the other agency establishes procedures for safeguarding the information it receives.

Subsec. (g). Pub. L. 94-202 added subsec. (g) relating to disclosure of information to Secretary of Health, Education, and Welfare.

1974—Subsec. (g). Pub. L. 93-406 added subsec. (g) relating to disclosure of information with respect to deferred compensation plans.

1966—Pub. L. 89-713 substituted “disclosure of information as to persons filing income tax returns” for “lists of taxpayers” in section catchline and, in subsec. (f), substituted provisions authorizing the furnishing to an inquirer of the information as to whether or not a person has filed an income tax return in a designated internal revenue district for a particular taxable year for provisions directing the preparation of lists containing the name and post-office address of each person making an income tax return in an internal revenue district to be made available for public inspection in the office of the principal internal revenue officer for the internal revenue district in which the return was filed.

1965—Subsec. (a)(2). Pub. L. 89-44 substituted “B and C” for “B, C, and D”.

1964—Subsec. (a)(2). Pub. L. 88-563 inserted reference to chapter 41.

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” wherever appearing in subsec. (i) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-184, §2(c), June 30, 2016, 130 Stat. 537, provided that: “The amendments made by this section [amending this section and section 7213 of this title] shall apply to disclosures made after the date of the enactment of this Act [June 30, 2016].”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §403(b), Dec. 18, 2015, 129 Stat. 3118, provided that: “The amendment made by this section [amending this section] shall apply to disclosures made on or after the date of the enactment of this Act [Dec. 18, 2015].”

Pub. L. 114-94, div. C, title XXXII, §32102(g)(3), Dec. 4, 2015, 129 Stat. 1736, provided that: “The amendment made by subsection (d) [amending this section] shall apply to disclosures made after the date of the enactment of this Act [Dec. 4, 2015].”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title II, §209(c), Jan. 2, 2013, 126 Stat. 2326, provided that: “The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Jan. 2, 2013].”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-198, §4(e), July 2, 2010, 124 Stat. 1357, provided that: “The amendments made by this section [amending this section] shall apply to disclosures made after the date of the enactment of this Act [July 2, 2010].”

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-3 effective Apr. 1, 2009, 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.

Pub. L. 111-3, title VII, §702(f)(3), Feb. 4, 2009, 123 Stat. 111, provided that: “The amendments made by this subsection [amending this section] shall apply on or after the date of the enactment of this Act [Feb. 4, 2009].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-428, §2(d), Oct. 15, 2008, 122 Stat. 4840, provided that: “The amendments made by this section [amending this section and section 7803 of this title] shall apply to disclosures made after December 31, 2008.”

Pub. L. 110-343, div. C, title IV, §402(c), Oct. 3, 2008, 122 Stat. 3876, provided that: “The amendments made by this section [amending this section] shall apply to disclosures after the date of the enactment of this Act [Oct. 3, 2008].”

Amendment by Pub. L. 110-328 applicable to refunds payable under section 6402 of this title on or after Sept. 30, 2008, see section 3(e) of Pub. L. 110-328, set out as a note under section 3304 of this title.

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 a note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (H), (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.

Pub. L. 110-245, title I, §108(c), June 17, 2008, 122 Stat. 1631, provided that: “The amendment made by subsection (a) [amending this section] shall apply to requests made after September 30, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-142, §8(c)(2), Dec. 20, 2007, 121 Stat. 1807, provided that: “The amendment made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2007].”

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

Pub. L. 109-432, div. A, title I, §122(a)(2), Dec. 20, 2006, 120 Stat. 2944, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to disclosures after December 31, 2006.”

Pub. L. 109-432, div. A, title I, §122(b)(2), Dec. 20, 2006, 120 Stat. 2944, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to disclosures after December 31, 2006.”

Pub. L. 109-432, div. A, title I, §122(c)(2), Dec. 20, 2006, 120 Stat. 2944, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to requests made after December 31, 2006.”

Pub. L. 109-432, div. A, title IV, §421(c), Dec. 20, 2006, 120 Stat. 2972, provided that: “The amendments made by this section [amending this section] shall apply to disclosures made after December 31, 2006.”

Pub. L. 109-280, title XII, §1224(c), Aug. 17, 2006, 120 Stat. 1093, provided that: “The amendments made by this section [amending this section and sections 6104, 7213, 7213A, and 7431 of this title] shall take effect on the date of the enactment of this Act [Aug. 17, 2006] but shall not apply to requests made before such date.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title III, §305(a)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to disclosures after December 31, 2005.”

Pub. L. 109-135, title III, §305(b)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to disclosures after December 31, 2005.”

Pub. L. 109-135, title III, §305(c)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to requests made after December 31, 2005.”

Pub. L. 109-135, title IV, §406(b), Dec. 21, 2005, 119 Stat. 2634, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001 [Pub. L. 107-134].”

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by Pub. L. 108-357 applicable to disclosures of return or return information with respect to taxable years beginning after Dec. 31, 2004, see section 413(d)(2) 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. 108-311, title III, §311(b), Oct. 4, 2004, 118 Stat. 1181, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 4, 2004].”

Pub. L. 108-311, title III, §320(c), Oct. 4, 2004, 118 Stat. 1182, provided that:

“(1) IN GENERAL.—The amendments made by subsection (a) [amending this section] shall apply to disclosures on or after the date of the enactment of this Act [Oct. 4, 2004].

“(2) SUBSECTION (b).—The amendment made by subsection (b) [amending this section] shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001 [Pub. L. 107-134].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-89, title II, §201(b), Oct. 1, 2003, 117 Stat. 1132, provided that: “The amendment made by subsection (a) [amending this section] shall apply to requests made after September 30, 2003.”

EFFECTIVE DATE OF 2002 AMENDMENTS

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.

Pub. L. 107-147, title IV, §416(c)(2), Mar. 9, 2002, 116 Stat. 55, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Mar. 9, 2002].”

Pub. L. 107-134, title II, §201(d), Jan. 23, 2002, 115 Stat. 2444, provided that: “The amendments made by this section [amending this section and sections 6105 and 7213 of this title] shall apply to disclosures made on or after the date of the enactment of this Act [Jan. 23, 2002].”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(a)(7) [title III, §304(a)] of Pub. L. 106-554 effective Dec. 21, 2000, see section 1(a)(7)

[title III, §304(d)] of Pub. L. 106-554, set out as a note under section 6110 of this title.

Amendment by section 1(a)(7) [title III, §313(c)] of Pub. L. 106-554 effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, to which such amendment relates, see section 1(a)(7) [title III, §313(f)] of Pub. L. 106-554, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §521(a)(3), Dec. 17, 1999, 113 Stat. 925, provided that: "The amendments made by this subsection [amending this section and section 6110 of this title] shall take effect on the date of the enactment of this Act [Dec. 17, 1999]."

EFFECTIVE DATE OF 1998 AMENDMENTS

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

Pub. L. 105-277, div. J, title IV, §4006(a)(3), Oct. 21, 1998, 112 Stat. 2681-912, provided that: "The amendments made by this subsection [amending this section] shall apply to requests made on or after the date of the enactment of this Act [Oct. 21, 1998]."

Amendment by section 1101(b) of Pub. L. 105-206 effective July 22, 1998, see section 1101(d) of Pub. L. 105-206, set out as a note under section 7802 of this title.

Pub. L. 105-206, title III, §3702(c), July 22, 1998, 112 Stat. 777, provided that: "The amendments made by this section [amending this section] shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act [July 22, 1998]."

Pub. L. 105-206, title III, §3708(b), July 22, 1998, 112 Stat. 779, provided that: "The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

Pub. L. 105-206, title III, §3711(d), July 22, 1998, 112 Stat. 781, provided that: "The amendments made by this section [amending this section and section 6402 of this title] (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1999."

Pub. L. 105-206, title VI, §6019(d), July 22, 1998, 112 Stat. 823, provided that: "The amendments made by this section [amending this section and section 6104 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998]."

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

Amendment by sections 6007(f)(4), 6009(d), and 6012(b)(2), (4) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Pub. L. 105-34, title X, §1023(b), Aug. 5, 1997, 111 Stat. 923, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997]."

Pub. L. 105-34, title X, §1026(c), Aug. 5, 1997, 111 Stat. 925, provided that: "The amendments made by this section [amending this section and section 552a of Title 5, Government Organization and Employees] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997]."

Amendment by section 1201(b)(2) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 1201(c) of Pub. L. 105-34, set out as a note under section 59 of this title.

Pub. L. 105-34, title XII, §1205(d), Aug. 5, 1997, 111 Stat. 998, provided that: "The amendments made by

this section [amending this section and sections 6311 and 7431 of this title] shall take effect on the day 9 months after the date of the enactment of this Act [Aug. 5, 1997]."

Pub. L. 105-34, title XII, §1283(c), Aug. 5, 1997, 111 Stat. 1038, provided that: "The amendments made by this section [amending this section] shall apply to judicial proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997]."

Amendment by section 5514(a)(1), (2) of Pub. L. 105-33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105-33, set out as a note under section 51 of this title.

Amendment by section 11024(b)(1)-(7) of Pub. L. 105-33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105-33, see section 11721 of Pub. L. 105-33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 110(l)(2), (4), (5) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

For effective date of amendment by section 316(g)(4) of Pub. L. 104-193, see section 395(a)-(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42.

Pub. L. 104-168, title IV, §403(b), July 30, 1996, 110 Stat. 1460, provided that: "The amendment made by this section [amending this section] shall apply to requests made after the date of the enactment of this Act [July 30, 1996]."

Pub. L. 104-168, title IX, §902(b), July 30, 1996, 110 Stat. 1466, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996]."

Pub. L. 104-168, title XII, §1206(c), July 30, 1996, 110 Stat. 1473, provided that: "The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(h)(6) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

Pub. L. 103-296, title III, §311(c), Aug. 15, 1994, 108 Stat. 1526, provided that: "The amendments made by this section [amending this section and section 1306 of Title 42, The Public Health and Welfare] shall apply with respect to requests for information made after the date of the enactment of this Act [Aug. 15, 1994]."

EFFECTIVE DATE OF 1993 AMENDMENTS

Pub. L. 103-182, title V, §522(c)(1), Dec. 8, 1993, 107 Stat. 2161, provided that: "The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994]."

Pub. L. 103-66, title XIII, §13401(b), Aug. 10, 1993, 107 Stat. 563, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Pub. L. 103-66, title XIII, §13402(c), Aug. 10, 1993, 107 Stat. 565, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Pub. L. 103-66, title XIII, §13403(c), Aug. 10, 1993, 107 Stat. 565, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Pub. L. 103-66, title XIII, §13444(b), Aug. 10, 1993, 107 Stat. 570, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect on the date one year after the date of the enactment of this Act [Aug. 10, 1993]."

"(2) SPECIAL RULE.—The amendment made by subsection (a) shall take effect on the date 2 years after the date of the enactment of this Act in the case of any State if it is established to the satisfaction of the Secretary of the Treasury that—

"(A) under the law of such State as in effect on the date of the enactment of this Act, it is impossible for such State to enter into an agreement meeting the requirements of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)), and

"(B) it is likely that such State will enter into such an agreement during the extension period under this paragraph."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title IV, §4203(d), Nov. 5, 1990, 104 Stat. 1388-108, as amended by Pub. L. 103-432, title I, §151(c)(8), Oct. 31, 1994, 108 Stat. 4436, provided that: "The amendments made [by] this section [amending this section and section 1395y of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] and the amendment made by subsection (a)(2)(B) [amending this section] shall apply to requests made on or after such date."

[Pub. L. 103-432, title I, §151(c)(8), Oct. 31, 1994, 108 Stat. 4436, provided that the amendment made by that section to section 4203(d) of Pub. L. 101-508, set out above, is effective as if included in the enactment of Pub. L. 101-508.]

Amendment by section 11101(d)(6) of Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

Amendment by section 11212(b)(3) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

Pub. L. 101-508, title XI, §11313(b), Nov. 5, 1990, 104 Stat. 1388-455, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, §6202(a)(1)(D), Dec. 19, 1989, 103 Stat. 2228, provided that: "The amendments made by this paragraph [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989]."

EFFECTIVE DATE OF 1988 AMENDMENTS

Pub. L. 100-690, title VII, §7601(b)(3), Nov. 18, 1988, 102 Stat. 4504, as amended by Pub. L. 101-647, title XXXIII, §3302(a), Nov. 29, 1990, 104 Stat. 4917, provided that: "The amendments made by this subsection [amending this section] shall apply to requests made on or after the date of the enactment of this Act [Nov. 18, 1988], but disclosures may be made pursuant to such amendments only during the 4-year period beginning on such date."

Pub. L. 100-690, title VII, §7602(e), Nov. 18, 1988, 102 Stat. 4508, provided that: "The amendments made by this section [enacting section 7624 of this title and amending this section and section 7809 of this title] shall apply to information first provided more than 90 days after the date of the enactment of this Act [Nov. 18, 1988]."

Pub. L. 100-647, title I, §1012(bb)(3)(C), Nov. 10, 1988, 102 Stat. 3534, provided that: "The amendments made by this paragraph [amending this section] shall take effect on the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986]."

Amendment by section 1014(e)(4) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-485, title VII, §701(b)(3), Oct. 13, 1988, 102 Stat. 2426, provided that:

"(A) IN GENERAL.—The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Oct. 13, 1988]."

"(B) SPECIAL RULE.—Nothing in section 2653(c) of the Deficit Reduction Act of 1984 [Pub. L. 98-369, 26 U.S.C. 6402 note] shall be construed to limit the application of paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (as amended by this subsection)."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1411(b) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1411(c) of Pub. L. 99-514, set out as a note under section 1 of this title.

Pub. L. 99-514, title XV, §1568(b), Oct. 22, 1986, 100 Stat. 2764, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986]."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-92 effective Oct. 1, 1985, see section 10(a) of Pub. L. 99-92, set out as a note under section 296k of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1984 AMENDMENTS

Pub. L. 98-378, §21(g), Aug. 16, 1984, 98 Stat. 1326, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section, sections 6402 and 7213 of this title, and sections 654 and 664 of Title 42, The Public Health and Welfare] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985."

Pub. L. 98-369, div. A, title IV, §449(b), July 18, 1984, 98 Stat. 818, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984]."

Amendment by section 453(a)-(b)(3), (6) of Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

Amendment by section 2651(k) of Pub. L. 98-369 effective July 18, 1984, see section 2651(l)(1) of Pub. L. 98-369, set out as an Effective Date note under section 1320b-7 of Title 42, The Public Health and Welfare.

Amendment by section 2653(b)(3) of Pub. L. 98-369 applicable to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 2653(c) of Pub. L. 98-369, as amended, set out as a note under section 6402 of this title.

Amendment by section 2663(j)(5)(E) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for any portion of a lump-sum payment of social security benefits received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 121(g) of Pub. L. 98-21, set out as an Effective Date note under section 86 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Pub. L. 97-365, §7(c), Oct. 25, 1982, 96 Stat. 1753, provided that: “The amendments made by this section [amending this section] shall apply in the case of loan applications made after September 30, 1982.”

Pub. L. 97-365, §8(d), Oct. 25, 1982, 96 Stat. 1754, provided that: “The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Oct. 25, 1982].”

Pub. L. 97-248, title III, §356(c), Sept. 3, 1982, 96 Stat. 645, provided that: “The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

Pub. L. 97-248, title III, §358(c), Sept. 3, 1982, 96 Stat. 648, provided that: “The amendments made by this section [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §701(b), Aug. 13, 1981, 95 Stat. 340, provided that: “The amendment made by subsection (a) [amending this section] shall apply to disclosures after July 19, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-611, §11(a)(3), Dec. 28, 1980, 94 Stat. 3574, provided that: “The amendment made by paragraph (1) [amending section 127(a)(1) of Pub. L. 96-249, which amended this section] shall take effect on May 26, 1980 and the amendments made by paragraph (2) [amending section 408(a)(1), (2) of Pub. L. 96-265, which amended this section and section 7213 of this title] shall take effect on June 9, 1980.”

Pub. L. 96-598, §3(b), Dec. 24, 1980, 94 Stat. 3488, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 24, 1980].”

Amendment by Pub. L. 96-589 applicable to bankruptcy cases commencing more than 90 days after Dec. 24, 1980, see section 7(b) of Pub. L. 96-589, set out as a note under section 108 of this title.

Pub. L. 96-499, title III, §302(c), Dec. 5, 1980, 94 Stat. 2604, provided that: “The amendments made by subsections (a) and (b) of this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Dec. 5, 1980].”

Pub. L. 96-265, title IV, §408(a)(3), June 9, 1980, 94 Stat. 468, provided that: “The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [June 9, 1980].”

Pub. L. 96-249, title I, §127(a)(3), May 26, 1980, 94 Stat. 366, provided that: “The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [May 26, 1980].”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §701(bb)(8), Nov. 6, 1978, 92 Stat. 2923, provided that:

“(A) Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and sections 7213 and 7217 of this title] shall take effect January 1, 1977.

“(B) The amendments made by paragraph (7) [amending section 7217 of this title] shall apply with respect to disclosures made after the date of the enactment of this Act [Nov. 6, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1202(i), Oct. 4, 1976, 90 Stat. 1688, provided that: “The amendments made by this section [enacting section 7217 of this title, amending this section and sections 4102, 4924, 6108, 6323, 7213, 7513, 7809, and 7852 of this title, and repealing sections 6106 and 7515 of this title] take effect January 1, 1977.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-406, title II, §1022(h), Sept. 2, 1974, 88 Stat. 941, provided that the amendment made by that section is effective Sept. 2, 1974.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 effective Nov. 2, 1966, see section 6 of Pub. L. 89-713, set out as a note under section 6091 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VII, §701(e), June 21, 1965, 79 Stat. 157, provided that: “Each amendment made by title VI [repealing section 7275 of this title and amending this section and sections 6415, 6416, 6802, 6806, 6808, 7012, 7272, and 7326 of this title], to the extent that it relates to any tax provision changed by this Act shall take effect in a manner consistent with the effective date for such changed tax provision.”

REGULATIONS

Pub. L. 106-170, title V, §521(c), Dec. 17, 1999, 113 Stat. 1927, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 6103(b)(2)(C), and the last sentence of section 6110(b)(1), of the Internal Revenue Code of 1986, as added by this section.”

Pub. L. 105-33, title XI, §11024(c), Aug. 5, 1997, 111 Stat. 722, provided that: “The Secretary may issue regulations governing the confidentiality of the information obtained pursuant to subsection (a) [111 Stat. 721] and the provisions of law amended by subsection (b) [amending this section and section 7213 of this title].”

Pub. L. 103-182, title V, §522(c)(2), Dec. 8, 1993, 107 Stat. 2161, provided that: “Not later than 90 days after the date of the enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall issue temporary regulations to carry out section 6103(l)(14) of the Internal Revenue Code of 1986, as added by this section.”

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.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS

Pub. L. 106-170, title V, §521(b), Dec. 17, 1999, 113 Stat. 1925, provided that:

“(1) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

“(2) CONTENTS OF REPORT.—The report shall include the following for the calendar year to which such report relates:

“(A) Information about the structure, composition, and operation of the advance pricing agreement program office.

“(B) A copy of each model advance pricing agreement.

“(C) The number of—

“(i) applications filed during such calendar year for advance pricing agreements;

“(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

“(iii) renewals of advance pricing agreements issued;

“(iv) pending requests for advance pricing agreements;

“(v) pending renewals of advance pricing agreements;

“(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

“(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

“(viii) advance pricing agreements finalized or renewed by industry.

“(D) General descriptions of—

“(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

“(ii) the covered transactions and the business functions performed and risks assumed by such organizations, trades, or businesses;

“(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

“(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

“(v) critical assumptions made and sources of comparables used;

“(vi) comparable selection criteria and the rationale used in determining such criteria;

“(vii) the nature of adjustments to comparables or tested parties;

“(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparables;

“(ix) adjustment mechanisms provided to rectify results that fall outside of the agreed upon advance pricing agreement range;

“(x) the various term lengths for advance pricing agreements, including rollback years, and the number of advance pricing agreements with each such term length;

“(xi) the nature of documentation required; and

“(xii) approaches for sharing of currency or other risks.

“(E) Statistics regarding the amount of time taken to complete new and renewal advance pricing agreements.

“(F) A detailed description of the Secretary of the Treasury's efforts to ensure compliance with existing advance pricing agreements.

“(3) CONFIDENTIALITY.—The reports required by this subsection shall be treated as authorized by the Internal Revenue Code of 1986 for purposes of section 6103 of such Code, but the reports shall not include information—

“(A) which would not be permitted to be disclosed under section 6110(c) of such Code if such report were a written determination as defined in section 6110 of such Code; or

“(B) which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(4) FIRST REPORT.—The report for calendar year 1999 shall include prior calendar years after 1990.”

PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY

Pub. L. 105-206, title II, §2003(e), July 22, 1998, 112 Stat. 725, provided that: “The Secretary shall establish procedures for any taxpayer to authorize, on an electronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 to the preparer of the return.”

ELECTRONIC ACCESS TO ACCOUNT INFORMATION

Pub. L. 105-206, title II, §2005, July 22, 1998, 112 Stat. 726, provided that:

“(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

“(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

CONFIDENTIALITY OF TAX RETURN INFORMATION

Pub. L. 105-206, title III, §3802, July 22, 1998, 112 Stat. 782, provided that: “The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than 18 months after the date of the enactment of this Act [July 22, 1998]. Such study shall examine—

“(1) the present protections for taxpayer privacy;

“(2) any need for third parties to use tax return information;

“(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns;

“(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the ‘Freedom of Information Act’) [probably should be a reference to the Privacy Act];

“(5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105-35, the Taxpayer Browsing Protection Act of 1997 [see Tables for classification]; and

“(6) whether the public interest would be served by greater disclosure of information relating to tax exempt organizations described in section 501 of the Internal Revenue Code of 1986.”

COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT

Pub. L. 105-34, title IX, §976(a), (b), Aug. 5, 1997, 111 Stat. 898, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

“(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

“(1) carried out between the Internal Revenue Service and the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act [Aug. 5, 1997],

“(2) limited to the reporting of employment taxes, and

“(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.”

PROCEDURES AND POLICIES TO SAFEGUARD CONFIDENTIALITY OF TAXPAYER INFORMATION

Pub. L. 109-115, div. A, title II, §203, Nov. 30, 2005, 119 Stat. 2438, which provided that the Internal Revenue Service was to institute and enforce policies and procedures that would safeguard the confidentiality of taxpayer information, 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, §203, Dec. 8, 2004, 118 Stat. 3240.

Pub. L. 108-199, div. F, title II, §203, Jan. 23, 2004, 118 Stat. 318.

Pub. L. 108-7, div. J, title I, §103, Feb. 20, 2003, 117 Stat. 437.

Pub. L. 107-67, title I, §103, Nov. 12, 2001, 115 Stat. 523.

Pub. L. 106-554, §1(a)(3) [title I, §103], Dec. 21, 2000, 114 Stat. 2763, 2763A-132.

Pub. L. 106-58, title I, §103, Sept. 29, 1999, 113 Stat. 437.

Pub. L. 105-277, div. A, §101(h) [title I, §105], Oct. 21, 1998, 112 Stat. 2681-480, 2681-488.

Pub. L. 105-61, title I, §105, Oct. 10, 1997, 111 Stat. 1282.

Pub. L. 104-208, div. A, title I, §101(f) [title I, §114], Sept. 30, 1996, 110 Stat. 3009-314, 3009-325.

Pub. L. 104-52, title I, §105, Nov. 19, 1995, 109 Stat. 476.

Pub. L. 103-329, title I, §108, Sept. 30, 1994, 108 Stat. 2390.

Pub. L. 103-123, title I, §107, Oct. 28, 1993, 107 Stat. 1234.

CONFIDENTIALITY OF TAX RETURN INFORMATION

Pub. L. 101-647, title XXXIII, §3304, Nov. 29, 1990, 104 Stat. 4918, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of this Act [see Tables for classification], no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

“(b) DEFINITIONS.—For purposes of this section, the terms ‘return’ and ‘return information’ have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.”

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

For provisions that nothing in amendments by section 2653 of Pub. L. 98-369 be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100-203, set out as a note under section 6402 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

REIMBURSEMENT OF COSTS OF SUPPLYING INFORMATION NECESSARY FOR ADMINISTRATION OF FEDERAL RETIREMENT SYSTEMS

Pub. L. 99-335, title III, §310(c), June 6, 1986, 100 Stat. 608, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The Office of Personnel Management shall reimburse the costs (as determined by the Secretary of Health and Human Services) of supplying—

“(1) information under section 6103(f)(12) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]; and

“(2) such other information agreed upon by the Director of the Office of Personnel Management and the Secretary of Health and Human Services, which is required in the administration of chapters 83 and 84 of title 5, United States Code.

Section 1106(b) and (c) of the Social Security Act [42 U.S.C. 1306(b), (c)] shall apply to any reimbursement under this subsection.”

TAXPAYER IDENTIFYING NUMBER; PERSONS APPLYING FOR LOANS UNDER FEDERAL LOAN PROGRAMS REQUIRED TO FURNISH

Pub. L. 97-365, §4, Oct. 25, 1982, 96 Stat. 1751, which required that each Federal agency administering an included Federal loan program require persons applying for loans to furnish their taxpayer identifying numbers, was repealed and restated in section 7701 of Title 31, Money and Finance, by Pub. L. 103-272, §§4(f)(1)(Y)(i), 7(b), July 5, 1994, 108 Stat. 1363, 1379.

INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE; PROCEDURES APPLICABLE FOR LOCATING

Pub. L. 96-128, title V, §502, Nov. 28, 1979, 93 Stat. 987, as amended by Pub. L. 96-466, title VII, §702, Oct. 17, 1980, 94 Stat. 2215; Pub. L. 102-54, §14(g)(3), June 13, 1991, 105 Stat. 288; Pub. L. 102-83, §6(e), Aug. 6, 1991, 105 Stat. 407, provided that: “In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1986 regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Secretary of Veterans Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Secretary (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code), and (2) provide such addresses to such Secretary (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Department of Veterans Affairs (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards. Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in the Internal Revenue Code of 1986.”

Pub. L. 96-466, title VIII, §802(g)(2), Oct. 17, 1980, 94 Stat. 2218, provided that: “The amendment made by section 702 [amending section 502 of Pub. L. 96-128, set out above] shall take effect as of November 28, 1979.”

INSPECTION OF TAX RETURNS

The Executive orders listed below authorized inspection of returns for certain specified purposes:

Ex. Ord. No.	Date	Federal Register
10699	Feb. 19, 1957	22 F.R. 1059

Ex. Ord. No.	Date	Federal Register
10701	Mar. 14, 1957	22 F.R. 1629
10703	Mar. 17, 1957	22 F.R. 1797
10706	Apr. 25, 1957	22 F.R. 3027
10712	May 17, 1957	22 F.R. 3499
10738	Nov. 15, 1957	22 F.R. 9205
10801	Jan. 21, 1959	24 F.R. 521
10806	Mar. 10, 1959	24 F.R. 1823
10808	Mar. 19, 1959	24 F.R. 2221
10815	Apr. 29, 1959	24 F.R. 3474
10818	May 8, 1959	24 F.R. 3799
10846	Oct. 13, 1959	24 F.R. 6318
10855	Nov. 27, 1959	24 F.R. 9565
10871	Mar. 15, 1960	25 F.R. 2251
10876	Apr. 22, 1960	25 F.R. 3569
10906	Jan. 18, 1961	26 F.R. 508
10916	Jan. 25, 1961	26 F.R. 781
10935	Apr. 22, 1961	26 F.R. 3507
10947	June 12, 1961	26 F.R. 5283
10954	July 26, 1961	26 F.R. 6759
10962	Aug. 23, 1961	26 F.R. 8001
10966	Oct. 11, 1961	26 F.R. 9667
10981	Dec. 28, 1961	26 F.R. 12749
11020	May 8, 1962	27 F.R. 4407
11055	Oct. 9, 1962	27 F.R. 9981
11065	Nov. 21, 1962	27 F.R. 11581
11080	Jan. 29, 1963	28 F.R. 903
11082	Feb. 4, 1963	28 F.R. 1131
11083	Feb. 6, 1963	28 F.R. 1245
11099	Mar. 14, 1963	28 F.R. 2619
11102	Apr. 4, 1963	28 F.R. 3373
11109	May 28, 1963	28 F.R. 5351
11133	Dec. 17, 1963	28 F.R. 13835
11153	Apr. 17, 1964	29 F.R. 5335
11176	Sept. 3, 1964	29 F.R. 12607
11192	Jan. 13, 1965	30 F.R. 521
11194	Jan. 26, 1965	30 F.R. 877
11201	Mar. 4, 1965	30 F.R. 2921
11204	Mar. 12, 1965	30 F.R. 3417
11206	Mar. 18, 1965	30 F.R. 3741
11213	Apr. 2, 1965	30 F.R. 4389
11217	Apr. 24, 1965	30 F.R. 5819
11235	July 21, 1965	30 F.R. 9199
11332	Mar. 7, 1967	32 F.R. 3877
11337	Mar. 25, 1967	32 F.R. 5245
11358	June 6, 1967	32 F.R. 8227
11370	Aug. 30, 1967	32 F.R. 12665
11383	Nov. 30, 1967	32 F.R. 17421
11454	Feb. 7, 1969	34 F.R. 1935
11457	Mar. 4, 1969	34 F.R. 3793
11461	Mar. 27, 1969	34 F.R. 5901
11465	Apr. 10, 1969	34 F.R. 6415
11483	Sept. 23, 1969	34 F.R. 14757
11505	Jan. 21, 1970	35 F.R. 939
11535	June 12, 1970	35 F.R. 9809
11584	Mar. 3, 1971	36 F.R. 4365
11611	July 26, 1971	36 F.R. 13889
11624	Oct. 12, 1971	36 F.R. 19965
11631	Nov. 9, 1971	36 F.R. 21575
11650	Feb. 16, 1972	37 F.R. 3739
11655	Mar. 14, 1972	37 F.R. 5477
11656	Mar. 14, 1972	37 F.R. 5479
11682	Aug. 29, 1972	37 F.R. 17701
11697	Jan. 17, 1973	38 F.R. 1723
11706	Mar. 8, 1973	38 F.R. 6663
11709	Mar. 27, 1973	38 F.R. 8131
11711	Apr. 13, 1973	38 F.R. 9483
11719	May 17, 1973	38 F.R. 13315
11720	May 17, 1973	38 F.R. 13317
11722	June 9, 1973	38 F.R. 15437
11786	June 7, 1974	39 F.R. 20473
11859	May 7, 1975	40 F.R. 20265
11900	Jan. 22, 1976	41 F.R. 3461

Executive Orders 10738, 10906, 10954, 10962, 11102, 11206, 11213, 11650, and 11706, listed above, were revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 11805

Ex. Ord. No. 11805, Sept. 20, 1974, 39 F.R. 34261, which related to inspection of tax returns by the President and certain designated employees of the White House Office, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 6104. Publicity of information required from certain exempt organizations and certain trusts

(a) Inspection of applications for tax exemption or notice of status

(1) Public inspection

(A) Organizations described in section 501 or 527

If an organization described in section 501(c) or (d) is exempt from taxation under

section 501(a) for any taxable year or a political organization is exempt from taxation under section 527 for any taxable year, the application filed by the organization with respect to which the Secretary made his determination that such organization was entitled to exemption under section 501(a) or notice of status filed by the organization under section 527(i), together with any papers submitted in support of such application or notice, and any letter or other document issued by the Internal Revenue Service with respect to such application or notice shall be open to public inspection at the national office of the Internal Revenue Service. In the case of any application or notice filed after the date of the enactment of this subparagraph, a copy of such application or notice and such letter or document shall be open to public inspection at the appropriate field office of the Internal Revenue Service (determined under regulations prescribed by the Secretary). Any inspection under this subparagraph may be made at such times, and in such manner, as the Secretary shall by regulations prescribe. After the application of any organization for exemption from taxation under section 501(a) has been opened to public inspection under this subparagraph, the Secretary shall, on the request of any person with respect to such organization, furnish a statement indicating the subsection and paragraph of section 501 which it has been determined describes such organization.

(B) Pension, etc., plans

The following shall be open to public inspection at such times and in such places as the Secretary may prescribe:

(i) any application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a) or 403(a), an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b),

(ii) any application filed with respect to the exemption from tax under section 501(a) of an organization forming part of a plan or account referred to in clause (i),

(iii) any papers submitted in support of an application referred to in clause (i) or (ii), and

(iv) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in clause (i) or the exemption from tax referred to in clause (ii).

Except in the case of a plan participant, this subparagraph shall not apply to any plan referred to in clause (i) having not more than 25 participants.

(C) Certain names and compensation not to be opened to public inspection

In the case of any application, document, or other papers, referred to in subparagraph (B), information from which the compensation (including deferred compensation) of any individual may be ascertained shall not

be open to public inspection under subparagraph (B).

(D) Withholding of certain other information

Upon request of the organization submitting any supporting papers described in subparagraph (A) or (B), the Secretary shall withhold from public inspection any information contained therein which he determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if he determines that public disclosure of such information would adversely affect the organization. The Secretary shall withhold from public inspection any information contained in supporting papers described in subparagraph (A) or (B) the public disclosure of which he determines would adversely affect the national defense.

(2) Inspection by committees of Congress

Section 6103(f) shall apply with respect to—

(A) the application for exemption of any organization described in section 501(c) or (d) which is exempt from taxation under section 501(a) for any taxable year or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year, and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

(B) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.

(3) Information available on Internet and in person

(A) In general

The Secretary shall make publicly available, on the Internet and at the offices of the Internal Revenue Service—

(i) a list of all political organizations which file a notice with the Secretary under section 527(i), and

(ii) the name, address, electronic mailing address, custodian of records, and contact person for such organization.

(B) Time to make information available

The Secretary shall make available the information required under subparagraph (A) not later than 5 business days after the Secretary receives a notice from a political organization under section 527(i).

(b) Inspection of annual returns

The information required to be furnished by sections 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a) or a political organization exempt from taxation under section 527) which is required to furnish such information. In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to

such organization. In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c). Any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) shall be treated for purposes of this subsection in the same manner as if furnished under section 6033.

(c) Publication to State officials

(1) General rule for charitable organizations

In the case of any organization which is described in section 501(c)(3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c)(3), the Secretary at such times and in such manner as he may by regulations prescribe shall—

(A) notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c)(3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 41 or 42, and

(C) at the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) Disclosure of proposed actions related to charitable organizations

(A) Specific notifications

In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

(B) Additional disclosures

Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

(C) Procedures for disclosure

Information may be inspected or disclosed under subparagraph (A) or (B) only—

(i) upon written request by an appropriate State officer, and

(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

(D) Disclosures other than by request

The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such returns or return information may constitute evidence of noncompliance under the laws within the jurisdiction of the appropriate State officer.

(3) Disclosure with respect to certain other exempt organizations

Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of any organization described in section 501(c) (other than organizations described in paragraph (1) or (3) thereof) for the purpose of, and only to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

(4) Use in civil judicial and administrative proceedings

Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

(5) No disclosure if impairment

Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

(6) Definitions

For purposes of this subsection—

(A) Return and return information

The terms “return” and “return information” have the respective meanings given to such terms by section 6103(b).

(B) Appropriate State officer

The term “appropriate State officer” means—

(i) the State attorney general,

(ii) the State tax officer,

(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.

(d) Public inspection of certain annual returns, reports, applications for exemption, and notices of status

(1) In general

In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a) or an organization exempt from taxation under section 527(a)—

(A) a copy of—

(i) the annual return filed under section 6033 (relating to returns by exempt organizations) by such organization,

(ii) any annual return which is filed under section 6011 by an organization described in section 501(c)(3) and which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations),

(iii) if the organization filed an application for recognition of exemption under section 501 or notice of status under section 527(i), the exempt status application materials or any notice materials of such organization, and

(iv) the reports filed under section 527(j) (relating to required disclosure of expenditures and contributions) by such organization,

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

(B) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return, reports, and exempt status application materials or such notice materials shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in subparagraph (B) must be made in person or in writing. If such request is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.

(2) 3-year limitation on inspection of returns

Paragraph (1) shall apply to an annual return filed under section 6011 or 6033 only during the 3-year period beginning on the last day prescribed for filing such return (determined

with regard to any extension of time for filing).

(3) Exceptions from disclosure requirement

(A) Nondisclosure of contributors, etc.

In the case of an organization which is not a private foundation (within the meaning of section 509(a)) or a political organization exempt from taxation under section 527, paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization. In the case of an organization described in section 501(d), paragraph (1) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.

(B) Nondisclosure of certain other information

Paragraph (1) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D).

(4) Limitation on providing copies

Paragraph (1)(B) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.

(5) Exempt status application materials

For purposes of paragraph (1), the term “exempt status application materials” means the application for recognition of exemption under section 501 and any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application.

(6) Notice materials

For purposes of paragraph (1), the term “notice materials” means the notice of status filed under section 527(i) and any papers submitted in support of such notice and any letter or other document issued by the Internal Revenue Service with respect to such notice.

(7) Disclosure of reports by Internal Revenue Service

Any report filed by an organization under section 527(j) (relating to required disclosure of expenditures and contributions) shall be made available to the public at such times and in such places as the Secretary may prescribe.

(8) Application to nonexempt charitable trusts and nonexempt private foundations

The organizations referred to in paragraphs (1) and (2) of section 6033(d) shall comply with the requirements of this subsection relating to annual returns filed under section 6033 in the same manner as the organizations referred to in paragraph (1).

(Aug. 16, 1954, ch. 736, 68A Stat. 755; Pub. L. 85-866, title I, § 75(a), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 91-172, title I, § 101(e)(1)-(3), (j)(36), Dec. 30, 1969, 83 Stat. 523, 530; Pub. L. 93-406, title II, § 1022(g)(1)-(3), Sept. 2, 1974, 88 Stat. 940, 941; Pub.

L. 94-455, title XII, § 1201(d)(1), title XIII, § 1307(d)(2)(B), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1667, 1727, 1834; Pub. L. 95-227, § 4(e), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95-488, § 1(d), Oct. 20, 1978, 92 Stat. 1638; Pub. L. 95-600, title VII, § 703(m), Nov. 6, 1978, 92 Stat. 2943; Pub. L. 96-603, § 1(b), (d)(3), Dec. 28, 1980, 94 Stat. 3503, 3504; Pub. L. 98-369, div. A, title III, § 306(b), title IV, § 491(d)(49), July 18, 1984, 98 Stat. 784, 852; Pub. L. 100-203, title X, § 10702(a), Dec. 22, 1987, 101 Stat. 1330-459; Pub. L. 104-168, title XIII, § 1313(a), July 30, 1996, 110 Stat. 1479; Pub. L. 105-206, title VI, § 6019(a), (b), July 22, 1998, 112 Stat. 823; Pub. L. 105-277, div. J, title I, § 1004(b)(1), Oct. 21, 1998, 112 Stat. 2681-888; Pub. L. 106-230, §§ 1(b), 2(b), 3(b), July 1, 2000, 114 Stat. 478, 481, 482; Pub. L. 106-554, § 1(a)(7) [title III, § 312(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-640; Pub. L. 107-276, § 3(b), Nov. 2, 2002, 116 Stat. 1931; Pub. L. 109-280, title XII, §§ 1201(b)(3), 1224(a), (b)(4), 1225(a), Aug. 17, 2006, 120 Stat. 1066, 1091, 1093; Pub. L. 110-172, § 3(g), Dec. 29, 2007, 121 Stat. 2475; Pub. L. 113-295, div. A, title II, § 220(v), Dec. 19, 2014, 128 Stat. 4036.)

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (a)(1)(A), is Sept. 2, 1958.

CODIFICATION

Sections 1201(b)(3), 1224(a), (b)(4), and 1225(a) of Pub. L. 109-280, which directed the amendment of section 6104 without specifying the act to be amended, were executed to this section, which is section 6104 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2014—Subsec. (d)(6) to (8). Pub. L. 113-295 redesignated par. (6) relating to disclosure of reports by Internal Revenue Service and par. (6) relating to application to nonexempt charitable trusts and nonexempt private foundations as (7) and (8), respectively.

2007—Subsec. (b). Pub. L. 110-172, § 3(g)(1), struck out “information” after “annual” in heading and inserted last sentence.

Subsec. (d)(1)(A)(ii). Pub. L. 110-172, § 3(g)(2), amended text generally. Prior to amendment, text read as follows: “any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization, but only if such organization is described in section 501(c)(3).”

Subsec. (d)(2). Pub. L. 110-172, § 3(g)(3), substituted “section 6011 or 6033” for “section 6033”.

2006—Subsec. (b). Pub. L. 109-280, § 1201(b)(3), inserted at end “In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).” See Codification note above.

Subsec. (c)(1). Pub. L. 109-280, § 1224(b)(4), inserted “for charitable organizations” after “rule” in heading. See Codification note above.

Subsec. (c)(2) to (6). Pub. L. 109-280, § 1224(a), added pars. (2) to (6) and struck out heading and text of former par. (2). Text read as follows: “For purposes of this subsection, the term ‘appropriate State officer’ means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).” See Codification note above.

Subsec. (d)(1)(A)(ii) to (iv). Pub. L. 109-280, § 1225(a), added cl. (ii) and redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively. See Codification note above.

2002—Subsec. (b). Pub. L. 107-276, §3(b)(1), struck out “6012(a)(6),” before “6033.”

Subsec. (d)(1)(A)(i). Pub. L. 107-276, §3(b)(2)(A), struck out “or section 6012(a)(6) (relating to returns by political organizations)” before “by such organization.”

Subsec. (d)(2). Pub. L. 107-276, §3(b)(2)(B), struck out “or section 6012(a)(6)” after “section 6033.”

2000—Subsec. (a). Pub. L. 106-230, §1(b)(1)(B), inserted “or notice of status” after “exemption” in heading.

Subsec. (a)(1)(A). Pub. L. 106-230, §1(b)(1)(A), in heading, inserted “or 527” after “section 501”, in first sentence, inserted “or a political organization is exempt from taxation under section 527 for any taxable year” after “taxable year” and “or notice of status filed by the organization under section 527(i)” before “, together”, in second sentence, inserted “or notice” after “any application”, in last sentence, inserted “for exemption from taxation under section 501(a)” after “any organization”, and inserted “or notice” after “such application”, wherever appearing.

Subsec. (a)(2)(A). Pub. L. 106-230, §1(b)(3), inserted “or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year” after “taxable year”.

Subsec. (a)(3). Pub. L. 106-230, §1(b)(2), added par. (3).

Subsec. (b). Pub. L. 106-230, §3(b)(1), inserted “6012(a)(6),” before “6033” and “or a political organization exempt from taxation under section 527” after “509(a)”.

Subsec. (d). Pub. L. 106-230, §2(b)(1)(A), inserted “reports,” after “returns,” in heading.

Pub. L. 106-230, §1(b)(4)(A), substituted “, applications for exemption, and notices of status” for “and applications for exemption” in heading.

Subsec. (d)(1). Pub. L. 106-230, §3(b)(2)(B)(i), inserted “or an organization exempt from taxation under section 527(a)” after “501(a)” in introductory provisions.

Subsec. (d)(1)(A)(i). Pub. L. 106-230, §3(b)(2)(A), inserted “or section 6012(a)(6) (relating to returns by political organizations)” after “organizations”.

Subsec. (d)(1)(A)(ii). Pub. L. 106-230, §1(b)(4)(B), inserted “or notice of status under section 527(i)” after “section 501” and “or any notice materials” after “materials”.

Subsec. (d)(1)(A)(iii). Pub. L. 106-230, §2(b)(1)(B), added cl. (iii).

Subsec. (d)(1)(B). Pub. L. 106-230, §2(b)(1)(C), inserted “, reports,” after “return”.

Pub. L. 106-230, §1(b)(4)(C), inserted “or such notice materials” after “materials”.

Subsec. (d)(2). Pub. L. 106-230, §3(b)(2)(B)(ii), inserted “or section 6012(a)(6)” after “section 6033”.

Subsec. (d)(3)(A). Pub. L. 106-230, §2(b)(2), inserted “or a political organization exempt from taxation under section 527” after “509(a)”.

Subsec. (d)(6). Pub. L. 106-554 added par. (6) relating to application to nonexempt charitable trusts and nonexempt private foundations.

Pub. L. 106-230, §2(b)(3), added par. (6) relating to disclosure of reports by Internal Revenue Service.

Pub. L. 106-230, §1(b)(4)(D), added par. (6) relating to notice materials.

1998—Subsec. (b). Pub. L. 105-206, §6019(a), inserted at end “In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.”

Subsec. (d). Pub. L. 105-277 added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual return (determined with regard to any extension of time for filing), in a newspaper having general circula-

tion in the county in which the principal office of the private foundation is located. The notice shall state that the annual return of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address and the telephone number of the private foundation’s principal office and the name of its principal manager.”

Subsec. (e). Pub. L. 105-277 struck out subsec. (e), which consisted of pars. (1) to (3) relating to public inspection of certain annual returns and applications for exemption with a limitation of applicability of certain provisions.

Subsec. (e)(1)(C). Pub. L. 105-206, §6019(b), inserted at end “In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.”

1996—Subsec. (e)(1)(A). Pub. L. 104-168, §1313(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.”

Subsec. (e)(2)(A). Pub. L. 104-168, §1313(a)(2), inserted before the period at end “(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material requested to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than reasonable fee for any reproduction and mailing costs)”.

Subsec. (e)(3). Pub. L. 104-168, §1313(a)(3), added par. (3).

1987—Subsec. (e). Pub. L. 100-203 added subsec. (e).

1984—Subsec. (a)(1)(B)(i). Pub. L. 98-369, §491(d)(49), substituted “or 403(a)” for “, 403(a), or 405(a)”.

Subsec. (d). Pub. L. 98-369, §306(b), substituted “shall state the address and the telephone number of the private foundation’s principal office” for “shall state the address of the private foundation’s principal office”.

1980—Subsec. (b). Pub. L. 96-603, §1(d)(3), struck out “6056,” after “6034.”

Subsec. (d). Pub. L. 96-603, §1(b), substituted in heading “annual returns” for “annual reports” and in text “section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a)” for “section 6056 (relating to annual reports by private foundations)” and “annual return” for “annual report” wherever appearing.

1978—Subsec. (a)(1)(A). Pub. L. 95-488, §1(d)(1), struck out “(other than in paragraph (21) thereof)” after “section 501(c)”.

Pub. L. 95-227, §4(e)(1), inserted “(other than in paragraph (21) thereof)” after “501(c)”.

Subsec. (a)(2). Pub. L. 95-600 substituted “Section 6103(f)” for “Section 6103(d)”.

Subsec. (b). Pub. L. 95-488, §1(d)(2), struck out provisions exempting from applicability of this subsec. the information required by a trust described in section 501(c)(21).

Pub. L. 95-227, §4(e)(2), inserted provisions exempting from applicability of this subsec. the information required by a trust described in section 501(c)(21).

1976—Subsec. (a). Pub. L. 94-455, §1201(d)(1), 1906(b)(13)(A), struck out in pars. (1)(A), (B), (D), and (2) “or his delegate” after “Secretary” wherever appearing and inserted in par. (1)(A) “and any letter or other document issued by the Internal Revenue Service with respect to such application” after “in support of such application,” and “any such letter or document” after “a copy of such application”.

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

Subsec. (c)(1). Pub. L. 94-455, §§1307(d)(2)(B), 1906(b)(13)(A), struck out in provisions preceding subpar. (A) “or his delegate” after “Secretary” and in subpar. (B) substituted “chapter 41 or 42” for “chapter 42”.

1974—Subsec. (a)(1). Pub. L. 93-406, §1022(g)(1), substituted “Organizations described in section 501” for “In general” in heading for subpar. (A), added subpars. (B) and (C), redesignated existing subpar. (B) as (D), and in subpar. (D) as so redesignated substituted “Withholding of certain other information” for “Withholding of certain information” in heading and “subparagraph (A) or (B)” for “subparagraph (A)” in text.

Subsec. (a)(2)(A). Pub. L. 93-406, §1022(g)(2), inserted “any application referred to in subparagraph (B) of subsection (a)(1) of this section, and”.

Subsec. (b). Pub. L. 93-406, §1022(g)(3), which purported to amend subsec. (b) by substituting “6956, and 6058” for “and 6056” was executed by substituting “6056, and 6058” for “and 6056” as the probable intent of Congress. See 1980 Amendment note above.

1969—Subsec. (b). Pub. L. 91-172, §101(e)(1), (j)(36), inserted provision prohibiting disclosure by the Secretary or his delegate of the name or address of any contributor to any organization or trust other than a private foundation and inserted reference to section 6056.

Subsecs. (c), (d). Pub. L. 91-172, §101(e)(2), (3), added subsecs. (c) and (d).

1958—Pub. L. 85-866 designated existing provisions as subsec. (b) and added subsec. (a).

EFFECTIVE DATE OF 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.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1201(b)(3) 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 1224(a), (b)(4) of 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.

Pub. L. 109-280, title XII, §1225(b), Aug. 17, 2006, 120 Stat. 1094, provided that: “The amendments made by this section [amending this section] shall apply to returns filed after the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-276 effective as if included in the amendments made by Pub. L. 106-230, see section 3(d) of Pub. L. 107-276, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106-554, §1(a)(7) [title III, §312(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-640, provided that: “The amendments made by this section [amending this section and provisions set out as a note under section 1 of this title] shall take effect as if included in the provisions of the Tax and Trade Relief Extension Act of 1998 [Pub. L. 105-277, div. J], to which they relate.”

Amendment by section 1(b) of Pub. L. 106-230 effective July 1, 2000, except that amendment by section 1(b)(2) of Pub. L. 106-230 effective 45 days after July 1, 2000, see section 1(d) of Pub. L. 106-230, set out as a note under section 527 of this title.

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

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title I, §1004(b)(3), Oct. 21, 1998, 112 Stat. 2681-890, provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and sections 6033, 6652, 6685, and 7207 of this title] shall apply to requests made after the later of December 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of the Internal Revenue Code of 1986, as amended by this section.

“(B) PUBLICATION OF ANNUAL RETURNS.—Section 6104(d) of such Code, as in effect before the amendments made by this subsection, shall not apply to any return the due date for which is after the date such amendments take effect under subparagraph (A).”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XIII, §1313(c), July 30, 1996, 110 Stat. 1480, provided that: “The amendments made by this section [amending this section and section 6685 of this title] shall apply to requests made on or after the 60th day after the Secretary of the Treasury first issues the regulations referred to section 6104(e)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)(3)).”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, §10702(b), Dec. 22, 1987, 101 Stat. 1330-460, provided that: “The amendment made by subsection (a) [amending this section] shall apply—

“(1) to returns for years beginning after December 31, 1986, and

“(2) on and after the 30th day after the date of the enactment of this Act [Dec. 22, 1987] in the case of applications submitted to the Internal Revenue Service—

“(A) after July 15, 1987, or

“(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 306(b) of Pub. L. 98-369 effective Jan. 1, 1985, see section 306(c) of Pub. L. 98-369, set out as a note under section 4946 of this title.

Amendment by section 491(d)(49) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

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

Amendment by Pub. L. 95-488 effective with respect to taxable years beginning after Dec. 31, 1977, and nothing in amendment by Pub. L. 95-488 construed to permit disclosure of confidential business information of contributors to any trust described in section 501(c)(21), see section 1(e) of Pub. L. 95-488, set out as a note under section 192 of this title.

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1201(d)(2), Oct. 4, 1976, 90 Stat. 1667, provided that: “The amendments made by this subsection [amending this section] apply to any letter or other document issued with respect to applications filed after October 31, 1976.”

Amendment by section 1307(d)(2)(B) of Pub. L. 94-455 applicable on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 6001 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-406, title X, §1022(g)(4), Sept. 2, 1974, 88 Stat. 941, provided that: “The amendments made by this subsection [amending this section] shall apply to applications filed (or documents issued) after the date of enactment of this Act [Sept. 2, 1974].”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §75(c), Sept. 2, 1958, 72 Stat. 1661, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the 60th day after the day on which this Act is enacted [Sept. 2, 1958]. The amendments made by subsection (b) [amending section 6033 of this title] shall apply to taxable years ending on or after December 31, 1958.”

EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES

Pub. L. 107-276, §7, Nov. 2, 2002, 116 Stat. 1935, provided that: “Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this Act [Nov. 2, 2002] and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.”

§ 6105. Confidentiality of information arising under treaty obligations

(a) In general

Tax convention information shall not be disclosed.

(b) Exceptions

Subsection (a) shall not apply—

(1) to the disclosure of tax convention information to persons or authorities (including courts and administrative bodies) which are entitled to such disclosure pursuant to a tax convention,

(2) to any generally applicable procedural rules regarding applications for relief under a tax convention,

(3) to the disclosure of tax convention information on the same terms as return information may be disclosed under paragraph (3)(C) or (7) of section 6103(i), except that in the case of tax convention information provided by a foreign government, no disclosure may be made under this paragraph without the written consent of the foreign government, or

(4) in any case not described in paragraph (1), (2), or (3), to the disclosure of any tax convention information not relating to a particular taxpayer if the Secretary determines, after consultation with each other party to the tax convention, that such disclosure would not impair tax administration.

(c) Definitions

For purposes of this section—

(1) Tax convention information

The term “tax convention information” means any—

(A) agreement entered into with the competent authority of one or more foreign governments pursuant to a tax convention,

(B) application for relief under a tax convention,

(C) background information related to such agreement or application,

(D) document implementing such agreement, and

(E) other information exchanged pursuant to a tax convention which is treated as confidential or secret under the tax convention.

(2) Tax convention

The term “tax convention” means—

(A) any income tax or gift and estate tax convention, or

(B) any other convention or bilateral agreement (including multilateral conventions and agreements and any agreement with a possession of the United States) providing for the avoidance of double taxation, the prevention of fiscal evasion, non-discrimination with respect to taxes, the exchange of tax relevant information with the United States, or mutual assistance in tax matters.

(d) Cross references

For penalties for the unauthorized disclosure of tax convention information which is return or return information, see sections 7213, 7213A, and 7431.

(Added Pub. L. 106-554, §1(a)(7) [title III, §304(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-633; amended Pub. L. 107-134, title II, §201(c)(9), Jan. 23, 2002, 115 Stat. 2444; Pub. L. 107-147, title IV, §417(18), Mar. 9, 2002, 116 Stat. 56.)

PRIOR PROVISIONS

A prior section 6105, act Aug. 16, 1954, ch. 736, 68A Stat. 755, authorized the Secretary or his delegate to compile, beginning after June 31, 1941, all cases in which relief from excess profits tax has been allowed, prior to repeal by Pub. L. 94-455, title XIX, §1906(a)(7), Oct. 4, 1976, 90 Stat. 1824.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107-134, §201(c)(9)(A), struck out “or” at end.

Subsec. (b)(3). Pub. L. 107-134, §201(c)(9)(D), added par. (3). Former par. (3) redesignated (4).

Pub. L. 107-134, §201(c)(9)(B), substituted “paragraph (1), (2), or (3)” for “paragraphs (1) or (2)”.

Subsec. (b)(4). Pub. L. 107-134, §201(c)(9)(C), redesignated par. (3) as (4).

Subsec. (c)(1)(C), (E). Pub. L. 107-147 struck out “any” after subpar. designation.

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.

[§ 6106. Repealed. Pub. L. 94-455, title XII, § 1202(h)(1), Oct. 4, 1976, 90 Stat. 1688]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 756, related to inspection of unemployment tax returns.

§ 6107. Tax return preparer must furnish copy of return to taxpayer and must retain a copy or list

(a) Furnishing copy to taxpayer

Any person who is a tax return preparer with respect to any return or claim for refund shall

furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

(b) Copy or list to be retained by tax return preparer

Any person who is a tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

- (1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and
- (2) make such copy or list available for inspection upon request by the Secretary.

(c) Regulations

The Secretary shall prescribe regulations under which, in cases where 2 or more persons are tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

(d) Definitions

For purposes of this section, the terms “return” and “claim for refund” have the respective meanings given to such terms by section 6696(e), and the term “return period” has the meaning given to such term by section 6060(c).

(Added Pub. L. 94-455, title XII, § 1203(c), Oct. 4, 1976, 90 Stat. 1690; amended Pub. L. 110-28, title VIII, § 8246(a)(2)(C)(i), May 25, 2007, 121 Stat. 201.)

PRIOR PROVISIONS

A prior section 6107, acts Aug. 16, 1954, ch. 736, 68A Stat. 756; Nov. 2, 1966, Pub. L. 89-713, § 4(c), 80 Stat. 1110, authorized an alphabetical list of names of all persons who have paid special taxes under subtitle D or E of this title to be kept for public inspection, prior to repeal by Pub. L. 90-618, title II, § 203(a), Oct. 22, 1968, 82 Stat. 1235.

AMENDMENTS

2007—Pub. L. 110-28, § 8246(a)(2)(C)(i)(I), substituted “Tax return preparer” for “Income tax return preparer” in section catchline.

Subsec. (a). Pub. L. 110-28, § 8246(a)(2)(C)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

Subsec. (b). Pub. L. 110-28, § 8246(a)(2)(C)(i)(II), (III), substituted “tax return preparer” for “income tax return preparer” in heading and “a tax return preparer” for “an income tax return preparer” in text.

Subsec. (c). Pub. L. 110-28, § 8246(a)(2)(C)(i)(IV), substituted “tax return preparers” for “income tax return preparers”.

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

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.

§ 6108. Statistical publications and studies

(a) Publication or other disclosure of statistics of income

The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

(b) Special statistical studies

The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

(c) Anonymous form

No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(Aug. 16, 1954, ch. 736, 68A Stat. 756; Pub. L. 94-455, title XII, § 1202(b), Oct. 4, 1976, 90 Stat. 1685.)

AMENDMENTS

1976—Pub. L. 94-455 designated existing provisions as subsec. (a), struck out “or his delegate” after “Secretary”, inserted “not less than” after “prepare and publish” and “claimed or” after “income, the amounts”, substituted “internal revenue laws” for “income tax laws”, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

§ 6109. Identifying numbers

(a) Supplying of identifying numbers

When required by regulations prescribed by the Secretary:

(1) Inclusion in returns

Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing number to other persons

Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person or whose identifying number is required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing number of another person

Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(4) Furnishing identifying number of tax return preparer

Any return or claim for refund prepared by a tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms “return” and “claim for refund” have the respective meanings given to such terms by section 6696(e).

For purposes of paragraphs (1), (2), and (3), the identifying number of an individual (or his estate) shall be such individual’s social security account number.

(b) Limitation

(1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) Requirement of information

For purposes of this section, the Secretary is authorized to require such information as may be necessary to assign an identifying number to any person.

(d) Use of social security account number

The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title.

[(e) Repealed. Pub. L. 104–188, title I, § 1615(a)(2)(A), Aug. 20, 1996, 110 Stat. 1853]

(f) Access to employer identification numbers by Secretary of Agriculture for purposes of Food and Nutrition Act of 2008 of 1977¹**(1) In general**

In the administration of section 9 of the Food and Nutrition Act of 2008 (7 U.S.C. 2018) involving the determination of the qualifications of applicants under such Act, the Secretary of Agriculture may, subject to this subsection, require each applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the employer identifica-

tion number assigned to the store or concern pursuant to this section. The Secretary of Agriculture shall not have access to any such number for any purpose other than the establishment and maintenance of a list of the names and employer identification numbers of the stores and concerns for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act (7 U.S.C. 2021 or 2024).

(2) Sharing of information and safeguards**(A) Sharing of information**

The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food and Nutrition Act of 2008 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

(B) Safeguards

The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.

(3) Confidentiality and nondisclosure rules

Employer identification numbers that are obtained or maintained pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2) shall be confidential, and no officer or employee of the United States who has or had access to the employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term “officer or employee” includes a former officer or employee.

(4) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized

¹ So in original. See 2008 Amendment note below.

willful disclosure to any person of employer identification numbers maintained pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2) in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

(g) Access to employer identification numbers by Federal Crop Insurance Corporation for purposes of the Federal Crop Insurance Act

(1) In general

In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the employer identification number of such policyholder, subject to the requirements of this paragraph. No officer or employee of the Federal Crop Insurance Corporation, or authorized person shall have access to any such number for any purpose other than the establishment of a system of records necessary to the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager or authorized person, at such times and in such manner as prescribed by the Manager, the employer identification number of each entity that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this subclause, the term “substantial beneficial interest” means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this paragraph only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act.

(2) Confidentiality and nondisclosure rules

Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection shall be confidential, and except as authorized by this subsection, no officer or employee of the United States or authorized person who has or had access to such employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term “officer or employee” includes a former officer or employee. For purposes of this subsection, the term “authorized person” means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appro-

priate safeguards including a prohibition against the release of such social security account numbers (other than to the Corporations) by such person.

(3) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

(h) Identifying information required with respect to certain seller-provided financing

(1) Payor

If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

(2) Recipient

If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

(3) Furnishing of information between payor and recipient

If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

(4) Seller-provided financing

For purposes of this subsection, the term “seller-provided financing” means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.

(i) Special rules relating to the issuance of ITINs

(1) In general

The Secretary is authorized to issue an individual taxpayer identification number to an individual only if the applicant submits an application, using such form as the Secretary may require and including the required documentation—

(A) in the case of an applicant not described in subparagraph (B)—

(i) in person to an employee of the Internal Revenue Service or a community-based certified acceptance agent approved by the Secretary, or

(ii) by mail, pursuant to rules prescribed by the Secretary, or

(B) in the case of an applicant who resides outside of the United States, by mail or in person to an employee of the Internal Revenue Service or a designee of the Secretary at a United States diplomatic mission or consular post.

(2) Required documentation

For purposes of this subsection—

(A) In general

The term “required documentation” includes such documentation as the Secretary may require that proves the individual’s identity, foreign status, and residency.

(B) Validity of documents

The Secretary may accept only original documents or certified copies meeting the requirements of the Secretary.

(3) Term of ITIN

(A) In general

An individual taxpayer identification number issued after December 31, 2012, shall remain in effect unless the individual to whom such number is issued does not file a return of tax (or is not included as a dependent on the return of tax of another taxpayer) for 3 consecutive taxable years. In the case of an individual described in the preceding sentence, such number shall expire on the last day of such third consecutive taxable year.

(B) Special rule for existing ITINs

In the case of an individual with respect to whom an individual taxpayer identification number was issued before January 1, 2013, such number shall remain in effect until the earlier of—

- (i) the applicable date, or
- (ii) if the individual does not file a return of tax (or is not included as a dependent on the return of tax of another taxpayer) for 3 consecutive taxable years, the earlier of—
 - (I) the last day of such third consecutive taxable year, or
 - (II) the last day of the taxable year that includes the date of the enactment of this subsection.

(C) Applicable date

For purposes of subparagraph (B), the term “applicable date” means—

- (i) January 1, 2017, in the case of an individual taxpayer identification number issued before January 1, 2008,
- (ii) January 1, 2018, in the case of an individual taxpayer identification number issued in 2008,
- (iii) January 1, 2019, in the case of an individual taxpayer identification number issued in 2009 or 2010, and
- (iv) January 1, 2020, in the case of an individual taxpayer identification number issued in 2011 or 2012.

(4) Distinguishing ITINs issued solely for purposes of treaty benefits

The Secretary shall implement a system that ensures that individual taxpayer identi-

fication numbers issued solely for purposes of claiming tax treaty benefits are used only for such purposes, by distinguishing such numbers from other individual taxpayer identification numbers issued.

(Added Pub. L. 87-397, §1(a), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 94-455, title XII, §§1203(d), 1211(c), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1691, 1712, 1834; Pub. L. 99-514, title XV, §1524(a), Oct. 22, 1986, 100 Stat. 2749; Pub. L. 100-485, title VII, §§703(c)(3), 704(a), Oct. 13, 1988, 102 Stat. 2427; Pub. L. 101-508, title XI, §11112(a), Nov. 5, 1990, 104 Stat. 1388-413; Pub. L. 101-624, title XVII, §1735(c), title XXII, §2201(d), Nov. 28, 1990, 104 Stat. 3792, 3953; Pub. L. 102-486, title XIX, §1933(a), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103-296, title III, §316(b), Aug. 15, 1994, 108 Stat. 1532; Pub. L. 103-465, title VII, §742(b), Dec. 8, 1994, 108 Stat. 5010; Pub. L. 104-188, title I, §§1615(a)(2)(A), 1704(t)(42), Aug. 20, 1996, 110 Stat. 1853, 1889; Pub. L. 105-206, title III, §3710(a), July 22, 1998, 112 Stat. 779; Pub. L. 110-28, title VIII, §8246(a)(2)(D), May 25, 2007, 121 Stat. 201; Pub. L. 110-234, title IV, §4002(b)(1)(B), (G), (2)(O), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (G), (2)(O), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 114-113, div. Q, title II, §203(a), Dec. 18, 2015, 129 Stat. 3078.)

REFERENCES IN TEXT

Section 205 of the Social Security Act, referred to in subsec. (d), is classified to section 405 of Title 42, The Public Health and Welfare.

The Food and Nutrition Act of 2008, referred to in subsec. (f), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (g), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of Title 7, Agriculture. Section 506 of the Act is classified to section 1506 of Title 7. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

The date of the enactment of this subsection, referred to in subsec. (i)(3)(B)(ii)(II), is the date of enactment of Pub. L. 114-113, which was approved Dec. 18, 2015.

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 6109 was renumbered section 6116 of this title.

AMENDMENTS

2015—Subsec. (i). Pub. L. 114-113 added subsec. (i).

2008—Subsec. (f). Pub. L. 110-246, §4002(b)(1)(G), (2)(O), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act” in heading.

Subsec. (f)(1), (2)(A). Pub. L. 110-246, §4002(b)(1)(B), (2)(O), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2007—Subsec. (a)(4). Pub. L. 110-28, §8246(a)(2)(D)(ii), which directed amendment of heading by substituting “tax return preparer” for “income return preparer”, was executed by making the substitution for “income tax return preparer”, to reflect the probable intent of Congress.

Pub. L. 110-28, §8246(a)(2)(D)(i), substituted “a tax return preparer” for “an income tax return preparer”.

1998—Subsec. (a). Pub. L. 105-206 substituted “For purposes of paragraphs (1), (2), and (3)” for “For purposes of this subsection” in concluding provisions.

1996—Subsec. (e). Pub. L. 104-188, § 1615(a)(2)(A), struck out subsec. (e) which read as follows:

“(e) FURNISHING NUMBER FOR DEPENDENTS.—Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent.”

Subsecs. (f), (g). Pub. L. 104-188, § 1704(t)(42), redesignated subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act as subsec. (g).

1994—Subsec. (e). Pub. L. 103-465 substituted “dependents” for “certain dependents” in heading and amended text generally. Prior to amendment, text read as follows: “If—

“(1) any taxpayer claims an exemption under section 151 for any dependent on a return for any taxable year, and

“(2) such dependent has attained the age of 1 year before the close of such taxable year, such taxpayer shall include on such return the identifying number (for purposes of this title) of such dependent.”

Subsec. (f)(2). Pub. L. 103-296, § 316(b)(1), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by adding par. (2) and striking out former par. (2) “Safe-guards” which read as follows: “The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to paragraph (1) only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.”

Subsec. (f)(3). Pub. L. 103-296, § 316(b)(2), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (3), “pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)” for “by the Secretary of Agriculture pursuant to this subsection” and “employer identification numbers shall disclose” for “social security account numbers shall disclose”.

Subsec. (f)(4). Pub. L. 103-296, § 316(b)(3), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (4), “pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)” for “by the Secretary of Agriculture pursuant to this subsection”.

1992—Subsec. (h). Pub. L. 102-486 added subsec. (h).

1990—Subsec. (e)(2). Pub. L. 101-508 substituted “1 year” for “2 years”.

Subsec. (f). Pub. L. 101-624, § 2201(d), added subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act.

Pub. L. 101-624, § 1735(c), added subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977.

1988—Subsec. (a). Pub. L. 100-485, § 703(c)(3), substituted “or whose identifying number is required to be shown on a return of another person shall furnish” for “shall furnish”.

Subsec. (e)(2). Pub. L. 100-485, § 704(a), substituted “age of 2” for “age of 5”.

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

1976—Subsec. (a). Pub. L. 94-455, §§ 1203(d), 1906(b)(13)(A), struck out in provisions preceding par. (1) “or his delegate” after “Secretary” and added par. (4).

Subsec. (d). Pub. L. 94-455, § 1211(c), added subsec. (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, § 203(f), Dec. 18, 2015, 129 Stat. 3081, provided that: “The amendments made by this section [amending this section and section 6213 of this title] shall apply to applications for individual taxpayer identification numbers made after the date of the enactment of this Act [Dec. 18, 2015].”

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)(B), (G), (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 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 1998 AMENDMENT

Pub. L. 105-206, title III, § 3710(b), July 22, 1998, 112 Stat. 779, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1615(a)(2)(A) of Pub. L. 104-188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104-188, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 applicable to returns for taxable years beginning after Dec. 31, 1994, but not applicable to returns for taxable years beginning in 1995 with respect to individuals who are born after Oct. 31, 1995, and to returns for taxable years beginning in 1996 with respect to individuals who are born after Nov. 30, 1996, see section 742(c) of Pub. L. 103-465, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, § 1933(c), Oct. 24, 1992, 106 Stat. 3031, provided that: “The amendments made by this section [amending this section and section 6724 of this title] shall apply to taxable years beginning after December 31, 1991.”

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by section 1735(c) of Pub. L. 101-624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101-624, set out as a note under section 2012 of Title 7, Agriculture.

Pub. L. 101-508, title XI, § 11112(b), Nov. 5, 1990, 104 Stat. 1388-413, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns for taxable years beginning after December 31, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 100-485 applicable to taxable years beginning after Dec. 31, 1988, see section 703(d) of Pub. L. 100-485, set out as a note under section 21 of this title.

Pub. L. 100-485, title VII, § 704(b), Oct. 13, 1988, 102 Stat. 2428, provided that: “The amendment made by

subsection (a) [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1524(c), Oct. 22, 1986, 100 Stat. 2749, provided that: “The amendments made by this section [amending this section and section 6676 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1987.”

EFFECTIVE DATE

Pub. L. 87-397, §1(d), Oct. 5, 1961, 75 Stat. 829, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Paragraph (1) of section 6109(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by subsection (a) of this section, shall apply only in respect of returns, statements, and other documents relating to periods commencing after December 31, 1961. Paragraphs (2) and (3) of such section 6109(a) shall apply only in respect of returns, statements, or other documents relating to periods commencing after December 31, 1962.”

AUDIT BY TIGTA

Pub. L. 114-113, div. Q, title II, §203(b), Dec. 18, 2015, 129 Stat. 3079, provided that: “Not later than 2 years after the date of the enactment of this Act [Dec. 18, 2015], and every 2 years thereafter, the Treasury Inspector General for Tax Administration shall conduct an audit of the program of the Internal Revenue Service for the issuance of individual taxpayer identification numbers pursuant to section 6109(i) of the Internal Revenue Code of 1986 (as added by this section) and report the results of such audit to the Committee on Finance of the Senate and the Committee on the [sic] Ways and Means of the House of Representatives.”

COMMUNITY-BASED CERTIFIED ACCEPTANCE AGENTS

Pub. L. 114-113, div. Q, title II, §203(c), Dec. 18, 2015, 129 Stat. 3079, provided that: “The Secretary of the Treasury, or the Secretary’s delegate, shall maintain a program for training and approving community-based certified acceptance agents for purposes of section 6109(i)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section). Persons eligible to be acceptance agents under such program include—

“(1) financial institutions (as defined in section 265(b)(5) of such Code and the regulations thereunder),

“(2) colleges and universities which are described in section 501(c)(3) of such Code and exempt from taxation under section 501(a) of such Code,

“(3) Federal agencies (as defined in section 6402(h) of such Code),

“(4) State and local governments, including agencies responsible for vital records,

“(5) community-based organizations which are described in subsection (c)(3) or (d) of section 501 of such Code and exempt from taxation under section 501(a) of such Code,

“(6) persons that provide assistance to taxpayers in the preparation of their tax returns, and

“(7) other persons or categories of persons as authorized by regulations or other guidance of the Secretary of the Treasury.”

ITIN STUDY

Pub. L. 114-113, div. Q, title II, §203(d), Dec. 18, 2015, 129 Stat. 3079, provided that:

“(1) IN GENERAL.—The Secretary of the Treasury, or the Secretary’s delegate, shall conduct a study on the effectiveness of the application process for individual taxpayer identification numbers before the implementation of the amendments made by this section [amending this section and section 6213 of this title], the effects of the amendments made by this section on such application process, the comparative effectiveness

of an in-person review process for application versus other methods of reducing fraud in the ITIN program and improper payments to ITIN holders as a result, and possible administrative and legislative recommendations to improve such process.

“(2) SPECIFIC REQUIREMENTS.—Such study shall include an evaluation of the following:

“(A) Possible administrative and legislative recommendations to reduce fraud and improper payments through the use of individual taxpayer identification numbers (hereinafter referred to as ‘ITINs’).

“(B) If data supports an in-person initial review of ITIN applications to reduce fraud and improper payments, the administrative and legislative steps needed to implement such an in-person initial review of ITIN applications, in conjunction with an expansion of the community-based certified acceptance agent program under subsection (c) [set out as a note above], with a goal of transitioning to such a program by 2020.

“(C) Strategies for more efficient processing of ITIN applications.

“(D) The acceptance agent program as in existence on the date of the enactment of this Act [Dec. 18, 2015] and ways to expand the geographic availability of agents through the community-based certified acceptance agent program under subsection (c).

“(E) Strategies for the Internal Revenue Service to work with other Federal agencies, State and local governments, and other organizations and persons described in subsection (c) to encourage participation in the community-based certified acceptance agent program under subsection (c) to facilitate in-person initial review of ITIN applications.

“(F) Typical characteristics (derived from Form W-7 and other sources) of mail applications for ITINs as compared with typical characteristics of in-person applications.

“(G) Typical characteristics (derived from 17 [sic] Form W-7 and other sources) of ITIN applications before the Internal Revenue Service revised its application procedures in 2012 as compared with typical characteristics of ITIN applications made after such revisions went into effect.

“(3) REPORT.—The Secretary, or the Secretary’s delegate, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report detailing the study under paragraph (1) and its findings not later than 1 year after the date of the enactment of this Act [Dec. 18, 2015].

“(4) ADMINISTRATIVE STEPS.—The Secretary of the Treasury shall implement any administrative steps identified by the report under paragraph (3) not later than 180 days after submitting such report.”

§ 6110. Public inspection of written determinations

(a) General rule

Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

(b) Definitions

For purposes of this section—

(1) Written determination

(A) In general

The term “written determination” means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice.

(B) Exceptions

Such term shall not include any matter referred to in subparagraph (C) or (D) of section 6103(b)(2).

(2) Background file document

The term “background file document” with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

(3) Reference and general written determinations**(A) Reference written determination**

The term “reference written determination” means any written determination which has been determined by the Secretary to have significant reference value.

(B) General written determination

The term “general written determination” means any written determination other than a reference written determination.

(c) Exemptions from disclosure

Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d)(1), identified in the written determination or any background file document;

(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a

proceeding under subsection (f)(3)) to make such deletions.

(d) Procedures with regard to third party contacts**(1) Notations**

If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

(2) Exception

Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

(3) Disclosure of identity

In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f)(4)(B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

(4) Period in which to bring action

No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

(e) Background file documents

Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

(f) Resolution of disputes relating to disclosure**(1) Notice of intention to disclose**

Except as otherwise provided by subsection (i), the Secretary shall upon issuance of any

written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

(2) Administrative remedies

The Secretary shall prescribe regulations establishing administrative remedies with respect to—

(A) requests for additional disclosure of any written determination of any background file document, and

(B) requests to restrain disclosure.

(3) Action to restrain disclosure

(A) Creation of remedy

Any person—

(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2),

may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

(B) Notice to certain persons

The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determination or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.

(4) Action to obtain additional disclosure

(A) Creation of remedy

Any person who has exhausted the administrative remedies prescribed pursuant to

paragraph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.

(B) Intervention

If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court.

(5) Expedition of determination

The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date.

(6) Publicity of Tax Court proceedings

Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this section may be closed to the public or to inspection by the public.

(g) Time for disclosure

(1) In general

Except as otherwise provided in this section, the text of any written determination or any

background file document (as modified under subsection (c)) shall be open or available to public inspection—

(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or, if later,

(B) within 30 days after the date on which a court decision under subsection (f)(3) becomes final.

(2) Postponement by order of court

The court may extend the period referred to in paragraph (1)(B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

(3) Postponement of disclosure for up to 90 days

At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1)(A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

(4) Additional 180 days

If—

(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

(5) Special rules for certain written determinations, etc.

Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

(A) any technical advice memorandum, any Chief Counsel advice, and any related background file document involving any matter which is the subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

(B) any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—

(i) the funding method or plan year of a plan under section 412,

(ii) a taxpayer's annual accounting period under section 442,

(iii) a taxpayer's method of accounting under section 446(e), or

(iv) a partnership's or partner's taxable year under section 706,

but the Secretary shall make any such written determination and related background

file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

(h) Disclosure of prior written determinations and related background file documents

(1) In general

Except as otherwise provided in this subsection, a written determination issued pursuant to a request made before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.

(2) Time for disclosure

In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—

(A) subsection (g) shall not apply, but

(B) such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.

(3) Order of release

Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:

(A) reference written determinations issued under this title;

(B) general written determinations issued after July 4, 1967; and

(C) reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

(4) Notice that prior written determinations are open to public inspection

Notwithstanding the provisions of subsections (f)(1) and (f)(3)(A), not less than 90 days before making any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f)(3)(B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

(5) Exclusion

Subsection (d) shall not apply to any written determination described in paragraph (1).

(i) Special rules for disclosure of Chief Counsel advice**(1) Chief Counsel advice defined****(A) In general**

For purposes of this section, the term “Chief Counsel advice” means written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which—

(i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel; and

(ii) conveys—

(I) any legal interpretation of a revenue provision;

(II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision; or

(III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

(B) Revenue provision defined

For purposes of subparagraph (A), the term “revenue provision” means any existing or former internal revenue law, regulation, revenue ruling, revenue procedure, other published or unpublished guidance, or tax treaty, either in general or as applied to specific taxpayers or groups of specific taxpayers.

(2) Additional documents treated as Chief Counsel advice

The Secretary may by regulation provide that this section shall apply to any advice or instruction prepared and issued by the Office of Chief Counsel which is not described in paragraph (1).

(3) Deletions for Chief Counsel advice

In the case of Chief Counsel advice and related background file documents open to public inspection pursuant to this section—

(A) paragraphs (2) through (7) of subsection (c) shall not apply, but

(B) the Secretary may make deletions of material in accordance with subsections (b) and (c) of section 552 of title 5, United States Code, except that in applying subsection (b)(3) of such section, no statutory provision of this title shall be taken into account.

(4) Notice of intention to disclose**(A) Nontaxpayer-specific Chief Counsel advice**

In the case of Chief Counsel advice which is written without reference to a specific taxpayer or group of specific taxpayers—

(i) subsection (f)(1) shall not apply; and

(ii) the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, complete any deletions described in subsection (c)(1) or paragraph (3) and make the Chief Counsel advice, as so edited, open for public inspection.

(B) Taxpayer-specific Chief Counsel advice

In the case of Chief Counsel advice which is written with respect to a specific taxpayer or group of specific taxpayers, the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, mail the notice required by subsection (f)(1) to each such taxpayer. The notice shall include a copy of the Chief Counsel advice on which is indicated the information that the Secretary proposes to delete pursuant to subsection (c)(1). The Secretary may also delete from the copy of the text of the Chief Counsel advice any of the information described in paragraph (3), and shall delete the names, addresses, and other identifying details of taxpayers other than the person to whom the advice pertains, except that the Secretary shall not delete from the copy of the Chief Counsel advice that is furnished to the taxpayer any information of which that taxpayer was the source.

(j) Civil remedies**(1) Civil action**

Whenever the Secretary—

(A) fails to make deletions required in accordance with subsection (c), or

(B) fails to follow the procedures in subsection (g) or (i)(4)(B),

the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the United States Court of Federal Claims, which shall have jurisdiction to hear any action under this paragraph.

(2) Damages

In any suit brought under the provisions of paragraph (1)(A) in which the Court determines that an employee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that an employee intentionally or willfully failed to act in accordance with subsection (g) or (i)(4)(B), the United States shall be liable to the person in an amount equal to the sum of—

(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of \$1,000, and

(B) the costs of the action together with reasonable attorney’s fees as determined by the Court.

(k) Special provisions**(1) Fees**

The Secretary is authorized to assess actual costs—

(A) for duplication of any written determination or background file document made open or available to the public under this section, and

(B) incurred in searching for and making deletions required under subsection (c)(1) or (i)(3) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

(2) Records disposal procedures

Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

(3) Precedential status

Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

(l) Section not to apply

This section shall not apply to—

(1) any matter to which section 6104 or 6105 applies, or

(2) any—

(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501(c) or (d), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j)(3),

(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

(D) background file document relating to any general written determination issued before July 5, 1967, or

(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.

(m) Exclusive remedy

Except as otherwise provided in this title, or with respect to a discovery order made in con-

nection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.

(Added Pub. L. 94-455, title XII, §1201(a), Oct. 4, 1976, 90 Stat. 1660; amended Pub. L. 97-164, title I, §160(a)(9), Apr. 2, 1982, 96 Stat. 48; Pub. L. 98-620, title IV, §402(28)(B), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105-206, title III, §3509(a)-(c), July 22, 1998, 112 Stat. 772, 773; Pub. L. 106-170, title V, §521(a)(2), Dec. 17, 1999, 113 Stat. 1925; Pub. L. 106-554, §1(a)(7) [title III, §§304(c), 313(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634, 2763A-643; Pub. L. 110-172, §10(a), Dec. 29, 2007, 121 Stat. 2484.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsection (h)(3)(C), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

PRIOR PROVISIONS

A prior section 6110 was renumbered 6116 of this title.

AMENDMENTS

2007—Subsec. (i)(3). Pub. L. 110-172 inserted “and related background file documents” after “Chief Counsel advice” in introductory provisions.

2000—Subsec. (b)(1). Pub. L. 106-554, §1(a)(7) [title III, §304(c)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘written determination’ means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”

Subsec. (g)(5)(A). Pub. L. 106-554, §1(a)(7) [title III, §313(e)], inserted “, any Chief Counsel advice,” after “technical advice memorandum”.

Subsec. (l)(1). Pub. L. 106-554, §1(a)(7) [title III, §304(c)(2)], inserted “or 6105” after “6104”.

1999—Subsec. (b)(1). Pub. L. 106-170 inserted at end “Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”

1998—Subsec. (b)(1). Pub. L. 105-206, §3509(a), substituted “technical advice memorandum, or Chief Counsel advice” for “or technical advice memorandum”.

Subsec. (f)(1). Pub. L. 105-206, §3509(c)(1), substituted “Except as otherwise provided by subsection (i), the Secretary” for “The Secretary”.

Subsec. (i). Pub. L. 105-206, §3509(b), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105-206, §3509(b), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(1)(B), (2). Pub. L. 105-206, §3509(c)(2), substituted “subsection (g) or (i)(4)(B)” for “subsection (g)”.

Subsec. (k). Pub. L. 105-206, §3509(b), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (k)(1)(B). Pub. L. 105-206, §3509(c)(3), substituted “subsection (c)(1) or (i)(3)” for “subsection (c)”.

Subsecs. (l), (m). Pub. L. 105-206, §3509(b), redesignated subsecs. (k) and (l) as (l) and (m), respectively.

1992—Subsec. (i)(1). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1984—Subsec. (f)(5). Pub. L. 98-620 struck out provision that the Court of Appeals had to expedite any review of such decision in every way possible.

1982—Subsec. (i)(1). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-172, §10(b), Dec. 29, 2007, 121 Stat. 2484, provided that: “The amendment made by this section [amending this section] shall take effect as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105-206] to which it relates.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §304(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634, provided that: “The amendments made by this section [enacting section 6105 of this title and amending this section and section 6103 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2000].”

Amendment by section 1(a)(7) [title III, §313(e)] of Pub. L. 106-554 effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, to which such amendment relates, see section 1(a)(7) [title III, §313(f)] of Pub. L. 106-554, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3509(d), July 22, 1998, 112 Stat. 774, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section] shall apply to any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act [July 22, 1998].

“(2) TRANSITION RULES.—The amendments made by this section shall apply to any Chief Counsel advice issued after December 31, 1985, and before the 91st day after the date of the enactment of this Act [July 22, 1998] by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international, except that any such Chief Counsel advice shall be treated as made available on a timely basis if such advice is made available for public inspection not later than the following dates:

“(A) One year after the date of the enactment of this Act [July 22, 1998], in the case of all litigation guideline memoranda, service center advice, tax litigation bulletins, criminal tax bulletins, and general litigation bulletins.

“(B) Eighteen months after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1994.

“(C) Three years after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1992, and before January 1, 1994.

“(D) Six years after such date of enactment, in the case of any other Chief Counsel advice issued after December 31, 1985.

“(3) DOCUMENTS TREATED AS CHIEF COUNSEL ADVICE.—If the Secretary of the Treasury by regulation provides pursuant to section 6110(i)(2) of the Internal Revenue Code of 1986, as added by this section, that any additional advice or instruction issued by the Office of Chief Counsel shall be treated as Chief Counsel advice, such additional advice or instruction shall be made available for public inspection pursuant to section 6110 of such Code, as amended by this section, only in accordance with the effective date set forth in such regulation.

“(4) CHIEF COUNSEL ADVICE TO BE AVAILABLE ELECTRONICALLY.—The Internal Revenue Service shall make any Chief Counsel advice issued more than 90 days after

the date of the enactment of this Act [July 22, 1998] and made available for public inspection pursuant to section 6110 of such Code, as amended by this section, also available by computer telecommunications within 1 year after issuance.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Pub. L. 94-455, title XII, §1201(e), Oct. 4, 1976, 90 Stat. 1667, provided that: “Except as otherwise provided in this section [enacting this section and provisions set out below], the amendments made by this section shall take effect on November 1, 1976.”

PENDING REQUESTS

Pub. L. 94-455, title XII, §1201(b), Oct. 4, 1976, 90 Stat. 1667, provided that: “Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1) [subsec. (h)(1) of this section], but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976.”

§ 6111. Disclosure of reportable transactions

(a) In general

Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

- (1) information identifying and describing the transaction,
- (2) information describing any potential tax benefits expected to result from the transaction, and
- (3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

(b) Definitions

For purposes of this section:

(1) Material advisor

(A) In general

The term “material advisor” means any person—

- (i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and
- (ii) who directly or indirectly derives gross income in excess of the threshold amount (or such other amount as may be

prescribed by the Secretary) for such aid, assistance, or advice.

(B) Threshold amount

For purposes of subparagraph (A), the threshold amount is—

- (i) \$50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and
- (ii) \$250,000 in any other case.

(2) Reportable transaction

The term “reportable transaction” has the meaning given to such term by section 6707A(c).

(c) Regulations

The Secretary may prescribe regulations which provide—

- (1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,
- (2) exemptions from the requirements of this section, and
- (3) such rules as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 98-369, div. A, title I, §141(a), July 18, 1984, 98 Stat. 677; amended Pub. L. 99-514, title II, §201(d)(13), title XV, §1531(a), title XVIII, §1899A(54), Oct. 22, 1986, 100 Stat. 2142, 2749, 2961; Pub. L. 105-34, title X, §1028(a), Aug. 5, 1997, 111 Stat. 926; Pub. L. 108-357, title VIII, §815(a), Oct. 22, 2004, 118 Stat. 1581; Pub. L. 109-135, title IV, §412(zz), Dec. 21, 2005, 119 Stat. 2641.)

PRIOR PROVISIONS

A prior section 6111 was renumbered 6116 of this title.

AMENDMENTS

2005—Subsec. (b)(1)(A)(ii). Pub. L. 109-135 substituted “aid, assistance, or advice” for “advice or assistance”.

2004—Pub. L. 108-357 amended section catchline and text generally, substituting provisions relating to disclosure of reportable transactions for provisions relating to registration of tax shelters and inclusion of identification numbers on returns.

1997—Subsecs. (d) to (f). Pub. L. 105-34 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1986—Subsec. (c)(2)(A). Pub. L. 99-514, §1531(a), substituted “350 percent” for “200 percent”.

Subsec. (c)(3)(B)(ii). Pub. L. 99-514, §201(d)(13), substituted “section 465(b)(3)(C)” for “section 168(e)(4)”.

Subsec. (d)(1)(B). Pub. L. 99-514, §1899A(54), substituted “subparagraph” for “subparagraph”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §815(c), Oct. 22, 2004, 118 Stat. 1583, provided that: “The amendments made by this section [amending this section and sections 6112 and 6708 of this title] shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1028(e), Aug. 5, 1997, 111 Stat. 928, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this

section and sections 6662 and 6707 of this title] shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

“(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) [amending section 6662 of this title] shall apply to items with respect to transactions entered into after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(13) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(13) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

Pub. L. 99-514, title XV, §1531(b), Oct. 22, 1986, 100 Stat. 2749, provided that: “The amendment made by this section [amending this section] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as amended by this section) interests in which are first offered for sale after December 31, 1986.”

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §141(d), July 18, 1984, 98 Stat. 680, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and section 6707 of this title and renumbering former section 6111 as section 6112 of this title] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section) any interest in which is first sold to any investor after August 31, 1984.

“(2) SUBSTANTIAL INVESTMENT TEST.—For purposes of determining whether any investment is a tax shelter by reason of section 6111(c)(1)(B)(iii) of such Code (as added by this section), only offers for sale after August 31, 1984, shall be taken into account.

“(3) FURNISHING OF SHELTER IDENTIFICATION NUMBER FOR INTERESTS SOLD BEFORE SEPTEMBER 1, 1984.—With respect to interests sold before September 1, 1984, any liability to act under paragraph (1) of section 6111(b) of such Code (as added by this section) which would (but for this sentence) arise before such date shall be deemed to arise on December 31, 1984.”

§ 6112. Material advisors of reportable transactions must keep lists of advisees, etc.

(a) In general

Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall (whether or not required to file a return under section 6111 with respect to such transaction) maintain (in such manner as the Secretary may by regulations prescribe) a list—

- (1) identifying each person with respect to whom such advisor acted as a material advisor with respect to such transaction, and
- (2) containing such other information as the Secretary may by regulations require.

(b) Special rules**(1) Availability for inspection; retention of information on list**

Any person who is required to maintain a list under subsection (a) (or was required to maintain a list under subsection (a) as in effect before the enactment of the American Jobs Creation Act of 2004)—

(A) shall make such list available to the Secretary for inspection upon written request by the Secretary, and

(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

(2) Lists which would be required to be maintained by 2 or more persons

The Secretary may prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion).

(Added Pub. L. 98-369, div. A, title I, §142(a), July 18, 1984, 98 Stat. 681; amended Pub. L. 108-357, title VIII, §815(b)(2), (3), Oct. 22, 2004, 118 Stat. 1582; Pub. L. 109-135, title IV, §403(z), Dec. 21, 2005, 119 Stat. 2629.)

REFERENCES IN TEXT

Enactment of the American Jobs Creation Act of 2004, referred to in subsec. (b)(1), means enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

PRIOR PROVISIONS

A prior section 6112 was renumbered 6116 of this title.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109-135, in introductory provisions, inserted “(or was required to maintain a list under subsection (a) as in effect before the enactment of the American Jobs Creation Act of 2004)” after “a list under subsection (a)”.

2004—Pub. L. 108-357, §815(b)(2), substituted “Material advisors of reportable transactions must keep lists of advisees, etc.” for “Organizers and sellers of potentially abusive tax shelters must keep lists of investors” in section catchline.

Subsec. (a). Pub. L. 108-357, §815(b)(2), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions requiring each material advisor to maintain a list identifying each person with respect to whom such advisor acted as a material advisor with respect to a reportable transaction and containing such other information as required by regulations, for provisions requiring any person who organized any potentially abusive tax shelter or sold any interest in such a shelter to maintain a list identifying each person who had been sold an interest in such shelter and containing such other information as required by regulations.

Subsec. (b). Pub. L. 108-357, §815(b)(2), (3)(A), redesignated subsec. (c) as (b) and struck out former subsec. (b), which defined “potentially abusive tax shelter” for purposes of this section.

Subsec. (b)(1)(A). Pub. L. 108-357, §815(b)(3)(B), inserted “written” before “request”.

Subsec. (b)(2). Pub. L. 108-357, §815(b)(3)(C), substituted “may prescribe” for “shall prescribe”.

Subsec. (c). Pub. L. 108-357, §815(b)(3)(A), redesignated subsec. (c) as (b).

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 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §142(d), July 18, 1984, 98 Stat. 682, provided that: “The amendments made by this section [enacting this section and section 6708 of this title and renumbering former section 6112 as section 6113 of this title] shall apply to any interest which is first sold to any investor after August 31, 1984.”

§6113. Disclosure of nondeductibility of contributions**(a) General rule**

Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

(b) Organizations to which section applies**(1) In general**

Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

(B) is a political organization (as defined in section 527(e)), or

(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

(2) Exception for small organizations**(A) Annual gross receipts do not exceed \$100,000**

This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than \$100,000.

(B) Multiple organization rule

The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

(3) Special rule for certain fraternal organizations

For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

(c) Fundraising solicitation

For purposes of this section—

(1) In general

Except as provided in paragraph (2), the term “fundraising solicitation” means any solicitation of contributions or gifts which is made—

- (A) in written or printed form,
- (B) by television or radio, or
- (C) by telephone.

(2) Exception for certain letters or calls

The term “fundraising solicitation” shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.

(Added Pub. L. 100–203, title X, §10701(a), Dec. 22, 1987, 101 Stat. 1330–457.)

PRIOR PROVISIONS

A prior section 6113 was renumbered 6116 of this title.

EFFECTIVE DATE

Pub. L. 100–203, title X, §10701(d), Dec. 22, 1987, 101 Stat. 1330–459, provided that: “The amendments made by this section [enacting this section and section 6710 of this title and renumbering former section 6113 as section 6114 of this title] shall apply to solicitations after January 31, 1988.”

§ 6114. Treaty-based return positions**(a) In general**

Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) an internal revenue law of the United States shall disclose (in such manner as the Secretary may prescribe) such position—

- (1) on the return of tax for such tax (or any statement attached to such return), or
- (2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

(b) Waiver authority

The Secretary may waive the requirements of subsection (a) with respect to classes of cases for which the Secretary determines that the waiver will not impede the assessment and collection of tax.

(Added Pub. L. 100–647, title I, §1012(aa)(5)(A), Nov. 10, 1988, 102 Stat. 3532; amended Pub. L. 101–508, title XI, §11702(c), Nov. 5, 1990, 104 Stat. 1388–514.)

PRIOR PROVISIONS

A prior section 6114 was renumbered 6116 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–508 struck out “by regulations” before “waive the requirements”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 11702(j) of Pub. L. 101–508, set out as a note under section 59 of this title.

EFFECTIVE DATE

Pub. L. 100–647, title I, §1012(aa)(5)(D), Nov. 10, 1988, 102 Stat. 3533, provided that: “The amendments made

by this paragraph [enacting this section and section 6712 of this title and renumbering former section 6114 as section 6115 of this title] shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988.”

§ 6115. Disclosure related to quid pro quo contributions**(a) Disclosure requirement**

If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of \$75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which—

- (1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and
- (2) provides the donor with a good faith estimate of the value of such goods or services.

(b) Quid pro quo contribution

For purposes of this section, the term “quid pro quo contribution” means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization. A quid pro quo contribution does not include any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context.

(Added Pub. L. 103–66, title XIII, §13173(a), Aug. 10, 1993, 107 Stat. 456.)

PRIOR PROVISIONS

A prior section 6115 was renumbered section 6116 of this title.

EFFECTIVE DATE

Pub. L. 103–66, title XIII, §13173(d), Aug. 10, 1993, 107 Stat. 457, provided that: “The provisions of this section [enacting this section and section 6714 of this title and renumbering former section 6115 as 6116 of this title] shall apply to quid pro quo contributions made on or after January 1, 1994.”

§ 6116. Requirement for prisons located in United States to provide information for tax administration**(a) In general**

Not later than September 15, 2012, and annually thereafter, the head of the Federal Bureau of Prisons and the head of any State agency charged with the responsibility for administration of prisons shall provide to the Secretary in electronic format a list with the information described in subsection (b) of all the inmates incarcerated within the prison system for any part of the prior 2 calendar years or the current calendar year through August 31.

(b) Information

The information with respect to each inmate is—

- (1) first, middle, and last name,

- (2) date of birth,
- (3) institution of current incarceration or, for released inmates, most recent incarceration,
- (4) prison assigned inmate number,
- (5) the date of incarceration,
- (6) the date of release or anticipated date of release,
- (7) the date of work release,
- (8) taxpayer identification number and whether the prison has verified such number,
- (9) last known address, and
- (10) any additional information as the Secretary may request.

(c) Format

The Secretary shall determine the electronic format of the information described in subsection (b).

(Added Pub. L. 112-41, title V, §502(a), Oct. 21, 2011, 125 Stat. 460.)

PRIOR PROVISIONS

A prior section 6116 was renumbered section 6117 of this title.

§ 6117. Cross reference

For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102.

(Aug. 16, 1954, ch. 736, 68A Stat. 756, §6109; renumbered §6110, Pub. L. 87-397, §1(a), Oct. 5, 1961, 75 Stat. 828; renumbered §6111 and amended Pub. L. 94-455, title XII, §1201(a), title XIX, §1906(a)(8), Oct. 4, 1976, 90 Stat. 1660, 1824; renumbered §6112, renumbered §6113, Pub. L. 98-369, div. A, title I, §§141(a), 142(a), July 18, 1984, 98 Stat. 677, 681; renumbered §6114, Pub. L. 100-203, title X, §10701(a), Dec. 22, 1987, 101 Stat. 1330-457; renumbered §6115, Pub. L. 100-647, title I, §1012(aa)(5)(A), Nov. 10, 1988, 102 Stat. 3532; renumbered §6116, Pub. L. 103-66, title XIII, §13173(a), Aug. 10, 1993, 107 Stat. 456; renumbered §6117, Pub. L. 112-41, title V, §502(a), Oct. 21, 2011, 125 Stat. 460.)

AMENDMENTS

1976—Pub. L. 94-455, among other changes, substituted in section catchline “Cross reference” for “Cross references” and struck out in text reference to section 4876, relating to reports of Secretary of Agriculture concerning cotton futures, reference to section 4773, relating to inspection of returns, order forms, and prescriptions concerning narcotics and marihuana, and reference to section 4775 relating to authority of Secretary or his delegate to furnish list of special taxpayers.

CHAPTER 62—TIME AND PLACE FOR PAYING TAX

Subchapter	Sec.1
A. Place and due date for payment of tax	6151
B. Extensions of time for payment	6161

Subchapter A—Place and Due Date for Payment of Tax

Sec.	
6151.	Time and place for paying tax shown on returns.
[6152 to 6154. Repealed.]	

¹ Section numbers editorially supplied.

Sec.	
6155.	Payment on notice and demand.
[6156. Repealed.]	
6157.	Payment of Federal unemployment tax on quarterly or other time period basis.
[6158. Repealed.]	
6159.	Agreements for payment of tax liability in installments.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §867(b)(2), Oct. 22, 2004, 118 Stat. 1622, struck out item 6156 “Installment payments of tax on use of highway motor vehicles”.

1990—Pub. L. 101-508, title XI, §11801(b)(13), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 6158 “Installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970”.

1988—Pub. L. 100-647, title VI, §6234(b)(2), Nov. 10, 1988, 102 Stat. 3736, added item 6159.

1987—Pub. L. 100-203, title X, §10301(b)(7), Dec. 22, 1987, 101 Stat. 1330-429, struck out item 6154 “Installment payments of estimated income tax by corporations”.

1986—Pub. L. 99-514, title XIV, §1404(c)(4), Oct. 22, 1986, 100 Stat. 2714, struck out item 6152 “Installment payments”.

1984—Pub. L. 98-369, div. A, title IV, §412(c)(3), July 18, 1984, 98 Stat. 793, struck out item 6153 “Installment payments of estimated income tax by individuals”.

1982—Pub. L. 97-248, title II, §280(c)(2)(F), Sept. 3, 1982, 96 Stat. 564, struck out “and civil aircraft” after “motor vehicles” in item 6156.

1976—Pub. L. 94-452, §3(c)(1), Oct. 2, 1976, 90 Stat. 1514, added item 6158.

1970—Pub. L. 91-258, title II, §206(d)(3), May 21, 1970, 84 Stat. 246, inserted “and civil aircraft” in item 6156.

1969—Pub. L. 91-53, §2(f)(1), Aug. 7, 1969, 83 Stat. 93, substituted “Payment of Federal unemployment tax on quarterly or other time period basis” for “Payment of taxes under provisions of the Tariff Act” in item 6157.

1961—Pub. L. 87-61, title II, §203(c)(3), June 29, 1961, 75 Stat. 126, added item 6156 and redesignated former item 6156 as 6157.

§ 6151. Time and place for paying tax shown on returns

(a) General rule

Except as otherwise provided in this subchapter, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary, pay such tax to the internal revenue officer with whom the return is filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

(b) Exceptions

(1) Income tax not computed by taxpayer

If the taxpayer elects under section 6014 not to show the tax on the return, the amount determined by the Secretary as payable shall be paid within 30 days after the mailing by the Secretary to the taxpayer of a notice stating such amount and making demand therefor.

(2) Use of government depositaries

For authority of the Secretary to require payments to Government depositaries, see section 6302(c).

(c) Date fixed for payment of tax

In any case in which a tax is required to be paid on or before a certain date, or within a cer-

tain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

(Aug. 16, 1954, ch. 736, 68A Stat. 757; Pub. L. 89-713, §1(b), Nov. 2, 1966, 80 Stat. 1108; Pub. L. 94-452, §3(c)(2), Oct. 2, 1976, 90 Stat. 1514; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

Subsec. (a). Pub. L. 94-452 substituted “subchapter,” for “section.”

1966—Subsec. (a). Pub. L. 89-713 substituted the revenue officer with whom the return is filed for the principal internal revenue officer for the internal revenue district in which the return is required to be filed as the description of the person to whom the tax is paid.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-452, §3(e), Oct. 2, 1976, 90 Stat. 1514, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 6158 of this title and amending this section and sections 6503 and 6601 of this title] shall take effect on October 1, 1977, with respect to sales after July 7, 1970, in taxable years ending after July 7, 1970, but only in the case of qualified bank holding corporations (within the meaning of section 1103(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by section 2(a) of this Act).

“(2) SPECIAL RULE FOR CERTIFYING SALES WHICH HAVE ALREADY TAKEN PLACE.—For purposes of section 6158(a) of the Internal Revenue Code of 1986 (as added by subsection (a) of this section) in the case of any sale which takes place on or before the 90th day after the date of the enactment of this Act [Oct. 2, 1976], a certification by the Federal Reserve Board described in section 6158(a) shall be treated as made before the sale if application for such certification is made before the close of the 90th day after the date of the enactment of this Act [Oct. 2, 1976].

“(3) REFUND OF TAX.—

“(A) IN GENERAL.—If any tax attributable to a sale which occurred before October 1, 1977, is payable in annual installments by reason of an election under section 6158(a) of the Internal Revenue Code of 1986, any portion of such tax for which the due date of the installment does not occur before October 1, 1977, shall, on application of the taxpayer, be treated as an overpayment of tax.

“(B) INTEREST ON OVERPAYMENTS.—For purposes of section 6611(b) in the case of any overpayment attributable to subparagraph (A), the date of the overpayment shall be the day which is 6 months after the latest of the following:

“(i) the date on which application for refund or credit of such overpayment is filed,

“(ii) the due date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 of the Internal Revenue Code of 1986 for the taxable year the tax of which is being refunded or credited, or

“(iii) the date of the enactment of this Act [Oct. 2, 1976].

“(C) EXTENSION OF PERIOD OF LIMITATIONS.—If any refund or credit of tax attributable to the application of subparagraph (A) is prevented at any time before October 1, 1978, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before October 1, 1978.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 effective Nov. 2, 1966, see section 6 of Pub. L. 89-713, set out as a note under section 6091 of this title.

§ 6152. Repealed. Pub. L. 99-514, title XIV, § 1404(c)(1), Oct. 22, 1986, 100 Stat. 2714]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 757; Sept. 1, 1954, ch. 1212, §3, 68 Stat. 1130; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(a)(9), (b)(13)(A), 90 Stat. 1824, 1834; Sept. 3, 1982, Pub. L. 97-248, title II, §234(b)(1), 96 Stat. 503, related to installment payments of taxes.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 643 of this title.

§ 6153. Repealed. Pub. L. 98-369, div. A, title IV, § 412(a)(3), July 18, 1984, 98 Stat. 792]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 758; Sept. 25, 1962, Pub. L. 87-682, §1(a)(3), (c), 76 Stat. 575; Dec. 23, 1975, Pub. L. 94-164, §5(b), 89 Stat. 975; June 30, 1976, Pub. L. 94-331, §3(b), 90 Stat. 782; Sept. 3, 1976, Pub. L. 94-396, §2(a)(2), 90 Stat. 1201; Sept. 17, 1976, Pub. L. 94-414, §3(b), 90 Stat. 1273; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834; Aug. 13, 1981, Pub. L. 97-34, title VII, §725(c)(3), 95 Stat. 346; Sept. 3, 1982, Pub. L. 97-248, title III, §328(b)(3), 96 Stat. 618, related to installment payments of estimated income tax by individuals.

EFFECTIVE DATE OF REPEAL

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

§ 6154. Repealed. Pub. L. 100-203, title X, § 10301(b)(1), Dec. 22, 1987, 101 Stat. 1330-429]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 760; Feb. 26, 1964, Pub. L. 88-272, title I, §122(a), 78 Stat. 25; Mar. 15, 1966, Pub. L. 89-368, title I, §104(a), 80 Stat. 64; June 28, 1968, Pub. L. 90-364, title I, §103(b), 82 Stat. 260; Dec. 23, 1975, Pub. L. 94-164, §5(c), 89 Stat. 975; June 30, 1976, Pub. L. 94-331, §3(c), 90 Stat. 782; Sept. 3, 1976, Pub. L. 94-396, §2(a)(3), 90 Stat. 1201; Sept. 17, 1976, Pub. L. 94-414, §3(c), 90 Stat. 1273; Oct. 4, 1976, Pub. L. 94-455, title IX, §901(c)(3), title XIX, §1906(a)(10), (b)(13)(A), 90 Stat. 1607, 1825, 1834; Nov. 6, 1978, Pub. L. 95-600, title III, §301(b)(20)(A), 92 Stat. 2823; Jan. 12, 1983, Pub. L. 97-448, title II, §201(j)(2), 96 Stat. 2396; Oct. 17, 1986, Pub. L. 99-499, title V, §516(b)(4)(A), 100 Stat. 1771; Oct. 22, 1986, Pub. L. 99-514, title VII, §701(d)(1), title XV, §1542(a), 100 Stat. 2341, 2751; Nov. 10, 1988, Pub. L. 100-647, title I, §§1007(g)(10), 1015(h), 102 Stat. 3435, 3571, related to installment payments of estimated income tax by corporations.

EFFECTIVE DATE OF REPEAL

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

§ 6155. Payment on notice and demand

(a) General rule

Upon receipt of notice and demand from the Secretary, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to tax, and assessable penalties) stated in such notice and demand.

(b) Cross references

(1) For restrictions on assessment and collection of deficiency assessments of taxes subject to the jurisdiction of the Tax Court, see sections 6212 and 6213.

(2) For provisions relating to assessment of claims allowed in a receivership proceeding, see section 6873.

(3) For provisions relating to jeopardy assessments, see subchapter A of chapter 70.

(Aug. 16, 1954, ch. 736, 68A Stat. 760; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, §6(i)(7), Dec. 24, 1980, 94 Stat. 3410.)

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96-589 struck out reference to a bankruptcy proceeding.

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

[§ 6156. Repealed. Pub. L. 108-357, title VIII, § 867(b)(1), Oct. 22, 2004, 118 Stat. 1622]

Section, added Pub. L. 87-61, title II, §203(c)(1), June 29, 1961, 75 Stat. 125; amended Pub. L. 91-258, title II, §206(b), (d)(2), May 21, 1970, 84 Stat. 245, 246; Pub. L. 91-605, title III, §303(a)(10), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, §303(a)(10), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-599, title V, §502(a)(9), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 97-248, title II, §280(c)(2)(C)-(E), Sept. 3, 1982, 96 Stat. 564; Pub. L. 97-424, title V, §516(a)(6), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 100-17, title V, §502(d)(2), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101-508, title XI, §1121(f)(2), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(c)(2), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 105-178, title IX, §9002(a)(2)(B), June 9, 1998, 112 Stat. 500, related to installment payments of tax on use of highway motor vehicles.

A prior section 6156 was renumbered section 6157 of this title, prior to repeal by Pub. L. 91-53, §2(a), Aug. 7, 1969, 83 Stat. 91.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable periods beginning after Oct. 22, 2004, see section 867(e) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendment note under section 4481 of this title.

§ 6157. Payment of Federal unemployment tax on quarterly or other time period basis**(a) General rule**

Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

(2) if the person is not such an employer for the preceding calendar year with respect to

any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsection (c), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.

(b) Computation of tax

The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by 0.6 percent. In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.8 percent in lieu of 0.6 percent.

(c) Special rule where accumulated amount does not exceed \$100

Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed \$100.

(Added Pub. L. 91-53, §2(a), Aug. 7, 1969, 83 Stat. 91; amended Pub. L. 91-373, title I, §101(b)(1), (2), Aug. 10, 1970, 84 Stat. 696; Pub. L. 92-329, §2(b), June 30, 1972, 86 Stat. 398; Pub. L. 94-455, title XIX, §1906(a)(11), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 94-566, title I, §114(b), title II, §211(e)(3) [(c)(3)], Oct. 20, 1976, 90 Stat. 2669, 2677; Pub. L. 97-248, title II, §271(b)(2)(C), (c)(3)(C), Sept. 3, 1982, 96 Stat. 555; Pub. L. 98-76, title II, §231(b)(1), Aug. 12, 1983, 97 Stat. 428; Pub. L. 100-647, title VII, §7106(c)(1), Nov. 10, 1988, 102 Stat. 3773; Pub. L. 101-239, title VII, §7841(d)(12), Dec. 19, 1989, 103 Stat. 2428.)

PRIOR PROVISIONS

A prior section 6157, act Aug. 16, 1954, ch. 736, 68A Stat. 761, §6156; renumbered §6157, June 29, 1961, Pub. L. 87-61, title II, §203(c)(1), 75 Stat. 125, made a cross reference provision for payment of taxes under provisions of the Tariff Act, prior to repeal by Pub. L. 91-53, §2(a), Aug. 7, 1969, 83 Stat. 91.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239 substituted “subsection (c)” for “subsections (c) and (d)” in last sentence.

1988—Subsec. (d). Pub. L. 100-647 struck out subsec. (d) which related to quarterly payment of railroad unemployment repayment tax.

1983—Subsec. (d). Pub. L. 98-76 added subsec. (d).
 1982—Subsec. (b). Pub. L. 97-248, §271(c)(3)(C), substituted “0.6” for “0.5” in two places.

Pub. L. 97-248, §271(b)(2)(C), substituted “0.8” for “0.7”.

1976—Subsec. (a). Pub. L. 94-566, §114(b), amended subsec. (a) generally, changing the general rule covering payment of Federal unemployment tax on a quarterly or other time period basis to conform to the altered definitions of employment and wages pertaining to domestic and agricultural service in section 3306 of this title.

Pub. L. 94-455, §1906(a)(11)(B), (b)(13)(A), substituted “subsection (c)” for “subsections (c) and (d)” and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-566, §211(e)(3) [(c)(3)], substituted “In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent” for “In the case of wages paid in any calendar quarter or other period during 1973, the amount of such wages shall be multiplied by 0.58 percent in lieu of 0.5 percent”.

Subsecs. (c), (d). Pub. L. 94-455, §1906(a)(11)(A), redesignated subsec. (d) as (c). Former subsec. (c), which related to the percentage reduction for 1970 and 1971 of the tax computed in subsec. (b), was struck out.

1972—Subsec. (b). Pub. L. 92-329 inserted provisions setting forth the computation of tax in the case of wages paid in any calendar quarter or other period during 1973.

1970—Subsec. (a)(1). Pub. L. 91-373, §101(b)(1), reduced from 4 to 1 the number of individuals which a person had to employ on each of some 20 days during the preceding calendar year and inserted provision covering persons who, during any calendar quarter in the preceding calendar year, paid wages of \$1,500 or more.

Subsec. (b). Pub. L. 91-373, §101(b)(2), substituted “0.5 percent” for “the number of percentage points (including fractional points) by which the rate of tax specified in section 3301 exceeds .7 percent”. be the date on which payment would have been required if such remainder had been the tax.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 271(b)(2)(C) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1982, see section 271(d)(1) of Pub. L. 97-248, as amended, set out as a note under section 3301 of this title.

Amendment by section 271(c)(3)(C) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1984, see section 271(d)(2) of Pub. L. 97-248, as amended, set out as a note under section 3301 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 114(b) of Pub. L. 94-566 effective with respect to remuneration paid after Dec. 31, 1977, for services performed after that date, see section 114(c) of Pub. L. 94-566 set out as a note under section 3306 of this title.

Amendment by section 211(e)(3) of Pub. L. 94-566 effective Oct. 20, 1976, see section 211(d)(3) of Pub. L. 94-566, set out as a note under section 1101 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(b)(1) of Pub. L. 91-373 applicable with respect to calendar years beginning after

Dec. 31, 1971, see section 101(c)(1) of Pub. L. 91-373, set out as a note under section 3306 of this title.

Pub. L. 91-373, title I, §101(c)(2), Aug. 10, 1970, 84 Stat. 696, provided that: “The amendment made by subsection (b)(2) [amending this section] shall apply with respect to calendar years beginning after December 31, 1969.”

EFFECTIVE DATE

Pub. L. 91-53, §4(a), Aug. 7, 1969, 83 Stat. 93, provided that: “The amendments made by the first two sections of this Act [enacting section 6317 and amending this section and sections 3306, 6201, 6513, and 6601 of this title] shall apply with respect to calendar years beginning after December 31, 1969.”

EXTENSION OF TIME FOR PAYMENT OF ADDITIONAL FUTA TAXES

Pub. L. 102-244, §4, Feb. 7, 1992, 106 Stat. 4, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, if a qualified taxpayer is required to pay additional taxes for taxable years beginning in 1991 with respect to any employment in any State by reason of such State being declared a credit reduction State, such taxpayer may elect to defer the filing and payment of such additional taxes to a date no later than June 30, 1992.

“(b) INTEREST.—Notwithstanding subsection (a), for purposes of section 6601(a) of the Internal Revenue Code of 1986, the last date prescribed for payment of any additional taxes for which an election is made under subsection (a) shall be January 31, 1992.

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

“(1) QUALIFIED TAXPAYER.—The term ‘qualified taxpayer’ means a taxpayer—

“(A) in a State which has been declared a credit reduction State for taxable years beginning in 1991, and

“(B) who did not receive notice of such credit reduction before December 1, 1991 from either the State unemployment compensation agency or the Internal Revenue Service.

“(2) CREDIT REDUCTION STATE.—The term ‘credit reduction State’ means a State with respect to which the Internal Revenue Service has determined that a reduction in credits is applicable for taxable years beginning in 1991 pursuant to the provisions of section 3302 of the Internal Revenue Code of 1986.

“(d) TIME AND MANNER FOR MAKING ELECTION.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury shall prescribe.”

WAGES PAID IN 1970 CALENDAR QUARTERS ENDING BEFORE AUGUST 10, 1970

Pub. L. 91-373, title III, §301(b), Aug. 10, 1970, 84 Stat. 713, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of section 6157 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to payment of Federal unemployment tax on quarterly or other time period basis), in computing tax as required by subsections (a)(1) and (2) of such section, the percentage contained in subsection (b) of such section applicable with respect to wages paid in any calendar quarter in 1970 ending before the date of the enactment of this Act [Aug. 10, 1970] shall be treated as being 0.4 percent.”

[§6158. Repealed. Pub. L. 101-508, title XI, §11801(a)(44), Nov. 5, 1990, 104 Stat. 1388-521]

Section, added Pub. L. 94-452, §3(a), Oct. 2, 1976, 90 Stat. 1512; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 6159. Agreements for payment of tax liability in installments

(a) Authorization of agreements

The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to make payment on any tax in installment payments if the Secretary determines that such agreement will facilitate full or partial collection of such liability.

(b) Extent to which agreements remain in effect

(1) In general

Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

(2) Inadequate information or jeopardy

The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

(A) information which the taxpayer provided to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

(3) Subsequent change in financial conditions

If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

(4) Failure to pay an installment or any other tax liability when due or to provide requested financial information

The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

(A) to pay any installment at the time such installment payment is due under such agreement,

(B) to pay any other tax liability at the time such liability is due, or

(C) to provide a financial condition update as requested by the Secretary.

(5) Notice requirements

The Secretary may not take any action under paragraph (2), (3), or (4) unless—

(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

(c) Secretary required to enter into installment agreements in certain cases

In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the full payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed \$10,000;

(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

(A) failed to file any return of tax imposed by subtitle A;

(B) failed to pay any tax required to be shown on any such return; or

(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination);

(4) the agreement requires full payment of such liability within 3 years; and

(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.

(d) Secretary required to review installment agreements for partial collection every two years

In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.

(e) Administrative review

The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.

(f) Cross reference

For rights to administrative review and appeal, see section 7122(e).

(Added Pub. L. 100-647, title VI, § 6234(a), Nov. 10, 1988, 102 Stat. 3735; amended Pub. L. 104-168, title II, §§ 201(a), (b), 202(a), July 30, 1996, 110 Stat. 1456, 1457; Pub. L. 105-206, title III, §§ 3462(c)(2), 3467(a), July 22, 1998, 112 Stat. 766, 769; Pub. L. 105-277, div. J, title IV, § 4002(g), Oct. 21, 1998, 112 Stat. 2681-907; Pub. L. 108-357, title VIII, § 843(a), (b), Oct. 22, 2004, 118 Stat. 1600; Pub. L. 109-222, title V, § 509(c), May 17, 2006, 120 Stat. 363.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109-222 substituted “section 7122(e)” for “section 7122(d)”.

2004—Subsec. (a). Pub. L. 108-357, § 843(a)(1), substituted “make payment on” for “satisfy liability for payment of” and inserted “full or partial” after “facilitate”.

Subsec. (c). Pub. L. 108-357, § 843(a)(2), inserted “full” before “payment” in introductory provisions.

Subsec. (d) to (f). Pub. L. 108-357, § 843(b), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1998—Subsec. (c). Pub. L. 105-206, § 3467(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-277 redesignated subsec. (d), relating to cross reference, as (e).

Pub. L. 105-206, § 3467(a), redesignated former subsec. (c), relating to administrative review, as (d).

Pub. L. 105-206, § 3462(c)(2), added subsec. (d), relating to cross reference.

Subsec. (e). Pub. L. 105-277 redesignated subsec. (d), relating to cross reference, as (e).

1996—Subsec. (b)(3). Pub. L. 104-168, § 201(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

“(A) IN GENERAL.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

“(B) NOTICE.—Action may be taken by the Secretary under subparagraph (A) only if—

“(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

“(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.”

Subsec. (b)(5). Pub. L. 104-168, § 201(a), added par. (5).

Subsec. (c). Pub. L. 104-168, § 202(a), added subsec. (c).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-222, title V, § 509(d), May 17, 2006, 120 Stat. 364, provided that: “The amendments made by this section [amending this section and section 7122 of this title] shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act [May 17, 2006].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 843(c), Oct. 22, 2004, 118 Stat. 1600, provided that: “The amendments made by this section [amending this section] shall apply to agreements entered into on or after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1998 AMENDMENTS

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

Amendment by section 3462(c)(2) of Pub. L. 105-206 applicable to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, see section 3462(e)(1) of Pub. L. 105-206, set out as a note under section 6331 of this title.

Pub. L. 105-206, title III, § 3467(b), July 22, 1998, 112 Stat. 770, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title II, § 201(c), July 30, 1996, 110 Stat. 1457, provided that: “The amendments made by this section [amending this section] shall take effect on the date 6 months after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title II, § 202(b), July 30, 1996, 110 Stat. 1457, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.”

EFFECTIVE DATE

Pub. L. 100-647, title VI, § 6234(c), Nov. 10, 1988, 102 Stat. 3736, provided that: “The amendments made by

this section [enacting this section and amending section 6601 of this title] shall apply to agreements entered into after the date of the enactment of this Act [Nov. 10, 1988].”

STATEMENTS REGARDING INSTALLMENT AGREEMENTS

Pub. L. 105-206, title III, § 3506, July 22, 1998, 112 Stat. 771, as amended by Pub. L. 106-554, § 1(a)(7) [title III, § 302(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-632, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall, beginning not later than September 1, 2001, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.”

Subchapter B—Extensions of Time for Payment

Sec.

6161. Extension of time for paying tax.

[6162. Repealed.]

6163. Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

6164. Extension of time for payment of taxes by corporations expecting carrybacks.

6165. Bonds where time to pay tax or deficiency has been extended.

6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

[6166A. Repealed.]

6167. Extension of time for payment of tax attributable to recovery of foreign expropriation losses.

AMENDMENTS

1981—Pub. L. 97-34, title IV, § 422(e)(5)(C), Aug. 13, 1981, 95 Stat. 316, substituted in item 6166 “Extension of time” for “Alternate extension of time” and struck out item 6166A “Extension of time for payment of estate tax where estate consists largely of interest in closely held business”.

1976—Pub. L. 94-455, title XIX, § 1906(b)(4), title XX, § 2004(f)(5), Oct. 4, 1976, 90 Stat. 1833, 1872, struck out item 6162 “Extension of time for payment of tax on gain attributable to liquidation of personal holding companies”, added item 6166, and renumbered former item 6166 as 6166A.

1966—Pub. L. 89-384, § 1(g)(2), Apr. 8, 1966, 80 Stat. 104, added item 6167.

1958—Pub. L. 85-866, title II, § 206(b), Sept. 2, 1958, 72 Stat. 1684, added item 6166.

§ 6161. Extension of time for paying tax

(a) Amount determined by taxpayer on return

(1) General rule

The Secretary, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

(2) Estate tax

The Secretary may, for reasonable cause, extend the time for payment of—

(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

(B) any part of any installment under section 6166 (including any part of a deficiency prorated to any installment under such section).

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment).

(b) Amount determined as deficiency

(1) Income, gift, and certain other taxes

Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

(2) Estate tax

Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

(3) No extension for certain deficiencies

No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(c) Claims in cases under title 11 of the United States Code or in receivership proceedings

Extensions of time for payment of any portion of a claim for tax under chapter 1 or chapter 12, allowed in cases under title 11 of the United States Code or in receivership proceedings, which is unpaid, may be had in the same manner and subject to the same provisions and limitations as provided in subsection (b) in respect of a deficiency in such tax.

(d) Cross references

(1) Period of limitation

For extension of the period of limitation in case of an extension under subsection (a)(2) or subsection (b)(2), see section 6503(d).

(2) Security

For authority of the Secretary to require security in case of an extension under subsection (a)(2) or subsection (b), see section 6165.

(3) Postponement of certain acts

For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terrorist action or military action, see section 7508A.

(Aug. 16, 1954, ch. 736, 68A Stat. 762; Pub. L. 85-866, title II, §206(c), Sept. 2, 1958, 72 Stat. 1684; Pub. L. 91-172, title I, §101(j)(37), Dec. 30, 1969, 83 Stat. 530; Pub. L. 91-614, title I, §101(h), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 93-406, title II, §1016(a)(7), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94-455, title XIII, §1307(d)(2)(C), title XVI, §1605(b)(3), title XIX, §1906(b)(13)(A), title XX, §2004(c)(1), (2), Oct. 4, 1976, 90 Stat. 1727, 1754, 1834, 1867, 1868; Pub. L. 96-223, title I, §101(f)(1)(H), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96-589, §6(i)(8), Dec. 24, 1980, 94 Stat. 3410; Pub. L. 97-34, title IV, §422(e)(1), Aug. 13, 1981, 95 Stat. 316; Pub. L. 100-418, title I, §1941(b)(2)(B)(viii), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 107-134, title I, §112(d)(3), Jan. 23, 2002, 115 Stat. 2435.)

AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107-134 added par. (3).

1988—Subsec. (b)(1). Pub. L. 100-418 substituted “or 44” for “44, or 45” in two places.

1981—Subsec. (a)(2)(B). Pub. L. 97-34 struck out reference to section 6166A.

1980—Subsec. (b)(1). Pub. L. 96-223 inserted references to chapter 45.

Subsec. (c). Pub. L. 96-589 substituted “Claims in cases under title 11 of the United States Code or in receivership proceedings” for “Claims in bankruptcy or receivership proceedings” in heading, and substituted reference to cases under title 11 of the United States Code, for reference to bankruptcy proceedings in text.

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(2). Pub. L. 94-455, §2004(c)(1), struck out in subpar. (A) “that the payment, on the due date, of” before “any part of the amount”, in subpar. (B) provisions relating to payment, on the date fixed for payment of any installment, and subpar. (C) which related to payment upon notice and demand of a deficiency prorated under the provisions of section 6161, inserted in subpar. (B) “or 6166A” after “section 6166”, substituted in subpar. (B) “under such section” for “the date for payment for which had not arrived”, and inserted in text following subpar. (B) provisions relating to extension of time for payment in the case of an amount referred to in subpar. (B).

Subsec. (b). Pub. L. 94-455, §§1307(d)(2)(C), 1605(b)(3), 2004(c)(2), among other changes, inserted reference to chapter 41, effective on or after Oct. 4, 1976, and reference to chapter 44, applicable to taxable years of real estate investment trusts beginning after Oct. 4, 1976, and struck out provisions relating to grant of extensions with respect to hardships to taxpayers, applicable to the estates of decedents dying after Dec. 31, 1976.

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

1974—Subsec. (b). Pub. L. 93-406 inserted references to chapter 43.

1970—Subsec. (a)(1). Pub. L. 91-614 substituted “6 months (12 months in the case of estate tax)” for “6 months”.

1969—Subsec. (b). Pub. L. 91-172 inserted references to chapter 42.

1958—Subsec. (a)(2). Pub. L. 85-866 inserted provisions allowing Secretary or his delegate to extend time for payment for reasonable period, not exceeding 10 years from date prescribed by section 6151(a), if he finds that payment on date fixed for payment of any installment under section 6166, or any part of such installment, or payment of any part of a deficiency prorated under section 6166 to installments the date for payment of which had arrived would result in undue hardship.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terrorist or military actions occurring on or after Sept. 11, 2001, with respect to any action of the Sec-

retary 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 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Pub. L. 96-223, title I, §101(i), Apr. 2, 1980, 94 Stat. 254, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting sections 4986 to 4998, 6050C, 6076, and 7241 of this title and amending this section and sections 164, 6211, 6212, 6213, 6214, 6302, 6344, 6501, 6511, 6512, 6601, 6611, 6652, 6653, 6862, 7422, and 7512 of this title] shall apply to periods after February 29, 1980.

“(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code [section 6001 et seq. of this title] as relates to such chapter 45).”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(C) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(3) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

Amendment by section 2004(c)(1), (2) of Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94-455, set out as an Effective Date note under section 6166 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title II, §206(f), Sept. 2, 1958, 72 Stat. 1685, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100

Stat. 2095, provided that: “The amendments made by this section [enacting section 6166 of this title and amending this section and sections 6503 and 6601 of this title] shall apply to estates of decedents with respect to which the date for the filing of the estate tax return (including extensions thereof) prescribed by section 6075(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] is after the date of the enactment of this Act [Sept. 2, 1958]; except that (1) section 6166(i) of such Code as added by this section shall apply to estates of decedents dying after August 16, 1954, but only if the date for the filing of the estate tax return (including extensions thereof) expired on or before the date of the enactment of this Act [Sept. 2, 1958], and (2) notwithstanding section 6166(a) of such Code, if an election under such section is required to be made before the sixtieth day after the date of the enactment of this Act [Sept. 2, 1958] such an election shall be considered timely if made on or before such sixtieth day.”

§6162. Repealed. Pub. L. 94-455, title XIX, §1906(a)(12), Oct. 4, 1976, 90 Stat. 1825]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 763, provided for an extension of time for payment of tax on gain attributable to liquidation of personal holding companies.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

§6163. Extension of time for payment of estate tax on value of reversionary or remainder interest in property

(a) Extension permitted

If the value of a reversionary or remainder interest in property is included under chapter 11 in the value of the gross estate, the payment of the part of the tax under chapter 11 attributable to such interest may, at the election of the executor, be postponed until 6 months after the termination of the precedent interest or interests in the property, under such regulations as the Secretary may prescribe.

(b) Extension for reasonable cause

At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a).

(c) Cross reference

For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(Aug. 16, 1954, ch. 736, 68A Stat. 763; Pub. L. 85-866, title I, §66(b)(1), Sept. 2, 1958, 72 Stat. 1658; Pub. L. 88-272, title II, §240(a), Feb. 26, 1964, 78 Stat. 129; Pub. L. 93-625, §7(d)(1), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XX, §2004(c)(3), Oct. 4, 1976, 90 Stat. 1834, 1868.)

AMENDMENTS

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

Subsec. (b). Pub. L. 94-455, §2004(c)(3), substituted provisions relating to extension of time for payment for a reasonable cause for provisions relating to exten-

sion of time for payment for undue hardship to the estate.

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

1975—Subsec. (c). Pub. L. 93-625 struck out par. (1) cross reference to interest provisions of section 6601(b) of this title and struck out par. (2) designation of cross reference to security, now incorporated in present subsec. (c) provision.

1964—Subsec. (b). Pub. L. 88-272 substituted “or periods not in excess of 3” for “not in excess of 2”.

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 2004(c)(3) of Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94-455, set out as an Effective Date note under section 6166 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective on July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §240(c), Feb. 26, 1964, 78 Stat. 129, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] attributable to such interest, including any extensions thereof, has not expired on the date of the enactment of this Act [Feb. 26, 1964].

“(2) The amendment made by subsection (b) [amending section 925 of I.R.C. 1939] shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 3 of the Internal Revenue Code of 1939 attributable to such interest, including any extensions thereof, has not expired on the date of the enactment of this Act [Feb. 26, 1964].”

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §66(b)(3), Sept. 2, 1958, 72 Stat. 1658, provided that: “The amendments made by paragraphs (1) and (2) [amending this section and sections 925 and 926 of I.R.C. 1939] shall apply in the case of any reversionary or remainder interest only if the precedent interest or interests in the property did not terminate before the beginning of the 6-month period which ends on the date of the enactment of this Act [Sept. 2, 1958].”

§ 6164. Extension of time for payment of taxes by corporations expecting carrybacks

(a) In general

If a corporation, in any taxable year, files with the Secretary a statement, as provided in subsection (b), with respect to an expected net operating loss carryback from such taxable year, the time for payment of all or part of any tax imposed by subtitle A for the taxable year immediately preceding such taxable year shall be extended, to the extent and subject to the conditions and limitations hereinafter provided in this section.

(b) Contents of statement

The statement shall be filed at such time and in such manner and form as the Secretary may by regulations prescribe. Such statement shall

set forth that the corporation expects to have a net operating loss carryback, as provided in section 172(b), from the taxable year in which such statement is made, and shall set forth, in such detail and with such supporting data and explanation as such regulations shall require—

(1) the estimated amount of the expected net operating loss;

(2) the reasons, facts, and circumstances which cause the corporation to expect such net operating loss;

(3) the amount of the reduction of the tax previously determined attributable to the expected carryback, such tax previously determined being ascertained in accordance with the method prescribed in section 1314(a); and such reduction being determined by applying the expected carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) the tax and the part thereof the time for payment of which is to be extended; and

(5) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

The Secretary shall, upon request, furnish a receipt for any statement filed, which shall set forth the date of such filing.

(c) Amount to which extension relates and installment payments

The amount the time for payment of which may be extended under subsection (a) with respect to any tax shall not exceed the amount of such tax shown on the return, increased by any amount assessed as a deficiency (or as interest or addition to the tax) prior to the date of filing the statement and decreased by any amount paid or required to be paid prior to the date of such filing, and the total amount of the tax the time for payment of which may be extended shall not exceed the amount stated under subsection (b)(3). For purposes of this subsection, an amount shall not be considered as required to be paid unless shown on the return or assessed as a deficiency (or as interest or addition to the tax), and an amount assessed as a deficiency (or as interest or addition to the tax) shall be considered to be required to be paid prior to the date of filing of the statement if the 10th day after notice and demand for its payment occurs prior to such date. If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax.

(d) Period of extension

The extension of time for payment provided in this section shall expire—

(1) on the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for the filing of the return for the taxable year of the expected net operating loss, or

(2) if an application for tentative carryback adjustment provided in section 6411 with respect to such loss is filed before the expiration of the period prescribed in paragraph (1), on the date on which notice is mailed by certified mail or registered mail by the Secretary to

the taxpayer that such application is allowed or disallowed in whole or in part.

(e) Revised statements

Each statement filed under subsection (a) with respect to any taxable year shall be in lieu of the last statement previously filed with respect to such year. If the amount the time for payment of which is extended under a statement filed is less than the amount under the last statement previously filed, the extension of time shall be terminated as to the difference between the two amounts.

(f) Termination

The Secretary is not required to make any examination of the statement, but he may make such examination thereof as he deems necessary and practicable. The Secretary shall terminate the extension as to any part of the amount to which it relates which he deems should be terminated because, upon such examination, he believes that, as of the time such examination is made, all or any part of the statement clearly is in a material respect erroneous or unreasonable.

(g) Payments on termination

If an extension of time is terminated under subsection (e) or (f) with respect to any amount, then—

- (1) no further extension of time shall be made under this section with respect to such amount, and
- (2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.

(h) Jeopardy

If the Secretary believes that collection of the amount to which an extension under this section relates is in jeopardy, he shall immediately terminate such extension, and notice and demand shall be made by him for payment of such amount.

(i) Consolidated returns

If the corporation seeking an extension of time under this section made or was required to make a consolidated return, either for the taxable year within which the net operating loss arises or for the preceding taxable year affected by such loss, the provisions of such section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 764; Pub. L. 85-866, title I, § 89(b), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title II, § 234(b)(2)(C), Sept. 3, 1982, 96 Stat. 503.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97-248, § 234(b)(2)(C)(i), substituted “shall be the date on which payment would have been required if such remainder had been the tax” for “shall be considered to be the dates on which payments would have been required if such remainder had been the tax and the taxpayer had elected to pay the tax in installments as provided in section 6152” in last sentence.

Subsec. (g)(2). Pub. L. 97-248, § 234(b)(2)(C)(ii), substituted “date on which payment would have been re-

quired if there had been no extension with respect to such amount” for “dates on which payments would have been required if there had been no extension with respect to such amount and the taxpayer had elected to pay the tax in installments as provided in section 6152”.

1976—Subsecs. (a), (b), (d), (f), (h), (i). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1958—Subsec. (d)(2). Pub. L. 85-866 inserted “certified mail or” before “registered mail”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 234(e) of Pub. L. 97-248, set out as a note under section 6655 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85-866, set out as a note under section 7502 of this title.

§ 6165. Bonds where time to pay tax or deficiency has been extended

In the event the Secretary grants any extension of time within which to pay any tax or any deficiency therein, the Secretary may require the taxpayer to furnish a bond in such amount (not exceeding double the amount with respect to which the extension is granted) conditioned upon the payment of the amount extended in accordance with the terms of such extension.

(Aug. 16, 1954, ch. 736, 68A Stat. 766; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business

(a) 5-year deferral; 10-year installment payment

(1) In general

If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 35 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

(2) Limitation

The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

- (A) the closely held business amount, bears to
- (B) the amount of the adjusted gross estate.

(3) Date for payment of installments

If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not

more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

(b) Definitions and special rules

(1) Interest in closely held business

For purposes of this section, the term “interest in a closely held business” means—

(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

(B) an interest as a partner in a partnership carrying on a trade or business, if—

(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

(ii) such partnership had 45 or fewer partners; or

(C) stock in a corporation carrying on a trade or business if—

(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

(ii) such corporation had 45 or fewer shareholders.

(2) Rules for applying paragraph (1)

For purposes of paragraph (1)—

(A) Time for testing

Determinations shall be made as of the time immediately before the decedent's death.

(B) Certain interests held by husband and wife

Stock or a partnership interest which—

(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

(C) Indirect ownership

Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

(D) Certain interests held by members of decedent's family

All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of section 267(c)(4)) shall be treated as owned by the decedent.

(3) Farmhouses and certain other structures taken into account

For purposes of the 35-percent requirement of subsection (a)(1), an interest in a closely

held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

(4) Value

For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

(5) Closely held business amount

For purposes of this section, the term “closely held business amount” means the value of the interest in a closely held business which qualifies under subsection (a)(1).

(6) Adjusted gross estate

For purposes of this section, the term, “adjusted gross estate” means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

(7) Partnership interests and stock which is not readily tradable

(A) In general

If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.

(B) Non-readily-tradable stock defined

For purposes of this paragraph, the term “non-readily-tradable stock” means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market.

(8) Stock in holding company treated as business company stock in certain cases

(A) In general

If the executor elects the benefits of this paragraph, then—

(i) Holding company stock treated as business company stock

For purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect

ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.

(ii) 5-year deferral for principal not to apply

The executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a).

(iii) 2-percent interest rate not to apply

For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.

(B) All stock must be non-readily-tradable stock

(i) In general

No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).

(ii) Special application where only holding company stock is non-readily-tradable stock

If the requirements of clause (i) are not met, but all of the stock of each holding company taken into account is non-readily-tradable, then this paragraph shall apply, but subsection (a)(1) shall be applied by substituting “5” for “10”.

(C) Application of voting stock requirement of paragraph (1)(C)(i)

For purposes of clause (i) of paragraph (1)(C), the deemed stock resulting from the application of subparagraph (A) shall be treated as voting stock to the extent that voting stock in the holding company owns directly (or through the voting stock of 1 or more other holding companies) voting stock in the business company.

(D) Definitions

For purposes of this paragraph—

(i) Holding company

The term “holding company” means any corporation holding stock in another corporation.

(ii) Business company

The term “business company” means any corporation carrying on a trade or business.

(9) Deferral not available for passive assets

(A) In general

For purposes of subsection (a)(1) and determining the closely held business amount (but not for purposes of subsection (g)), the value of any interest in a closely held business shall not include the value of that portion of such interest which is attributable to passive assets held by the business.

(B) Passive asset defined

For purposes of this paragraph—

(i) In general

The term “passive asset” means any asset other than an asset used in carrying on a trade or business.

(ii) Stock treated as passive asset

The term “passive asset” includes any stock in another corporation unless—

(I) such stock is treated as held by the decedent by reason of an election under paragraph (8), and

(II) such stock qualified under subsection (a)(1).

(iii) Exception for active corporations

If—

(I) a corporation owns 20 percent or more in value of the voting stock of another corporation, or such other corporation has 45 or fewer shareholders, and

(II) 80 percent or more of the value of the assets of each such corporation is attributable to assets used in carrying on a trade or business,

then such corporations shall be treated as 1 corporation for purposes of clause (ii). For purposes of applying subclause (II) to the corporation holding the stock of the other corporation, such stock shall not be taken into account.

(10) Stock in qualifying lending and finance business treated as stock in an active trade or business company

(A) In general

If the executor elects the benefits of this paragraph, then—

(i) Stock in qualifying lending and finance business treated as stock in an active trade or business company

For purposes of this section, any asset used in a qualifying lending and finance business shall be treated as an asset which is used in carrying on a trade or business.

(ii) 5-year deferral for principal not to apply

The executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a).

(iii) 5 equal installments allowed

For purposes of applying subsection (a)(1), “5” shall be substituted for “10”.

(B) Definitions

For purposes of this paragraph—

(i) Qualifying lending and finance business

The term “qualifying lending and finance business” means a lending and finance business, if—

(I) based on all the facts and circumstances immediately before the date of the decedent's death, there was substantial activity with respect to the lending and finance business, or

(II) during at least 3 of the 5 taxable years ending before the date of the decedent's death, such business had at least 1 full-time employee substantially all of whose services were the active management of such business, 10 full-time, non-owner employees substantially all of whose services were directly related to such business, and \$5,000,000 in gross re-

ceipts from activities described in clause (ii).

(ii) Lending and finance business

The term “lending and finance business” means a trade or business of—

(I) making loans,

(II) purchasing or discounting accounts receivable, notes, or installment obligations,

(III) engaging in rental and leasing of real and tangible personal property, including entering into leases and purchasing, servicing, and disposing of leases and leased assets,

(IV) rendering services or making facilities available in the ordinary course of a lending or finance business, and

(V) rendering services or making facilities available in connection with activities described in subclauses (I) through (IV) carried on by the corporation rendering services or making facilities available, or another corporation which is a member of the same affiliated group (as defined in section 1504 without regard to section 1504(b)(3)).

(iii) Limitation

The term “qualifying lending and finance business” shall not include any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years before the date of the decedent's death.

(c) Special rule for interest in 2 or more closely held businesses

For purposes of this section, interest in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate 20 percent or more of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate.

(d) Election

Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

(e) Proration of deficiency to installments

If an election is made under subsection (a) to pay any part of the tax imposed by section 2001

in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(f) Time for payment of interest

If the time for payment of any amount of tax has been extended under this section—

(1) Interest for first 5 years

Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

(2) Interest for periods after first 5 years

Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

(3) Interest in the case of certain deficiencies

In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

(4) Selection of shorter period

If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

(g) Acceleration of payment

(1) Disposition of interest; withdrawal of funds from business

(A) If—

(i)(I) any portion of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

(II) money and other property attributable to such an interest is withdrawn from such trade or business, and

(ii) the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

(i) the redemption of such stock, and the withdrawal of money and other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and

(ii) for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

(C) Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as an interest qualifying under subsection (a)(1).

(D) Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent. A similar rule shall apply in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family (within the meaning of section 267(c)(4)) of the transferor in such transfer.

(E) Changes in interest in holding company

If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

(i) any disposition of any interest in such stock in such holding company which was included in determining the gross estate of the decedent, or

(ii) any withdrawal of any money or other property from such holding company attributable to any interest included in determining the gross estate of the decedent,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

(F) Changes in interest in business company

If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

(i) any disposition of any interest in such stock in the business company by such holding company, or

(ii) any withdrawal of any money or other property from such business company attributable to such stock by such holding company owning such stock,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

(2) Undistributed income of estate

(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deductions for distributions, etc.);

(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(C) For purposes of this paragraph, if any stock in a corporation is treated as stock in another corporation by reason of subsection (b)(8)(A), any dividends paid by such other corporation to the corporation shall be treated as paid to the estate of the decedent to the extent attributable to the stock qualifying under subsection (a)(1).

(3) Failure to make payment of principal or interest

(A) In general

Except as provided in subparagraph (B), if any payment of principal or interest under this section is not paid on or before the date fixed for its payment by this section (including any extension of time), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(B) Payment within 6 months

If any payment of principal or interest under this section is not paid on or before the date determined under subparagraph (A) but is paid within 6 months of such date—

(i) the provisions of subparagraph (A) shall not apply with respect to such payment,

(ii) the provisions of section 6601(j) shall not apply with respect to the determination of interest on such payment, and

(iii) there is imposed a penalty in an amount equal to the product of—

- (I) 5 percent of the amount of such payment, multiplied by
- (II) the number of months (or fractions thereof) after such date and before payment is made.

The penalty imposed under clause (iii) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

(h) Election in case of certain deficiencies

(1) In general

If—

- (A) a deficiency in the tax imposed by section 2001 is assessed,
- (B) the estate qualifies under subsection (a)(1), and
- (C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) Time of election

An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

(3) Effect of election on payment

If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(i) Special rule for certain direct skips

To the extent that an interest in a closely held business is the subject of a direct skip (within the meaning of section 2612(c)) occurring at the same time as and as a result of the decedent's death, then for purposes of this section any tax imposed by section 2601 on the transfer of such interest shall be treated as if it were additional tax imposed by section 2001.

(j) Regulations

The Secretary shall prescribe such regulations as may be necessary to the application of this section.

(k) Cross references

(1) Security

For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(2) Lien

For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

(3) Period of limitation

For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

(4) Interest

For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601.

(5) Transfers within 3 years of death

For special rule for qualifying an estate under this section where property has been transferred within 3 years of decedent's death, see section 2035(c)(2).

(Added Pub. L. 94-455, title XX, §2004(a), Oct. 4, 1976, 90 Stat. 1862; amended Pub. L. 95-600, title V, §512(a), (b), Nov. 6, 1978, 92 Stat. 2882, 2883; Pub. L. 97-34, title IV, §422(a), (c), (e)(5)(A), (B), Aug. 13, 1981, 95 Stat. 314-316; Pub. L. 97-448, title I, §104(c), (d)(1)(B), Jan. 12, 1983, 96 Stat. 2382, 2383; Pub. L. 98-369, div. A, title V, §544(b)(4), title X, §1021(a)-(d), July 18, 1984, 98 Stat. 894, 1024-1026; Pub. L. 99-514, title XIV, §1432(e), Oct. 22, 1986, 100 Stat. 2730; Pub. L. 104-188, title I, §1704(t)(15), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 105-34, title V, §503(c)(1), Aug. 5, 1997, 111 Stat. 853; Pub. L. 105-206, title VI, §6007(c), July 22, 1998, 112 Stat. 809; Pub. L. 106-554, §1(a)(7) [title III, §319(18)], Dec. 21, 2000, 114 Stat. 2763, 2763A-647; Pub. L. 107-16, title V, §§571(a), 572(a), 573(a), June 7, 2001, 115 Stat. 92, 93.)

PRIOR PROVISIONS

A prior section 6166 was renumbered section 6166A of this title and later repealed by Pub. L. 97-34, title IV, §422(d), Aug. 13, 1981, 95 Stat. 315.

AMENDMENTS

2001—Subsec. (b)(1)(B)(ii), (C)(ii). Pub. L. 107-16, §571(a), substituted “45” for “15”.

Subsec. (b)(8)(B). Pub. L. 107-16, §573(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: “No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).”

Subsec. (b)(9)(B)(iii)(I). Pub. L. 107-16, §571(a), substituted “45” for “15”.

Subsec. (b)(10). Pub. L. 107-16, §572(a), added par. (10). 2000—Subsec. (k)(5). Pub. L. 106-554 substituted “2035(c)(2)” for “2035(d)(4)”.

1998—Subsec. (b)(7)(A)(iii). Pub. L. 105-206, §6007(c)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “section 6601(j) (relating to 2-percent rate of interest) shall not apply.”

Subsec. (b)(8)(A)(iii). Pub. L. 105-206, §6007(c)(2), reenacted heading without change and amended text of cl. (iii) generally. Prior to amendment, text read as follows: “Section 6601(j) (relating to 2-percent rate of interest) shall not apply.”

1997—Subsec. (b)(7)(A)(iii). Pub. L. 105-34 substituted “2-percent” for “4-percent”.

Subsec. (b)(8)(A)(iii). Pub. L. 105-34 substituted “2-percent” for “4-percent” in heading and text.

1996—Subsec. (k)(6). Pub. L. 104-188 struck out par. (6) which provided cross reference to former section 2210(c) of this title authorizing payment of certain portion of estate tax in installments under provisions of this section.

1986—Subsecs. (i) to (k). Pub. L. 99-514 added subsec. (i) and redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1984—Subsec. (b)(8). Pub. L. 98-369, §1021(a), added par. (8).

Subsec. (b)(9). Pub. L. 98-369, §1021(b), added par. (9). Subsec. (g)(1)(E), (F). Pub. L. 98-369, §1021(c), added subpars. (E) and (F).

Subsec. (g)(2)(C). Pub. L. 98-369, §1021(d), added subpar. (C).

Subsec. (j)(6). Pub. L. 98-369, §544(b)(4), added par. (6). 1983—Subsec. (b)(3). Pub. L. 97-448, §104(c)(1), substituted “35-percent requirement” for “65-percent requirement”.

Subsec. (g)(1)(B)(i). Pub. L. 97-448, §104(c)(2), substituted “the redemption of such stock, and the withdrawal of money or other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and” for “subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and”.

Subsec. (g)(1)(B)(ii). Pub. L. 97-448, §104(c)(2), substituted “for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed” for “subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed”.

Subsec. (j)(5). Pub. L. 97-448, §104(d)(1)(B), added par. (5).

1981—Pub. L. 97-34, §422(e)(5)(B), substituted “Extension of time” for “Alternate extension of time” in section catchline.

Subsec. (a). Pub. L. 97-34, §422(a)(1), (e)(5)(A), substituted in par. (1) “35 percent” for “65 percent” and struck out par. (4) which provided that no election be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent.

Subsec. (c). Pub. L. 97-34, §422(a)(2), substituted “20 percent or more” for “more than 20 percent”.

Subsec. (g)(1)(A). Pub. L. 97-34, §422(c)(1), redesignated cl. (i) as cl. (i)(I), substituted “any portion” for “one-third or more in value”, added cl. (i)(II), substituted in cl. (ii) “the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest” for “aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business” and in provision following cl. (ii) substituted “the unpaid portion” for “any unpaid portion”.

Subsec. (g)(1)(D). Pub. L. 97-34, §422(c)(3), inserted provision for application of a similar rule in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family of the transferor in such transfer.

Subsec. (g)(3). Pub. L. 97-34, §422(c)(2), substituted as heading “Failure to make payment of principal or interest” for “Failure to pay installment”, designated existing provisions as subpar. (A), and in subpar. (A) as so designated, substituted “Except as provided in subparagraph (B), if any payment of principal or interest” for “If any installment” and “extension of time” for “extension of time for the payment of such installment”, and added subpar. (B).

1978—Subsec. (b)(2)(D). Pub. L. 95-600, §512(a), added subpar. (D).

Subsec. (b)(7). Pub. L. 95-600, §512(b), added par. (7).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title V, §571(b), June 7, 2001, 115 Stat. 92, provided that: “The amendments made by this section [amending this section] shall apply to estates of decedents dying after December 31, 2001.”

Pub. L. 107-16, title V, §572(b), June 7, 2001, 115 Stat. 93, provided that: “The amendment made by this section [amending this section] shall apply to estates of decedents dying after December 31, 2001.”

Pub. L. 107-16, title V, §573(b), June 7, 2001, 115 Stat. 93, provided that: “The amendment made by this section [amending this section] shall apply to estates of decedents dying after December 31, 2001.”

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to estates of decedents dying after Dec. 31, 1997, with special rule in case of estate of any decedent dying before Jan. 1, 1998, with respect to which there is an election under section 6166 of this title, see section 503(d) of Pub. L. 105-34, set out as a note under section 163 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to generation-skipping transfers (within the meaning of section 2611 of this title) made after Oct. 22, 1986, except as otherwise provided, see section 1433 of Pub. L. 99-514, set out as an Effective Date note under section 2601 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 544(b)(4) of Pub. L. 98-369 applicable to estates of decedents which are required to file returns on a date (including any extensions) after July 18, 1984, see section 544(d) of Pub. L. 98-369, set out as a note under section 2002 of this title.

Pub. L. 98-369, div. A, title X, §1021(e), July 18, 1984, 98 Stat. 1026, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply with respect to estates of decedents dying after the date of the enactment of this Act [July 18, 1984].

“(2) SPECIAL RULE.—

“(A) IN GENERAL.—At the election of the executor, if—

“(i) a corporation has 15 or fewer shareholders on June 22, 1984, and at all times thereafter before the date of the decedent’s death, and

“(ii) stock of such corporation is included in the gross estate of the decedent,

then all other corporations all of the stock of which is owned directly or indirectly by the corporation described in clauses (i) and (ii) shall be treated as one corporation for purposes of section 6166 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(B) EFFECT OF ELECTION.—Any executor who elects the application of this paragraph shall be treated as having made the election under paragraph (8) of section 6166(b) of such Code.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title IV, §422(f), Aug. 13, 1981, 95 Stat. 316, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 303, 2011, 2204, 2621, 6161, 6324A, 6503, and 7403 of this title and repealing section 6166A of

this title] shall apply to the estates of decedents dying after December 31, 1981.

“(2) ACCELERATION BY REASON OF SUBSEQUENT DEATH.—The amendment made by subsection (c)(3) [amending this section] shall apply to transfers after December 31, 1981.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, §512(c), Nov. 6, 1978, 92 Stat. 2883, provided that: “The amendments made by this section [amending this section] shall apply with respect to the estates of decedents dying after the date of the enactment of this Act [Nov. 6, 1978].”

EFFECTIVE DATE

Pub. L. 94-455, title XX, §2004(g), Oct. 4, 1976, 90 Stat. 1872, provided that: “The amendments made by this section [enacting this section and section 6324A of this title and amending sections 303, 2011, 2204, 6136, 6161, 6503, 6601, and 7403 of this title] shall apply to the estates of decedents dying after December 31, 1976.”

LAND DIVERTED UNDER 1983 PAYMENT-IN-KIND PROGRAM

Land diverted from production of agricultural commodities under a 1983 payment-in-kind program to be treated, for purposes of this section, as used during the 1983 crop year by qualified taxpayers in the active conduct of the trade or business of farming, with qualified taxpayers who materially participate in the diversion and devotion to conservation uses under a 1983 payment-in-kind program to be treated as materially participating in the operation of such land during the 1983 crop year, see section 3 of Pub. L. 98-4, set out as a note under section 61 of this title.

[§ 6166A. Repealed. Pub. L. 97-34, title IV, § 422(d), Aug. 13, 1981, 95 Stat. 315]

Section, added Pub. L. 85-866, title II, §206(a), Sept. 2, 1958, 72 Stat. 1681, §6166; amended Pub. L. 93-625, §7(d)(2), (3), Jan. 3, 1975, 88 Stat. 2115; renumbered §6166A and amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XX, §2004(a), Oct. 4, 1976, 90 Stat. 1834, 1862, provided for an extension of time for payment of estate tax where estate consists largely of interest in closely held business.

EFFECTIVE DATE OF REPEAL

Repeal applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 6166 of this title.

§ 6167. Extension of time for payment of tax attributable to recovery of foreign expropriation losses

(a) Extension allowed by election

If—

(1) a corporation has a recovery of a foreign expropriation loss to which section 1351 applies, and

(2) the portion of the recovery received in money is less than 25 percent of the amount of such recovery (as defined in section 1351(c)) and is not greater than the tax attributable to such recovery,

the tax attributable to such recovery shall, at the election of the taxpayer, be payable in 10 equal installments on the 15th day of the fourth month of each of the taxable years following the taxable year of the recovery. Such election shall be made at such time and in such manner as the Secretary may prescribe by regulations. If an election is made under this subsection, the pro-

visions of this subtitle shall apply as though the Secretary were extending the time for payment of such tax.

(b) Extension permitted by Secretary

If a corporation has a recovery of a foreign expropriation loss to which section 1351 applies and if an election is not made under subsection (a), the Secretary may, upon finding that the payment of the tax attributable to such recovery at the time otherwise provided in this subtitle would result in undue hardship, extend the time for payment of such tax for a reasonable period or periods not in excess of 9 years from the date on which such tax is otherwise payable.

(c) Acceleration of payments

If—

(1) an election is made under subsection (a),
(2) during any taxable year before the tax attributable to such recovery is paid in full—

(A) any property (other than money) received on such recovery is sold or exchanged, or

(B) any property (other than money) received on any sale or exchange described in subparagraph (A) is sold or exchanged, and

(3) the amount of money received on such sale or exchange (reduced by the amount of the tax imposed under chapter 1 with respect to such sale or exchange), when added to the amount of money—

(A) received on such recovery, and

(B) received on previous sales or exchanges described in subparagraphs (A) and (B) of paragraph (2) (as so reduced),

exceeds the amount of money which may be received under subsection (a)(2),

an amount of the tax attributable to such recovery equal to such excess shall be payable on the 15th day of the fourth month of the taxable year following the taxable year in which such sale or exchange occurs. The amount of such tax so paid shall be treated, for purposes of this section, as a payment of the first unpaid installment or installments (or portion thereof) which become payable under subsection (a) following such taxable year.

(d) Proration of deficiency to installments

If an election is made under subsection (a), and a deficiency attributable to the recovery of a foreign expropriation loss has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(e) Time for payment of interest

If the time for payment for any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at

the same time as, and as part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

(f) Tax attributable to recovery of foreign expropriation loss

For purposes of this section, the tax attributable to a recovery of a foreign expropriation loss is the sum of—

- (1) the additional tax imposed by section 1351(d)(1) on such recovery, and
- (2) the amount by which the tax imposed under subtitle A is increased by reason of the gain on such recovery which under section 1351(e) is considered as gain on the involuntary conversion of property.

(g) Failure to pay installment

If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(h) Cross-references

(1) Security.—For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(2) Period of limitation.—For extension of the period of limitation in the case of an extension under this section, see section 6503(e).

(Added Pub. L. 89-384, §1(d), Apr. 8, 1966, 80 Stat. 102; amended Pub. L. 93-625, §7(d)(2), (3), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §§1902(b)(2)(B), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1806, 1834; Pub. L. 114-41, title II, §2006(a)(2)(D), July 31, 2015, 129 Stat. 457.)

AMENDMENTS

2015—Subsecs. (a), (c). Pub. L. 114-41 substituted “fourth month” for “third month” in concluding provisions.

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

Subsec. (h). Pub. L. 94-455, §§1902(b)(2)(B), 1906(b)(13)(A), substituted “section 6503(e)” for “section 6503(f)”, and struck out “or his delegate” after “Secretary”.

1975—Subsec. (e). Pub. L. 93-625, §7(d)(2), struck out provision that in applying section 6601(j) (relating to the application of the 4-percent interest rate in the case of recoveries of foreign expropriation losses to which this section applies) in the case of a deficiency, the entire amount which was prorated to installments under this section shall be treated as an amount of tax the payment of which was extended under this section.

Subsec. (h). Pub. L. 93-625, §7(d)(3), struck out par. (1) providing a cross reference for payment of interest at 4 percent per annum for period of an extension under section 6601(j) of this title, and redesignated pars. (2) and (3) as (1) and (2), respectively.

EFFECTIVE DATE OF 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 1976 AMENDMENT

Amendment by section 1902(b)(2)(B) of Pub. L. 94-455 applicable to estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE

Section applicable with respect to amounts received after Dec. 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after Dec. 31, 1958, see section 2 of Pub. L. 89-384, set out as a note under section 1351 of this title.

CHAPTER 63—ASSESSMENT

Subchapter	Sec. ¹
A. In general	6201
B. Deficiency procedures in the case of income, estate, gift, and certain excise taxes	6211
C. Treatment of partnerships	6221
[D. Repealed]	

AMENDMENTS

2015—Pub. L. 114-74, title XI, §1101(a), (b)(2), (c)(2), Nov. 2, 2015, 129 Stat. 625, 637, added item for subchapter C and struck out former items for subchapter C “Tax treatment of partnership items” and subchapter D “Treatment of electing large partnerships”.

1997—Pub. L. 105-34, title XII, §1222(c), Aug. 5, 1997, 111 Stat. 1019, added item for subchapter D.

1996—Pub. L. 104-188, title I, §1307(c)(3)(C), Aug. 20, 1996, 110 Stat. 1782, struck out item for subchapter D “Tax treatment of subchapter S items”.

1982—Pub. L. 97-354, §4(b), Oct. 19, 1982, 96 Stat. 1692, added item for subchapter D.

Pub. L. 97-248, title IV, §402(b), Sept. 3, 1982, 96 Stat. 667, added item for subchapter C.

1969—Pub. L. 91-172, title I, §101(j)(63), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in item for subchapter B.

Subchapter A—In General

Sec.	
6201.	Assessment authority.
6202.	Establishment by regulations of mode or time of assessment.
6203.	Method of assessment.
6204.	Supplemental assessments.
6205.	Special rules applicable to certain employment taxes.
6206.	Special rules applicable to excessive claims under certain sections.
6207.	Cross references.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11163(d)(4), Aug. 10, 2005, 119 Stat. 1975, substituted “certain sections” for “sections 6420, 6421, and 6427” in item 6206.

1983—Pub. L. 97-424, title V, §515(b)(3)(B), Jan. 6, 1983, 96 Stat. 2181, struck out reference to section 6424 in item 6206.

1970—Pub. L. 91-258, title II, §207(d)(11), May 21, 1970, 84 Stat. 249, inserted reference to section 6427 in item 6206.

1965—Pub. L. 89-44, title II, §202(c)(2)(B), June 21, 1965, 79 Stat. 139, substituted “6420, 6421, and 6424” for “6420 and 6421” in item 6206.

¹ Section numbers editorially supplied.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(3), 70 Stat. 397, substituted “sections 6420 and 6421” for “section 6420” in item 6206.

Act Apr. 2, 1956, ch. 160, §4(b)(2), 70 Stat. 91, inserted item “6206. Special rules applicable to excessive claims under section 6420”, and renumbered former item 6206 as 6207.

§ 6201. Assessment authority

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return

The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp

(A) Omitted stamps

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid

In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits

If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(4) Certain orders of criminal restitution

(A) In general

The Secretary shall assess and collect the amount of restitution under an order pursu-

ant to section 3556 of title 18, United States Code, for failure to pay any tax imposed under this title in the same manner as if such amount were such tax.

(B) Time of assessment

An assessment of an amount of restitution under an order described in subparagraph (A) shall not be made before all appeals of such order are concluded and the right to make all such appeals has expired.

(C) Restriction on challenge of assessment

The amount of such restitution may not be challenged by the person against whom assessed on the basis of the existence or amount of the underlying tax liability in any proceeding authorized under this title (including in any suit or proceeding in court permitted under section 7422).

(b) Amount not to be assessed

(1) Estimated income tax

No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.

(2) Federal unemployment tax

No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

(c) Compensation of child

Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section 73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

(e) Deficiency proceedings

For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B.

(Aug. 16, 1954, ch. 736, 68A Stat. 767; Pub. L. 89-44, title VIII, §809(d)(4)(A), June 21, 1965, 79 Stat. 168; Pub. L. 91-53, §2(b), Aug. 7, 1969, 83 Stat. 92; Pub. L. 91-172, title I, §101(j)(38), Dec. 30, 1969, 83 Stat. 530; Pub. L. 91-258, title II, §207(d)(1), (2), May 21, 1970, 84 Stat. 248; Pub. L. 93-406, title II, §1016(a)(8), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94-12, title II, §204(b)(2), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title XII, §1206(c)(2), title XIII, §1307(d)(2)(D), title XIX, §1906(b)(13)(A), Oct. 4,

1976, 90 Stat. 1704, 1727, 1834; Pub. L. 97-424, title V, § 515(b)(6)(E), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-76, title II, § 231(b)(2)(A), Aug. 12, 1983, 97 Stat. 429; Pub. L. 98-369, div. A, title IV, §§ 412(b)(5), 474(r)(32), July 18, 1984, 98 Stat. 792, 845; Pub. L. 100-203, title X, § 10301(b)(3), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 100-647, title I, § 1015(r)(1), title VII, § 7106(c)(2), Nov. 10, 1988, 102 Stat. 3572, 3773; Pub. L. 104-168, title VI, § 602(a), July 30, 1996, 110 Stat. 1463; Pub. L. 111-237, § 3(a), Aug. 16, 2010, 124 Stat. 2497.)

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111-237 added par. (4).

1996—Subsecs. (d), (e). Pub. L. 104-168 added subsec. (d) and redesignated former subsec. (d) as (e).

1988—Subsec. (a)(4). Pub. L. 100-647, § 1015(r)(1), struck out par. (4) which read as follows: “If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 34 (relating to certain uses of gasoline and special fuels) or section 32 (relating to earned income), the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.”

Subsec. (b)(2). Pub. L. 100-647, § 7106(c)(2), struck out “or tax imposed by section 3321” after “employment tax”.

1987—Subsec. (b)(1). Pub. L. 100-203 substituted “section 6654 or 6655” for “section 6154 or 6654”.

1984—Subsec. (a)(4). Pub. L. 98-369, § 474(r)(32), substituted “section 32 or 34” for “section 39 or 43” in heading, and in text substituted “section 34” for “section 39” and “section 32” for “section 43”.

Subsec. (b)(1). Pub. L. 98-369, § 412(b)(5), amended par. (1) generally, substituting “estimated income tax required to be paid under section 6154 or 6654” for “estimated tax under section 6153 or 6154”.

1983—Subsec. (a)(4). Pub. L. 97-424 substituted “and special fuels” for “, special fuels, and lubricating oil” after “gasoline”.

Subsec. (b)(2). Pub. L. 98-76 substituted “Federal unemployment tax or tax imposed by section 3321” for “Federal unemployment tax”.

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

Subsec. (a)(3), (4). Pub. L. 94-455, §§ 1206(c)(2), 1906(b)(13)(A), struck out “or his delegate” after “Secretary”, substituted “mathematical or clerical error” for “mathematical error” after “the case of”, and inserted “, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph” after “upon the return”.

Subsec. (d). Pub. L. 94-455, § 1307(d)(2)(D), substituted “and certain excise taxes” for “chapter 42, and chapter 43 taxes” after “estate, gift”.

1975—Subsec. (a)(4). Pub. L. 94-12 inserted reference to section 43 in heading and substituted “oil” or section 43 (relating to earned income),” for “oil,” in text.

1974—Subsec. (d). Pub. L. 93-406 inserted reference to chapter 43 taxes.

1970—Subsec. (a)(4). Pub. L. 91-258 inserted provision for overstatement of credit allowable by section 39 (relating to certain uses of special fuels) in text and substituted “under section 39” for “for use of gasoline” in heading.

1969—Subsec. (b). Pub. L. 91-53 added subsec. (b) heading and par. (2), and redesignated former subsec. (b), including its heading, as par. (1).

Subsec. (d). Pub. L. 91-172 inserted reference to chapter 42 taxes.

1965—Subsec. (a)(4). Pub. L. 89-44 added par. (4).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-237, § 3(c), Aug. 16, 2010, 124 Stat. 2498, provided that: “The amendments made by this section [amending this section and sections 6213 and 6501 of this title] shall apply to restitution ordered after the date of the enactment of this Act [Aug. 16, 2010].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title VI, § 602(b), July 30, 1996, 110 Stat. 1463, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, § 1015(r)(4), Nov. 10, 1988, 102 Stat. 3573, provided that: “The amendments made by this subsection [amending this section and sections 6211 and 6213 of this title] shall apply to notices of deficiencies mailed after the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by section 7106(c)(2) of Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

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

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 412(b)(5) of Pub. L. 98-369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98-369, set out as a note under section 6654 of this title.

Amendment by section 474(r)(32) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1206(c)(2) of Pub. L. 94-455 applicable with respect to returns filed after Dec. 31, 1976, see section 1206(d) of Pub. L. 94-455, set out as a note under section 6213 of this title.

Amendment by section 1307(d)(2)(D) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94-12, as amended, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L.

93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENTS

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by Pub. L. 91-53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

§ 6202. Establishment by regulations of mode or time of assessment

If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary may establish the same by regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6203. Method of assessment

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6204. Supplemental assessments

(a) General rule

The Secretary may, at any time within the period prescribed for assessment, make a supplemental assessment whenever it is ascertained that any assessment is imperfect or incomplete in any material respect.

(b) Restrictions on assessment

For restrictions on assessment of deficiencies in income, estate, gift, and certain excise taxes, see section 6213.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 93-406, title II, §1016(a)(27), Sept. 2, 1974, 88 Stat. 932; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1974—Subsec. (b). Pub. L. 93-406 substituted “gift, and certain excise taxes” for “and gift taxes”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, and, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

§ 6205. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Underpayments

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 86-778, title I, §103(r)(1), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89-97, title III, §317(d), July 30, 1965, 79 Stat. 389; Pub. L. 94-455, title XIX, §1906(a)(13), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99-272, title XIII, §13205(a)(2)(D), Apr. 7, 1986, 100 Stat. 315.)

AMENDMENTS

1986—Subsec. (a)(5). Pub. L. 99-272 added par. (5).

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(4). Pub. L. 94-455, §1906(a)(13), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them” after “owned thereby, the”.

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

1965—Subsec. (a)(4). Pub. L. 89-97 added par. (4).

1960—Subsec. (a)(3). Pub. L. 86-778 added par. (3).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-97 applicable with respect to services performed after quarter ending Sept. 30, 1965, and after quarter in which Secretary of the Treasury receives a certification from Commissioners of District of Columbia expressing their desire to have insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to officers and employees coming under provisions of such amendments, see section 317(g) of Pub. L. 89-97, set out as a note under section 410 of Title 42.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby,

which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of Title 42.

§ 6206. Special rules applicable to excessive claims under certain sections

Any portion of a refund made under section 6416(a)(4) and any portion of a payment made under section 6420, 6421, or 6427 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 (with respect to refunds under section 6416(a)(4) and payments under sections 6420 and 6421), or 4041 or 4081 (with respect to payments under section 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6416(a)(4), 6420, 6421, or 6427, as the case may be.

(Added Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title II, §208(d)(1), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(2)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(3), May 21, 1970, 84 Stat. 248; Pub. L. 97-424, title V, §515(b)(3)(A), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 100-203, title X, §10502(d)(5), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 103-66, title XIII, §13242(d)(14), Aug. 10, 1993, 107 Stat. 524; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613; Pub. L. 109-59, title XI, §11163(d)(1), Aug. 10, 2005, 119 Stat. 1974.)

PRIOR PROVISIONS

A prior section 6206 was renumbered 6207 of this title.

AMENDMENTS

2005—Pub. L. 109-59 substituted “certain sections” for “sections 6420, 6421, and 6427” in section catchline, in first sentence substituted “Any portion of a refund made under section 6416(a)(4) and any portion” for “Any portion” and “refunds under section 6416(a)(4) and payments under sections 6420” for “payments under sections 6420”, and in second sentence substituted “section 6416(a)(4), 6420” for “section 6420”.

2004—Pub. L. 108-357 substituted “or 4081” for “, 4081, or 4091”.

1993—Pub. L. 103-66 substituted “4041, 4081, or 4091” for “4041 or 4091”.

1987—Pub. L. 100-203 substituted “or 4041 or 4091” for “or 4041”.

1983—Pub. L. 97-424 struck out reference to section 6424 in section catchline, and in text struck out “4091 (with respect to payments under section 6424),” after “6421),” and “6424,” wherever appearing.

1970—Pub. L. 91-258 inserted reference to section 6427 in section catchline, inserted reference to section 6427 in first and second sentences, and substituted “by section 4081 (with respect to payments under sections 6420 and 6421), 4091 (with respect to payments under section 6424), or 4041 (with respect to payments under section 6427)” for “by section 4081 (or, in the case of lubricating oil, by section 4091)”, in first sentence, respectively.

1965—Pub. L. 89-44 struck out “6420 and 6421” wherever appearing in section catchline and text and substituted therefor “6420, 6421, and 6424” and inserted

“(or, in the case of lubricating oil, by section 4091)” after “4081” in text.

1956—Act June 29, 1956, inserted reference to excessive claims under section 6421 in section catchline and text.

EFFECTIVE DATE OF 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 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 1993 AMENDMENT

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

EFFECTIVE DATE OF 1987 AMENDMENT

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

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97–424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–258 effective July 1, 1970, see section 211(a) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Jan. 1, 1966, see section 701(a)(1), (2) of Pub. L. 89–44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 6207. Cross references

(1) **For prohibition of suits to restrain assessment of any tax, see section 7421.**

(2) **For prohibition of assessment of taxes against insolvent banks, see section 7507.**

(3) **For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.**

(4) **For assessment with respect to taxes required to be paid by chapter 52, see section 5703.**

(5) **For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006(c).**

(6) **For period of limitation upon assessment, see chapter 66.**

(Aug. 16, 1954, ch. 736, 68A Stat. 769, §6206; renumbered §6207, Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended Pub. L. 85–859, title II, §204(2), (3), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94–455, title XIX, §1906(a)(14), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Par. (7). Pub. L. 94–455 struck out par. (7) relating to cross reference for assessment under the provisions of the Tariff Act of 1930.

1958—Par. (4). Pub. L. 85–859, §204(2), substituted “with respect to taxes required to be paid by chapter

52, see section 5703” for “in case of sale or removal of tobacco, snuff, cigars, and cigarettes without the use of the proper stamps, see section 5703(d)”.

Pars. (6) to (9). Pub. L. 85–859, §204(3), redesignated pars. (8) and (9) as (6) and (7), respectively, and struck out former pars. (6) and (7) which contained cross references relating to assessments in case of certain spirits subject to excessive leakage and to assessment of deficiencies in production of distilled spirits.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85–859, set out as an Effective Date note under section 5001 of this title.

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

Sec.	
6211.	Definition of a deficiency.
6212.	Notice of deficiency.
6213.	Restrictions applicable to deficiencies; petition to Tax Court.
6214.	Determinations by Tax Court.
6215.	Assessment of deficiency found by Tax Court.
6216.	Cross references.

AMENDMENTS

1969—Pub. L. 91–172, title I, §101(j)(62), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in subchapter heading.

§ 6211. Definition of a deficiency

(a) In general

For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 41, 42, 43, and 44 the term “deficiency” means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of—

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) Rules for application of subsection (a)

For purposes of this section—

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, without regard to the credit under section 33, and without regard to any credits resulting from the collection of amounts assessed under section 6851 or 6852 (relating to termination assessments).

(2) The term “rebate” means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary, pursuant to section 6014, of the tax imposed by

chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) For purposes of subsection (a)—

(A) any excess of the sum of the credits allowable under sections 24(d), 25A by reason of subsection (i)(6)¹ thereof, 32, 34, 35, 36, and² 36B, 168(k)(4)¹ over the tax imposed by subtitle A (determined without regard to such credits), and

(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax.

(c) Coordination with subchapters C and D

In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapters C and D.

(Aug. 16, 1954, ch. 736, 68A Stat. 770; Pub. L. 89-44, title VIII, §809(d)(5)(A), June 21, 1965, 79 Stat. 168; Pub. L. 89-368, title I, §102(b)(4), Mar. 15, 1966, 80 Stat. 64; Pub. L. 91-172, title I, §101(f)(1), (j)(39), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93-406, title II, §1016(a)(9), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94-455, title XII, §1204(c)(4), title XIII, §1307(d)(2)(E), (F)(i), title XVI, §1605(b)(4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1728, 1754, 1834; Pub. L. 96-223, title I, §101(f)(1)(A), (B), (2), (3), Apr. 2, 1980, 94 Stat. 252; Pub. L. 98-369, div. A, title IV, §474(r)(33), July 18, 1984, 98 Stat. 845; Pub. L. 100-203, title X, §10713(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-418, title I, §1941(b)(2)(B)(i), (ii), (C), (D), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1015(r)(2), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 105-34, title XII, §1231(b), Aug. 5, 1997, 111 Stat. 1023; Pub. L. 105-206, title VI, §6012(f), July 22, 1998, 112 Stat. 819; Pub. L. 106-554, §1(a)(7) [title III, §314(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643; Pub. L. 109-432, div. A, title IV, §402(b)(1), Dec. 20, 2006, 120 Stat. 2954; Pub. L. 110-172, §11(a)(35), Dec. 29, 2007, 121 Stat. 2487; Pub. L. 110-185, title I, §101(b)(1), Feb. 13, 2008, 122 Stat. 615; Pub. L. 110-289, div. C, title I, §3011(b)(2), July 30, 2008, 122 Stat. 2891; Pub. L. 111-5, div. B, title I, §§1001(e)(1), 1004(b)(7), 1201(a)(3)(B), (b)(2), 1531(c)(4), Feb. 17, 2009, 123 Stat. 312, 314, 334, 360; Pub. L. 111-148, title I, §1401(d)(3), as added title X, §§10105(d), 10909(b)(2)(N), (c), Mar. 23, 2010, 124 Stat. 906, 1023; Pub. L. 111-312, title I, §101(b)(1), Dec. 17, 2010, 124 Stat. 3298; Pub. L. 113-295, div. A, title II, §221(a)(5)(B), (8)(B), (112)(B), Dec. 19, 2014, 128 Stat. 4037, 4038, 4054; Pub. L. 115-97, title I, §13404(c)(3), Dec. 22, 2017, 131 Stat. 2138.)

REFERENCES IN TEXT

Section 25A(i)(6), referred to in subsec. (b)(4)(A), was redesignated section 25A(i)(5) by Pub. L. 112-240, title I, §104(c)(2)(D)(i), Jan. 2, 2013, 126 Stat. 2322.

Section 168(k)(4), referred to in subsec. (b)(4)(A), was repealed by Pub. L. 115-97, title I, §12001(b)(13), Dec. 22, 2017, 131 Stat. 2094.

¹ See References in Text note below.

² So in original.

AMENDMENTS

2017—Subsec. (b)(4)(A). Pub. L. 115-97 inserted “and” before “36B” and struck out “, and 6431” after “168(k)(4)”.

2014—Subsec. (b)(4)(A). Pub. L. 113-295, §221(a)(112)(B), struck out “6428,” after “168(k)(4),”.

Pub. L. 113-295, §221(a)(8)(B), struck out “, 53(e)” after “36B”.

Pub. L. 113-295, §221(a)(5)(B), struck out “, 36A” after “36”.

2010—Subsec. (b)(4)(A). Pub. L. 111-148, §10909(b)(2)(N), (c), as amended by Pub. L. 111-312, temporarily inserted “36C,” before “53(e)”. See Effective and Termination Dates of 2010 Amendment note below.

Pub. L. 111-148, §1401(d)(3), as added by Pub. L. 111-148, §10105(d), inserted “36B,” after “36A,”.

2009—Subsec. (b)(4)(A). Pub. L. 111-5, §1531(c)(4), substituted “6428, and 6431” for “and 6428”.

Pub. L. 111-5, §1201(a)(3)(B), (b)(2), amended subpar. (A) identically, inserting “168(k)(4),” after “53(e),”.

Pub. L. 111-5, §1004(b)(7), inserted “25A by reason of subsection (i)(6) thereof,” after “24(d),”.

Pub. L. 111-5, §1001(e)(1), inserted “36A,” after “36,”.

2008—Subsec. (b)(4)(A). Pub. L. 110-289 substituted “34, 35, 36, 53(e), and 6428” for “34, 35, 53(e), and 6428”.

Pub. L. 110-185 substituted “53(e), and 6428” for “and 53(e)”.

2007—Subsec. (b)(4)(A). Pub. L. 110-172, which directed amendment of subpar. (A) by substituting “34, and 35” for “and 34”, was executed by inserting “35,” after “34,” to reflect the probable intent of Congress and the amendment of subpar. (A) by section 402(b)(1) of Pub. L. 109-432. See 2006 Amendment note below.

2006—Subsec. (b)(4)(A). Pub. L. 109-432 substituted “34, and 53(e)” for “and 34”.

2000—Subsec. (b)(4)(A). Pub. L. 106-554 substituted “sections 24(d), 32, and 34” for “sections 32 and 34”.

1998—Subsec. (c). Pub. L. 105-206 substituted “subchapters C and D” for “subchapter C” in heading and in text.

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

1988—Subsec. (a). Pub. L. 100-418, §1941(b)(2)(B)(i), (C), in introductory provisions, substituted “and 44” for “44, and 45” and “or 44” for “44, or 45”.

Subsec. (b)(2). Pub. L. 100-418, §1941(b)(2)(B)(ii), substituted “or 44” for “44, or 45”.

Subsec. (b)(4). Pub. L. 100-647, §1015(r)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to the credit under section 34, unless, without regard to such credit, the tax imposed by subtitle A exceeds the excess of the amount specified in subsection (a)(1) over the amount specified in subsection (a)(2).”

Subsec. (b)(5), (6). Pub. L. 100-418, §1941(b)(2)(D), struck out pars. (5) and (6) which read as follows:

“(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

“(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45.”

1987—Subsec. (b)(1). Pub. L. 100-203 inserted reference to section 6852.

1984—Subsec. (b)(1). Pub. L. 98-369, §474(r)(33)(A), substituted “without regard to the credit under section 33” for “without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451”.

Subsec. (b)(4). Pub. L. 98-369, §474(r)(33)(B), substituted “section 34” for “section 39”.

1980—Subsec. (a). Pub. L. 96-223, §101(f)(1)(A), (2), inserted references to chapter 45 in provisions preceding par. (1).

Subsec. (b)(2). Pub. L. 96-223, §101(f)(1)(B), inserted reference to chapter 45.

Subsec. (b)(5), (6). Pub. L. 96-223, §101(f)(3), added pars. (5) and (6).

1976—Subsec. (a). Pub. L. 94-455, §§1307(d)(2)(E), (F)(i), 1605(b)(4)(A), (B), substituted “chapters 41, 42, 43, and 44” for “chapters 42 and 43” after “taxes imposed by” and “chapter 41, 42, 43, or 44” for “chapter 42 or 43” after “A or B, or”.

Subsec. (b)(1). Pub. L. 94-455, §1204(c)(4), struck out “and” after “31” and inserted “, and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)” after “section 1451”.

Subsec. (b)(2). Pub. L. 94-455, §§1307(d)(2)(F)(i), 1605(b)(4)(C), substituted “chapter 41, 42, 43, or 44” for “chapter 42 or 43” after “A or B or”.

Subsec. (b)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1974—Subsec. (a). Pub. L. 93-406, §1016(a)(9)(A), inserted reference in introductory provisions to taxes imposed by chapter 43.

Subsec. (b)(2). Pub. L. 93-406, §1016(a)(9)(B), inserted reference to taxes imposed by chapter 43.

1969—Subsec. (a). Pub. L. 91-172, §101(f)(1), inserted references to excise taxes and chapter 42.

Subsec. (b)(2). Pub. L. 91-172, §101(j)(39), inserted reference to chapter 42.

1966—Subsec. (b)(1). Pub. L. 89-368 substituted “sub-title A” for “chapter 1”.

1965—Subsec. (b)(4). Pub. L. 89-44 added par. (4).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment 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 an Effective Date of Repeal note under former section 54 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 AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by section 1401(d)(3) of Pub. L. 111-148, as added by section 10105(d) of Pub. L. 111-148, applicable to taxable years ending after Dec. 31, 2013, see section 1401(e) of Pub. L. 111-148, set out as an Effective Date note under section 36B of this title.

Amendment by section 10909(b)(2)(N) of Pub. L. 111-148 terminated applicable to taxable years beginning after Dec. 31, 2011, and section is amended to read as if such amendment had never been enacted, see section 10909(c) of Pub. L. 111-148, set out as a note under section 1 of this title.

Amendment by section 10909(b)(2)(N) of Pub. L. 111-148 applicable to taxable years beginning after Dec. 31, 2009, see section 10909(d) of Pub. L. 111-148, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-5, div. B, title I, §1001(f), Feb. 17, 2009, 123 Stat. 312, provided that: “This section [enacting section 36A of this title, amending this section and section 6213 of this title and section 1324 of Title 31, Money and Finance, and enacting provisions set out as notes under section 36A of this title], and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.”

Amendment by section 1004(b)(7) of Pub. L. 111-5 applicable to taxable years beginning after Dec. 31, 2008, see section 1004(d) of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 24 of this title.

Amendment by section 1201(a)(3)(B), (b)(2) of Pub. L. 111-5 applicable to taxable years ending after Mar. 31, 2008, see section 1201(c)(2) of Pub. L. 111-5, set out as a note under section 168 of this title.

Amendment by section 1531(c)(4) of Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see sec-

tion 1531(e) of Pub. L. 111-5, set out as a note under section 1400N of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-289 applicable to residences purchased on or after Apr. 9, 2008, in taxable years ending on or after such date, see section 3011(c) of Pub. L. 110-289, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to taxable years beginning after Dec. 20, 2006, see section 402(c) of Pub. L. 109-432, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 1(a)(7) [title III, §314(g)] of Pub. L. 106-554, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, §1231(d), Aug. 5, 1997, 111 Stat. 1023, provided that: “The amendments made by this section [enacting section 6234 of this title and amending this section] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 applicable to notices of deficiencies mailed after Nov. 10, 1988, see section 1015(r)(4) of Pub. L. 100-647, set out as a note under section 6201 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(4) of Pub. L. 94-455 applicable to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1307(d)(2)(E), (F)(i) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(4) of Pub. L. 94-455, see section 1608(d)(1) of Pub. L. 94-455, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub.

L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-368 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 102(d) of Pub. L. 89-368, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

§ 6212. Notice of deficiency

(a) In general

If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter 41, 42, 43, or 44 he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail. Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.

(b) Address for notice of deficiency

(1) Income and gift taxes and certain excise taxes

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, or chapter 44 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, chapter 44, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) Joint income tax return

In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) Estate tax

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

(c) Further deficiency letters restricted

(1) General rule

If the Secretary has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), the Secretary shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar year, of estate tax in respect of the taxable estate of the same decedent, of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year, of section 4940 tax for the same taxable year, or of chapter 42 tax, (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court), in section 6213(b)(1) (relating to mathematical or clerical errors), in section 6851 or 6852 (relating to termination assessments), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) Cross references

For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3).

(B) Deficiency attributable to gain on involuntary conversion, see section 1033(a)(2)(C) and (D).

(C) Deficiency attributable to activities not engaged in for profit, see section 183(e)(4).

For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.

(d) Authority to rescind notice of deficiency with taxpayer's consent

The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

(Aug. 16, 1954, ch. 736, 68A Stat. 770; Pub. L. 85-866, title I, §§76, 89(b), Sept. 2, 1958, 72 Stat. 1661, 1665; Pub. L. 88-272, title I, §112(d)(1), Feb. 26, 1964, 78 Stat. 24; Pub. L. 91-172, title I, §101(f)(2), (j)(40), (41), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 91-614, title I, §102(d)(5), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93-406, title II, §1016(a)(10), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title II, §214(b), title XII, §§1204(c)(5), 1206(c)(3), title XIII, §1307(d)(2)(F)(ii), (G), title XVI, §1605(b)(5), title XIX, §§1901(b)(31)(C), (37)(C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1549,

1698, 1704, 1728, 1754, 1800, 1803, 1834; Pub. L. 95-30, title I, §101(d)(15), May 23, 1977, 91 Stat. 134; Pub. L. 95-600, title IV, §405(c)(5), title VII, §701(t)(3)(C), Nov. 6, 1978, 92 Stat. 2871, 2912; Pub. L. 96-223, title I, §101(f)(1)(C), (4), (5), Apr. 2, 1980, 94 Stat. 252, 253; Pub. L. 96-589, §6(d)(2), Dec. 24, 1980, 94 Stat. 3408; Pub. L. 97-34, title IV, §442(d)(4), Aug. 13, 1981, 95 Stat. 323; Pub. L. 99-514, title I, §104(b)(17), title XV, §1562(a), Oct. 22, 1986, 100 Stat. 2106, 2761; Pub. L. 100-203, title X, §10713(b)(2)(C), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-418, title I, §1941(b)(2)(B)(iii), (E), (F), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1015(m), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 105-34, title III, §312(d)(12), Aug. 5, 1997, 111 Stat. 840; Pub. L. 105-206, title I, §1102(b), July 22, 1998, 112 Stat. 703.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206 inserted at end “Such notice shall include a notice to the taxpayer of the taxpayer’s right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.”

1997—Subsec. (c)(2)(C) to (E). Pub. L. 105-34, which directed the amendment of par. (2) by striking out subpar. (C) and redesignating succeeding subpars. accordingly, was executed by redesignating subpar. (E) as (C) and striking out former subpar. (C). Prior to amendment, subpar. (C) read as follows: “Deficiency attributable to gain on sale or exchange of principal residence, see section 1034(j).” Former subpar. (D) was repealed previously.

1988—Subsec. (a). Pub. L. 100-418, §1941(b)(2)(B)(iii), substituted “or 44” for “44, or 45”.

Subsec. (b)(1). Pub. L. 100-418, §1941(b)(2)(E), substituted “or chapter 44” for “chapter 44, or chapter 45” and “chapter 44, and this chapter” for “chapter 44, chapter 45, and this chapter”.

Subsec. (c)(1). Pub. L. 100-418, §1941(b)(2)(F), substituted “or of chapter 42 tax” for “of chapter 42 tax” and struck out “, or of chapter 45 tax for the same taxable period” after “such petition relates”.

Subsec. (d). Pub. L. 100-647 inserted sentence at end that nothing in this subsection shall affect suspension of running of period of limitations during period during which rescinded notice was outstanding.

1987—Subsec. (c)(1). Pub. L. 100-203 inserted reference to section 6852.

1986—Subsec. (c)(2)(A). Pub. L. 99-514, §104(b)(17), amended subpar. (A) generally, substituting “, see section 63(e)(3)” for “and zero bracket amount, see section 63(g)(5)”.

Subsec. (d). Pub. L. 99-514, §1562(a), added subsec. (d). 1981—Subsec. (c)(1). Pub. L. 97-34 substituted “calendar year” for “calendar quarter”.

1980—Subsec. (a). Pub. L. 96-223, §101(f)(1)(C), inserted reference to chapter 45.

Subsec. (b)(1). Pub. L. 96-223, §101(f)(4), substituted “and certain excise taxes” for “taxes imposed by chapter 42” in section catchline and inserted references to chapter 45 in two places in text.

Subsec. (c)(1). Pub. L. 96-223, §101(f)(5), substituted “of chapter 42 tax” for “or of chapter 42 tax” and inserted “, or of chapter 45 tax for the same taxable period” after “to which such petition relates”.

Subsec. (c)(2). Pub. L. 96-589 inserted cross reference to section 505(a) of title 11 for provisions allowing determination of tax in title 11 cases.

1978—Subsec. (c)(1). Pub. L. 95-600, §701(t)(3)(C), substituted “same taxable year” for “same taxable years” in two places.

Subsec. (c)(2)(C). Pub. L. 95-600, §405(c)(5), substituted “principal residence” for “personal residence”.

1977—Subsec. (c)(2)(A). Pub. L. 95-30 substituted “change of treatment with respect to itemized deductions and zero bracket amount, see section 63(g)(5)” for

“change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b)”.

1976—Subsec. (a). Pub. L. 94-455, §§1307(d)(2)(F)(ii), 1605(b)(5)(A), 1906(b)(13)(A), struck out “or his delegate” after “Secretary”, and substituted “chapter 41, 42, 43, or 44” for “chapter 42 or 43”.

Subsec. (b)(1). Pub. L. 94-455, §§1307(d)(2)(G)(i), 1605(b)(5)(B), (C), 1906(b)(13)(A), struck out “or his delegate” after “Secretary”, and substituted “chapter 41, chapter 42, chapter 43, or chapter 44” for “chapter 42, or chapter 43”, and “chapter 41, chapter 42, chapter 43, chapter 44, and this chapter” for “chapter 42, chapter 43, and this chapter”.

Subsec. (c)(1). Pub. L. 94-455, §§1204(c)(5), 1206(c)(3), 1307(d)(2)(G)(ii), 1605(b)(5)(D), 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing, substituted “of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable years” for “of chapter 43 tax for the same taxable years”, and “(relating to mathematical or clerical errors), in section 6851 (relating to termination assessments)” for “(relating to mathematical errors)”.

Subsec. (c)(2)(B). Pub. L. 94-455, §1901(b)(31)(C), substituted “1033(a)(2)(C) and (D)” for “1033(a)(3)(C) and (D)”.

Subsec. (c)(2)(D). Pub. L. 94-455, §1901(b)(37)(C), struck out subsec. (c)(2)(D) which set forth a cross reference to section 1335 of this title relating to a deficiency attributable to war loss recoveries where prior benefit rule is elected.

Subsec. (c)(2)(E). Pub. L. 94-455, §214(b), added subpar. (E).

1974—Subsec. (a). Pub. L. 93-406, §1016(a)(10)(A), inserted reference to taxes imposed by chapter 43.

Subsec. (b)(1). Pub. L. 93-406, §1016(a)(10)(B), (C), inserted reference to chapter 43 in two places.

Subsec. (c)(1). Pub. L. 93-406, §1016(a)(10)(D), substituted “of the same decedent, of chapter 43 tax for the same taxable years,” for “of the same decedent,”.

1970—Subsec. (c)(1). Pub. L. 91-614 substituted “calendar quarter” for “calendar year”.

1969—Subsec. (a). Pub. L. 91-172, §101(j)(40), inserted reference to chapter 42.

Subsec. (b)(1). Pub. L. 91-172, §101(j)(41), inserted reference to chapter 42 taxes in heading and text.

Subsec. (c)(1). Pub. L. 91-172, §101(f)(2), included section 4940 tax and chapter 42 tax (other than under section 4940), among the classes of taxes with respect to which the Secretary cannot determine additional deficiencies after the taxpayer has filed a petition for redetermination of any deficiency about which he has been notified.

1964—Subsec. (c)(2)(A). Pub. L. 88-272 substituted “with respect to the” for “to take”.

1958—Subsec. (a). Pub. L. 85-866, §89(b), inserted “certified mail or” before “registered mail”.

Subsec. (b)(1). Pub. L. 85-866, §76, substituted “sub-title A or chapter 12” for “chapter 1 or 12” and “sub-title A, chapter 12,” for “such chapter”.

Subsec. (b)(2). Pub. L. 85-866, §89(b), inserted “certified mail or” before “registered mail”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 104(b)(17) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Pub. L. 99-514, title XV, §1562(b), Oct. 22, 1986, 100 Stat. 2762, provided that: “The amendment made by this section [amending this section] shall apply to notices of deficiency issued on or after January 1, 1986.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 405(c)(5) of Pub. L. 95-600 applicable to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date, see section 405(d) of Pub. L. 95-600, set out as a note under section 1038 of this title.

Amendment by section 701(t)(3)(C) of Pub. L. 95-600 effective Oct. 4, 1976, see section 701(t)(5) of Pub. L. 95-600, set out as a note under section 859 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 214(b) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1969, except that such amendments shall not apply to any taxable year ending before Oct. 4, 1976 with respect to which the period for assessing a deficiency has expired before Oct. 4, 1976, see section 214(c) of Pub. L. 94-455, set out as a note under section 183 of this title.

Amendment by section 1204(c)(5) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1206(c)(3) of Pub. L. 94-455 applicable to returns filed after Dec. 31, 1976, see section 1206(d) of Pub. L. 94-455, set out as a note under section 6213 of this title.

Amendment by section 1307(d)(2)(F)(ii), (G) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(5) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

Amendment by section 1901(b)(31)(C), (37)(C) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years

beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272, except for purposes of section 21 of this title, effective with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 76 of Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

Amendment by section 89(b) of Pub. L. 85-866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85-866, set out as a note under section 7502 of this title.

NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION

Pub. L. 105-206, title III, §3463(a), July 22, 1998, 112 Stat. 767, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.”

[Section 3463(a) of Pub. L. 105-206, set out above, applicable to notices mailed after Dec. 31, 1998, see section 3463(c) of Pub. L. 105-206, set out as an Effective Date of 1998 Amendment note under section 6213 of this title.]

EXPLANATIONS OF APPEALS AND COLLECTION PROCESS

Pub. L. 105-206, title III, §3504, July 22, 1998, 112 Stat. 771, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], include with any first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.”

§ 6213. Restrictions applicable to deficiencies; petition to Tax Court**(a) Time for filing petition and restriction on assessment**

Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. Except as otherwise provided in section 6851, 6852, or 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A, or B, chapter 41, 42, 43, or 44 and no levy or proceeding in court for its collection shall be

made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court, including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection. The Tax Court shall have no jurisdiction to enjoin any action or proceeding or order any refund under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition. Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.

(b) Exceptions to restrictions on assessment

(1) Assessments arising out of mathematical or clerical errors

If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

(2) Abatement of assessment of mathematical or clerical errors

(A) Request for abatement

Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

(B) Stay of collection

In the case of any assessment referred to in paragraph (1), notwithstanding paragraph

(1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph.

(3) Assessments arising out of tentative carryback or refund adjustments

If the Secretary determines that the amount applied, credited, or refunded under section 6411 is in excess of the overassessment attributable to the carryback or the amount described in section 1341(b)(1) with respect to which such amount was applied, credited, or refunded, he may assess without regard to the provisions of paragraph (2) the amount of the excess as a deficiency as if it were due to a mathematical or clerical error appearing on the return.

(4) Assessment of amount paid

Any amount paid as a tax or in respect of a tax may be assessed upon the receipt of such payment notwithstanding the provisions of subsection (a). In any case where such amount is paid after the mailing of a notice of deficiency under section 6212, such payment shall not deprive the Tax Court of jurisdiction over such deficiency determined under section 6211 without regard to such assessment.

(5) Certain orders of criminal restitution

If the taxpayer is notified that an assessment has been or will be made pursuant to section 6201(a)(4)—

(A) such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), section 6212(c)(1) (restricting further deficiency letters), or section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and

(B) subsection (a) shall not apply with respect to the amount of such assessment.

(c) Failure to file petition

If the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (a), the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the Secretary.

(d) Waiver of restrictions

The taxpayer shall at any time (whether or not a notice of deficiency has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) Suspension of filing period for certain excise taxes

The running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to investments which jeopardize charitable purpose), 4945 (relating to taxes on

taxable expenditures), 4951 (relating to taxes on self-dealing), or 4952 (relating to taxes on taxable expenditures), 4955 (relating to taxes on political expenditures), 4958 (relating to private excess benefit), 4971 (relating to excise taxes on failure to meet minimum funding standard), 4975 (relating to excise taxes on prohibited transactions) shall be suspended for any period during which the Secretary has extended the time allowed for making correction under section 4963(e).

(f) Coordination with title 11

(1) Suspension of running of period for filing petition in title 11 cases

In any case under title 11 of the United States Code, the running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to any deficiency shall be suspended for the period during which the debtor is prohibited by reason of such case from filing a petition in the Tax Court with respect to such deficiency, and for 60 days thereafter.

(2) Certain action not taken into account

For purposes of the second and third sentences of subsection (a), the filing of a proof of claim or request for payment (or the taking of any other action) in a case under title 11 of the United States Code shall not be treated as action prohibited by such second sentence.

(g) Definitions

For purposes of this section—

(1) Return

The term “return” includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44.

(2) Mathematical or clerical error

The term “mathematical or clerical error” means—

(A) an error in addition, subtraction, multiplication, or division shown on any return,

(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return,

(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 41, 42, 43, or 44, if such limit is expressed—

- (i) as a specified monetary amount, or
- (ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return,

(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return,

(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid,

(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions),

(I) an omission of a correct TIN required under section 24(e) (relating to child tax credit) to be included on a return,

(J) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return,

(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit) or an entry on the return claiming the credit under section 32 for a taxable year for which the credit is disallowed under subsection (k)(1) thereof,

(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN,

(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child,

(N) an omission of any increase required under section 36(f) with respect to the recapture of a credit allowed under section 36,

(O) the inclusion on a return of an individual taxpayer identification number issued under section 6109(i) which has expired, been revoked by the Secretary, or is otherwise invalid¹

(P) an omission of information required by section 24(h)(2)² or an entry on the return claiming the credit under section 24 for a taxable year for which the credit is disallowed under subsection (h)(1)² thereof, and

(Q) an omission of information required by section 25A(i)(8)(B)² or an entry on the return claiming the credit determined under section 25A(i) for a taxable year for which the credit is disallowed under paragraph (8)(A)² thereof.

A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from

¹ So in original. Probably should be followed by a comma.

² See References in Text note below.

the information the Secretary obtains from the person issuing the TIN.

(h) Cross references

(1) For assessment as if a mathematical error on the return, in the case of erroneous claims for income tax prepayment credits, see section 6201(a)(3).

(2) For assessments without regard to restrictions imposed by this section in the case of—

(A) Recovery of foreign income taxes, see section 905(c).

(B) Recovery of foreign estate tax, see section 2016.

(3) For provisions relating to application of this subchapter in the case of certain partnership items, etc., see section 6230(a).²

(Aug. 16, 1954, ch. 736, 68A Stat. 771; Pub. L. 89-44, title VIII, §809(d)(4)(B), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title I, §101(f)(3), (j)(42), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93-406, title II, §1016(a)(11), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XII, §§1204(c)(6), 1206(a)-(c)(1), title XIII, §1307(d)(2)(F)(iii), title XVI, §1605(b)(6), title XIX, §§1906(a)(15), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1703, 1704, 1728, 1755, 1825, 1834; Pub. L. 95-227, §4(d)(1), (2), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95-600, title V, §504(b)(2), Nov. 6, 1978, 92 Stat. 2881; Pub. L. 96-223, title I, §101(f)(1)(D), (E), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96-589, §6(b)(1), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 96-596, §2(a)(4)(C), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 97-248, title IV, §402(c)(2), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98-369, title III, §305(b)(4), title IV, §474(r)(34), July 18, 1984, 98 Stat. 784, 845; Pub. L. 99-514, title XVIII, §1875(d)(2)(B)(i), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100-203, title X, §§10712(c)(1), 10713(b)(2)(D), Dec. 22, 1987, 101 Stat. 1330-467, 1330-470; Pub. L. 100-418, title I, §1941(b)(2)(B)(iv), (v), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1015(r)(3), title VI, §6243(a), Nov. 10, 1988, 102 Stat. 3573, 3749; Pub. L. 101-239, title VII, §7811(k)(1), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 104-168, title XIII, §1311(c)(3), July 30, 1996, 110 Stat. 1478; Pub. L. 104-188, title I, §1615(c), Aug. 20, 1996, 110 Stat. 1853; Pub. L. 104-193, title IV, §451(c), Aug. 22, 1996, 110 Stat. 2277; Pub. L. 105-34, title I, §101(d)(2), title II, §201(b), title X, §1085(a)(3), Aug. 5, 1997, 111 Stat. 799, 803, 956; Pub. L. 105-206, title III, §§3463(b), 3464(a), title VI, §6010(p)(3), July 22, 1998, 112 Stat. 767, 817; Pub. L. 105-277, div. J, title III, §3003(a), (b), Oct. 21, 1998, 112 Stat. 2681-905; Pub. L. 107-16, title III, §303(g), June 7, 2001, 115 Stat. 56; Pub. L. 110-185, title I, §101(b)(2), Feb. 13, 2008, 122 Stat. 616; Pub. L. 111-5, div. B, title I, §1001(d), Feb. 17, 2009, 123 Stat. 312; Pub. L. 111-92, §§11(h), 12(d), Nov. 6, 2009, 123 Stat. 2991, 2992; Pub. L. 111-237, §3(b)(1), Aug. 16, 2010, 124 Stat. 2498; Pub. L. 113-295, div. A, title II, §§214(a), 221(a)(4), (5)(C), (112)(C), Dec. 19, 2014, 128 Stat. 4034, 4037, 4038, 4054; Pub. L. 114-113, div. Q, title II, §§203(e), 208(b), Dec. 18, 2015, 129 Stat. 3080, 3084.)

REFERENCES IN TEXT

Section 453(h) of the Social Security Act, referred to in subsec. (g)(2)(M), is classified to section 653(h) of Title 42, The Public Health and Welfare.

Section 24(h)(1) and (2), referred to in subsec. (g)(2)(P), probably means section 24(g)(1) and (2). Section 24 of this title does not contain a subsec. (h).

Section 25A(i)(8)(A) and (B), referred to in subsec. (g)(2)(Q), probably means section 25A(i)(7)(A) and (B). Subsec. (i) of section 25A of this title does not contain a par. (8).

Section 6230, referred to in subsec. (h)(3), was repealed by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

CODIFICATION

Pub. L. 113-295, div. A, title II, §214(a)(2), Dec. 19, 2014, 128 Stat. 4034, which directed that subsec. (g)(2) of this section be amended by striking “and” at the end of subpar. (O), by striking the period at the end of subpar. (P) and inserting “, and”, and by inserting after subpar. (P) a new subpar. (Q), effective as if included in the provisions of Pub. L. 110-185 to which the amendments relate, could not literally be executed insofar as it directed the amendments to subpars. (O) and (P) because subsec. (g)(2), at the time of enactment of Pub. L. 110-185, did not contain subpars. (N) to (P). However, the amendment was considered to be executed by making the conforming amendments to subpars. (O) and (P) as added by sections 11(h) and 12(d) of Pub. L. 111-92, to reflect the probable intent of Congress and to allow for additional amendments by Pub. L. 113-295, which presume that such conforming amendments had taken place. See 2014 Amendment notes below.

AMENDMENTS

2015—Subsec. (g)(2)(K). Pub. L. 114-113, §208(b)(1), inserted “or an entry on the return claiming the credit under section 32 for a taxable year for which the credit is disallowed under subsection (k)(1) thereof” before comma at end.

Subsec. (g)(2)(O). Pub. L. 114-113, §203(e), added subpar. (O).

Subsec. (g)(2)(P), (Q). Pub. L. 114-113, §208(b)(2), added subpars. (P) and (Q).

2014—Subsec. (g)(2)(L). Pub. L. 113-295, §214(a)(1), substituted “or 32” for “32, or 6428” in introductory provisions.

Subsec. (g)(2)(M). Pub. L. 113-295, §221(a)(112)(C), inserted “and” at end.

Subsec. (g)(2)(N). Pub. L. 113-295, §221(a)(112)(C), redesignated subpar. (O) as (N) and substituted period for comma at end.

Pub. L. 113-295, §221(a)(5)(C), struck out subpar. (N) which read as follows: “an omission of the reduction required under section 36A(c) with respect to the credit allowed under section 36A or an omission of the correct social security account number required under section 36A(d)(1)(B).”

Subsec. (g)(2)(O). Pub. L. 113-295, §214(a)(2), struck out “and” at end. See Codification note above.

Subsec. (g)(2)(P). Pub. L. 113-295, §221(a)(4), struck out subpar. (P) which read as follows: “an entry on a return claiming the credit under section 36 if—

“(i) the Secretary obtains information from the person issuing the TIN of the taxpayer that indicates that the taxpayer does not meet the age requirement of section 36(b)(4),

“(ii) information provided to the Secretary by the taxpayer on an income tax return for at least one of the 2 preceding taxable years is inconsistent with eligibility for such credit, or

“(iii) the taxpayer fails to attach to the return the form described in section 36(d)(4), and”.

Pub. L. 113-295, §214(a)(2), substituted “, and” for period at end. See Codification note above.

Subsec. (g)(2)(Q). Pub. L. 113-295, §221(a)(112)(C), struck out subpar. (Q) which read as follows: “an omission of a correct valid identification number required under section 6428(h) (relating to 2008 recovery rebates for individuals) to be included on a return.”

Pub. L. 113-295, §214(a)(2), added subpar. (Q). See Codification note above.

2010—Subsec. (b)(5). Pub. L. 111-237 added par. (5).

2009—Subsec. (g)(2)(N). Pub. L. 111-5 added subpar. (N).

Subsec. (g)(2)(O). Pub. L. 111-92, §11(h), added subpar. (O).

Subsec. (g)(2)(P). Pub. L. 111-92, §12(d), added subpar. (P).

2008—Subsec. (g)(2)(L). Pub. L. 110-185 substituted “32, or 6428” for “or 32” in introductory provisions.

2001—Subsec. (g)(2)(M). Pub. L. 107-16 added subpar. (M).

1998—Subsec. (a). Pub. L. 105-206, § 3464(a), substituted “, including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.” for “, including the Tax Court.” and “to enjoin any action or proceeding or order any refund” for “to enjoin any action or proceeding”.

Pub. L. 105-206, § 3463(b), inserted at end “Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.”

Subsec. (g)(2). Pub. L. 105-277, § 3003(a), inserted concluding provisions.

Subsec. (g)(2)(K). Pub. L. 105-206, § 6010(p)(3), amended Pub. L. 105-34, § 1085(a)(3). See 1997 Amendment note below.

Subsec. (g)(2)(L). Pub. L. 105-277, § 3003(b), added subpar. (L).

1997—Subsec. (g)(2)(I). Pub. L. 105-34, § 101(d)(2), added subpar. (I).

Subsec. (g)(2)(J). Pub. L. 105-34, § 201(b), added subpar. (J).

Subsec. (g)(2)(K). Pub. L. 105-34, § 1085(a)(3), as amended by Pub. L. 105-206, § 6010(p)(3), added subpar. (K).

1996—Subsec. (e). Pub. L. 104-168 inserted “4958 (relating to private excess benefit),” before “4971”.

Subsec. (g)(2)(F), (G). Pub. L. 104-193 added subpars. (F) and (G).

Subsec. (g)(2)(H). Pub. L. 104-188 added subpar. (H).

1989—Subsec. (h)(3), (4). Pub. L. 101-239 made technical correction to directory language of Pub. L. 100-647, § 1015(r)(3), see 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100-647, § 6243(a), substituted for period at end “, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition.”

Pub. L. 100-418, § 1941(b)(2)(B)(iv), substituted “or 44” for “44, or 45”.

Subsec. (g)(1), (2)(E). Pub. L. 100-418, § 1941(b)(2)(B)(v), substituted “or 44” for “44, or 45”.

Subsec. (h)(3), (4). Pub. L. 100-647, § 1015(r)(3), as amended by Pub. L. 101-239, redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “For assessment as if a mathematical error on the return, in the case of erroneous claims for credits under section 32 or 34, see section 6201(a)(4).”

1987—Subsec. (a). Pub. L. 100-203, § 10713(b)(2)(D), inserted reference to section 6852.

Subsec. (e). Pub. L. 100-203, § 10712(c)(1), inserted “4955 (relating to taxes on political expenditures).”

1986—Subsec. (h)(4). Pub. L. 99-514 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a).”

1984—Subsec. (e). Pub. L. 98-369, § 305(b)(4), substituted “section 4963(e)” for “section 4962(e).”

Subsec. (h)(3). Pub. L. 98-369, § 474(r)(34), substituted “section 32 or 34” for “section 39”.

1982—Subsec. (h)(4). Pub. L. 97-248 added par. (4).

1980—Subsec. (a). Pub. L. 96-223, § 101(f)(1)(D), inserted reference to chapter 45.

Subsec. (e). Pub. L. 96-596 substituted “section 4962(e)” for “section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6).”

Subsec. (f). Pub. L. 96-589 added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1), (2)(E). Pub. L. 96-223, § 101(f)(1)(E), inserted reference to chapter 45.

Subsecs. (g), (h). Pub. L. 96-589 redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1978—Subsec. (b)(3). Pub. L. 95-600 inserted “or refund” after “carryback” in heading, and “or the amount described in section 1341(b)(1)” after “carryback” in text.

Subsec. (e). Pub. L. 95-227, § 4(d)(1), inserted provisions relating to sections 4951 and 4952 of this title, and substituted “4975(f)(6)” for “4975(f)(4).”

Subsec. (f). Pub. L. 95-227, § 4(d)(2), inserted references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94-455, §§ 1204(c)(6), 1307(d)(2)(F)(iii), 1605(b)(6), 1906(a)(15), inserted “section 6851 or” before “section 6861” and references to chapter 41 and chapter 44 and substituted “United States” for “States of the Union and the District of Columbia”.

Subsec. (b)(1). Pub. L. 94-455, § 1206(a)(2), substituted in heading “Assessments arising out of mathematical or clerical errors” for “Mathematical errors” and in text inserted “or clerical” after “mathematical” in two places and inserted provision that each notice under this paragraph shall set forth the error alleged and an explanation thereof.

Subsec. (b)(2). Pub. L. 94-455, § 1206(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 94-455, §§ 1206(a)(1), (c)(1), 1906(b)(13)(A), redesignated former par. (2) as (3), and as so redesignated, struck out “or his delegate” after “Secretary” and inserted “without regard to the provisions of paragraph (2)” after “he may assess” and “or clerical” after “mathematical”. Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 94-455, § 1206(a)(1), redesignated former par. (3) as (4).

Subsecs. (c) to (e). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (f), (g). Pub. L. 94-455, § 1206(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1974—Subsec. (a). Pub. L. 93-406, § 1016(a)(11)(A), inserted reference to tax imposed by chapter 43.

Subsec. (e). Pub. L. 93-406, § 1016(a)(11)(B)-(D), substituted “excise taxes” for “chapter 42 taxes” in heading, and in text substituted “4945 (relating to taxes on taxable expenditures), 4971 (relating to excise taxes on failure to meet minimum funding standard), 4975 (relating to excise tax on prohibited transactions)” for “or 4945 (relating to taxes on taxable expenditures)” and “, 4945(i)(2), 4971(c)(3), or 4975(f)(4)” for “or 4945(h)(2).”

1969—Subsec. (a). Pub. L. 91-172, § 101(j)(42), inserted reference to chapter 42.

Subsecs. (e), (f). Pub. L. 91-172, § 101(f)(3), added subsec. (e) and redesignated former subsec. (e) as (f).

1965—Subsec. (e)(3). Pub. L. 89-44 added par. (3).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 203(e) of Pub. L. 114-113 applicable to applications for individual taxpayer identification numbers made after Dec. 18, 2015, see section 203(f) of Pub. L. 114-113, set out as a note under section 6109 of this title.

Amendment by section 208(b) of Pub. L. 114-113 applicable to taxable years beginning after Dec. 31, 2015, see section 208(c) of Pub. L. 114-113, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 214(a) of Pub. L. 113-295 effective as if included in the provisions of the Economic Stimulus Act of 2008, Pub. L. 110-185, to which such amendment relates, see section 214(c) of Pub. L. 113-295, set out as a note under section 168 of this title.

Amendment by section 221(a)(4), (5)(C), 112(C) of 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.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §11(j)(4), Nov. 6, 2009, 123 Stat. 2991, provided that: “The amendments made by subsection (h) [amending this section] shall apply to returns for taxable years ending on or after April 9, 2008.”

Amendment by section 12(d) of Pub. L. 111-92 applicable to returns for taxable years ending on or after Apr. 9, 2008, see section 12(e) of Pub. L. 111-92, set out as a note under section 36 of this title.

Amendment by Pub. L. 111-5 applicable to taxable years beginning after Dec. 31, 2008, see section 1001(f) of Pub. L. 111-5, set out as a note under section 6211 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 effective Jan. 1, 2004, see section 303(i) of Pub. L. 107-16, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-277, div. J, title III, §3003(c), Oct. 21, 1998, 112 Stat. 2681-905, provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 21, 1998].”

Pub. L. 105-206, title III, §3463(c), July 22, 1998, 112 Stat. 767, provided that: “Subsection (a) and the amendment made by subsection (b) [amending this section and enacting provisions set out as a note under section 6212 of this title] shall apply to notices mailed after December 31, 1998.”

Pub. L. 105-206, title III, §3464(d), July 22, 1998, 112 Stat. 767, provided that: “The amendments made by this section [amending this section and section 6512 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

Amendment by section 6010(p)(3) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 101(d)(2) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 101(e) of Pub. L. 105-34, set out as an Effective Date note under section 24 of this title.

Amendment by section 201(b) of Pub. L. 105-34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105-34, set out as an Effective Date note under section 25A of this title.

Amendment by section 1085(a)(3) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1996, see section 1085(e)(1) of Pub. L. 105-34, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-193 applicable with respect to returns the due date for which (without regard to extensions) is more than 30 days after Aug. 22, 1996, see section 451(d) of Pub. L. 104-193, set out as a note under section 32 of this title.

Amendment by Pub. L. 104-188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104-188, set out as a note under section 21 of this title.

Amendment by Pub. L. 104-168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter be-

fore such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104-168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1015(r)(3) of Pub. L. 100-647 applicable to notices of deficiencies mailed after Nov. 10, 1988, see section 1015(r)(4) of Pub. L. 100-647, set out as a note under section 6201 of this title.

Pub. L. 100-647, title VI, §6243(c), Nov. 10, 1988, 102 Stat. 3750, provided that: “The amendments made by this section [amending this section and section 7482 of this title] shall apply to orders entered after the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by Pub. L. 100-418 applicable to crude oil removed from premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(1) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XVIII, §1875(d)(2)(C), Oct. 22, 1986, 100 Stat. 2896, provided that: “The amendments made by this paragraph [amending this section and sections 6230 and 6503 of this title] shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 305(b)(4) of Pub. L. 98-369 applicable to taxable events occurring after Dec. 31, 1984, see section 305(c) of Pub. L. 98-369, set out as an Effective Date note under section 4962 of this title.

Amendment by section 474(r)(34) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 applicable to tentative refund claims filed on and after Nov. 6, 1978, see section

504(c) of Pub. L. 95-600, set out as a note under section 6411 of this title.

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(6) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

Pub. L. 94-455, title XII, §1206(d), Oct. 4, 1976, 90 Stat. 1704, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and sections 6201 and 6212 of this title] shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) filed after December 31, 1976."

Amendment by section 1307(d)(2)(F)(iii) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(6) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

Amendment by section 1906(a)(15), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6214. Determinations by Tax Court

(a) Jurisdiction as to increase of deficiency, additional amounts, or additions to the tax

Except as provided by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine

whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

(b) Jurisdiction over other years and quarters

The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid. Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.

(c) Taxes imposed by section 507 or chapter 41, 42, 43, or 44

The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter 41, 42, 43, or 44 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter 41, 42, 43, or 44 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter 41, 42, 43, or 44 for any other period, act, or failure to act have been overpaid or underpaid. The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4963(b)), shall make a determination with respect to whether the taxable event has been corrected.

(d) Final decisions of Tax Court

For purposes of this chapter, chapter 41, 42, 43, or 44, and subtitles A or B the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

(e) Cross reference

For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 91-172, title I, §101(j)(43), (44), title IX, §960(a), Dec. 30, 1969, 83 Stat. 530, 531, 734; Pub. L. 91-614, title I, §102(d)(6), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93-406, title II, §1016(a)(12), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, §1307(d)(2)(F)(iv), (H), title XVI, §1605(b)(7), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1834; Pub. L. 96-223, title I, §101(f)(1)(F), (G), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96-596, §2(b), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 98-369, div. A, title I, §144(b), July 18, 1984, 98 Stat. 683; Pub. L. 99-514, title XV, §§1511(c)(8), 1554(a), title XVIII, §1833, Oct. 22, 1986, 100 Stat. 2745, 2754, 2852; Pub. L. 100-418, title I, §1941(b)(2)(B)(vi), (vii), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title VI, §6244(b)(1), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 104-188, title I, §1704(t)(16), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 109-280, title VIII, §858(a), Aug. 17, 2006, 120 Stat. 1020.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-280 inserted at end “Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.”

1996—Subsec. (e). Pub. L. 104-188 amended subsec. (e) generally, striking par. (2) designation and par. (1) which provided cross reference to section 6621(c)(4) of this title for provision giving Tax Court jurisdiction to determine whether any portion of deficiency is a substantial underpayment attributable to tax motivated transactions.

1988—Subsec. (c). Pub. L. 100-418, §1941(b)(2)(B)(vi), substituted “or 44” for “44, or 45” in heading and wherever appearing in text.

Subsec. (d). Pub. L. 100-418, §1941(b)(2)(B)(vii), substituted “or 44” for “44, or 45”.

Subsec. (e). Pub. L. 100-647 substituted “references” for “reference” in heading, designated existing provisions as par. (1), and added par. (2).

1986—Subsec. (a). Pub. L. 99-514, §1554(a), substituted “any addition to the tax” for “addition to the tax”.

Subsec. (c). Pub. L. 99-514, §1833, substituted “section 4963(b)” for “section 4962(b)”.

Subsec. (e). Pub. L. 99-514, §1511(c)(8), substituted “section 6621(c)(4)” for “section 6621(d)(4)”.

1984—Subsec. (e). Pub. L. 98-369 added subsec. (e).

1980—Subsec. (c). Pub. L. 96-596 inserted provision directing the Tax Court, in redetermining a deficiency of any second tier tax, to make a determination with respect to whether the taxable event has been corrected.

Pub. L. 96-223, §101(f)(1)(F), inserted reference to chapter 45.

Subsec. (d). Pub. L. 96-223, §101(f)(1)(G), inserted reference to chapter 45.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §§1307(d)(2)(F)(iv), (H), 1605(b)(7)(A), (B), substituted in heading and in text “41, 42, 43, or 44” for “42 or 43”.

Subsec. (d). Pub. L. 94-455, §§1307(d)(2)(F)(iv), 1605(b)(7)(C), substituted “41, 42, 43, or 44” for “42 or 43”.

1974—Subsec. (c). Pub. L. 93-406, §1016(a)(12)(A), (B), inserted reference to chapter 43 in heading and in text.

Subsec. (d). Pub. L. 93-406, §1016(a)(12)(C), inserted reference to chapter 43.

1970—Subsec. (b). Pub. L. 91-614 inserted reference to calendar quarters in heading and in text in regard to gift tax deficiencies.

1969—Subsec. (a). Pub. L. 91-172, §960(a), inserted reference to exception provided for in section 7463 of this title.

Subsecs. (c), (d). Pub. L. 91-172, §101(j)(43), (44), added subsec. (c), redesignated former subsec. (c) as (d), and, in subsec. (d) as so redesignated, inserted reference to chapter 42.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title VIII, §858(b), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendment made by this section [amending this section] shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 1988 AMENDMENTS

Pub. L. 100-647, title VI, §6244(c), Nov. 10, 1988, 102 Stat. 3750, provided that: “The amendments made by this section [amending this section and section 6512 of this title] shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see

section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1511(c)(8) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Pub. L. 99-514, title XV, §1554(b), Oct. 22, 1986, 100 Stat. 2754, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1954 [now 1986]) before the date of the enactment of this Act [Oct. 22, 1986].”

Amendment by section 1833 of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to interest accruing after Dec. 31, 1984, see section 144(c) of Pub. L. 98-369, set out as a note under section 6621 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(iv), (H) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(7) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(43), (44) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 960(a) of Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L.

99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6215. Assessment of deficiency found by Tax Court

(a) General rule

If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by the decision of the Tax Court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary. No part of the amount determined as a deficiency by the Secretary but disallowed as such by the decision of the Tax Court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

(b) Cross references

(1) For assessment or collection of the amount of the deficiency determined by the Tax Court pending appellate court review, see section 7485.

(2) For dismissal of petition by Tax Court as affirmation of deficiency as determined by the Secretary, see section 7459(d).

(3) For decision of Tax Court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e).

(4) For assessment of damages awarded by Tax Court for instituting proceedings merely for delay, see section 6673.

(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).¹

(6) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

(7) For extension of time for paying amount determined as deficiency, see section 6161(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 94-455, title XIX, §1906(a)(16), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99-514, title XIV, §1404(c)(2), Oct. 22, 1986, 100 Stat. 2714.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in subsec. (b)(5), is section 9 of act Mar. 8, 1946, ch. 82, 60 Stat. 46, which was repealed by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1986—Subsec. (b)(7), (8). Pub. L. 99-514 redesignated par. (8) as (7) and struck out former par. (7) which read as follows: “For proration of deficiency to installments, see section 6152(c).”

1976—Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b)(5). Pub. L. 94-455, §1906(a)(16), struck out “60 Stat. 48;” before “50 U.S.C. App. 1742”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as a note under section 643 of this title.

§ 6216. Cross references

(1) For procedures relating to receivership proceedings, see subchapter B of chapter 70.

(2) For procedures relating to jeopardy assessments, see subchapter A of chapter 70.

(3) For procedures relating to claims against transferees and fiduciaries, see chapter 71.

(4) For procedures relating to partnership items, see subchapter C.

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 96-589, §6(i)(9), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-248, title IV, §402(c)(3), Sept. 3, 1982, 96 Stat. 667.)

AMENDMENTS

1982—Par. (4). Pub. L. 97-248 added par. (4).

1980—Par. (1). Pub. L. 96-589 struck out reference to bankruptcy proceedings.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Subchapter C—Treatment of Partnerships

Part

- | | |
|-------------------|--------------------------------|
| I. | In general. |
| II. | Partnership adjustments. |
| III. ¹ | Procedure. |
| IV. ¹ | Definitions and special rules. |

PRIOR PROVISIONS

A prior subchapter C, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648, consisting of sections 6221 to 6234, related to tax treatment of partnership items, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

PART I—IN GENERAL

Sec.

- | | |
|-------|--|
| 6221. | Determination at partnership level. |
| 6222. | Partner's return must be consistent with partnership return. |
| 6223. | Designation of partnership representative. ¹ |

§ 6221. Determination at partnership level

(a) In general

Any adjustment to items of income, gain, loss, deduction, or credit of a partnership for a partnership taxable year (and any partner's distributive share thereof) shall be determined, any tax attributable thereto shall be assessed and collected, and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to any such item or share shall be determined, at the partnership level pursuant to this subchapter.

(b) Election out for certain partnerships with 100 or fewer partners, etc.

(1) In general

This subchapter shall not apply with respect to any partnership for any taxable year if—

¹ So in original. Does not conform to part designation.

¹ So in original. Does not conform to section catchline.

¹ See References in Text note below.

Sec.

(A) the partnership elects the application of this subsection for such taxable year,

(B) for such taxable year the partnership is required to furnish 100 or fewer statements under section 6031(b) with respect to its partners,

(C) each of the partners of such partnership is an individual, a C corporation, any foreign entity that would be treated as a C corporation were it domestic, an S corporation, or an estate of a deceased partner,

(D) the election—

(i) is made with a timely filed return for such taxable year, and

(ii) includes (in the manner prescribed by the Secretary) a disclosure of the name and taxpayer identification number of each partner of such partnership, and

(E) the partnership notifies each such partner of such election in the manner prescribed by the Secretary.

(2) Special rules relating to certain partners

(A) S corporation partners

In the case of a partner that is an S corporation—

(i) the partnership shall only be treated as meeting the requirements of paragraph (1)(C) with respect to such partner if such partnership includes (in the manner prescribed by the Secretary) a disclosure of the name and taxpayer identification number of each person with respect to whom such S corporation is required to furnish a statement under section 6037(b) for the taxable year of the S corporation ending with or within the partnership taxable year for which the application of this subsection is elected, and

(ii) the statements such S corporation is required to so furnish shall be treated as statements furnished by the partnership for purposes of paragraph (1)(B).

(B) Foreign partners

For purposes of paragraph (1)(D)(ii), the Secretary may provide for alternative identification of any foreign partners.

(C) Other partners

The Secretary may by regulation or other guidance prescribe rules similar to the rules of subparagraph (A) with respect to any partners not described in such subparagraph or paragraph (1)(C).

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 625.)

PRIOR PROVISIONS

A prior section 6221, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 105-34, title XII, §1238(a), Aug. 5, 1997, 111 Stat. 1026, related to tax treatment determined at partnership level, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Pub. L. 114-74, title XI, §1101(g), Nov. 2, 2015, 129 Stat. 638, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this subchapter, amending sections 6031, 6330, 6422, 6501, 6503, 6504, 6511, 6512, 6515, 6601, 7421, 7422, 7459, 7482, and 7485 of this title, and repealing this subchapter, subchapter D of this chapter, and part IV of subchapter K of chapter 1 of this title] shall apply to returns filed for partnership taxable years beginning after December 31, 2017.

“(2) ADMINISTRATIVE ADJUSTMENT REQUESTS.—In the case of [an] administrative adjustment request under section 6227 of such Code [Internal Revenue Code of 1986], the amendments made by this section shall apply to requests with respect to returns filed for partnership taxable years beginning after December 31, 2017.

“(3) ADJUSTED PARTNERS STATEMENTS.—In the case of a partnership electing the application of section 6226 of such Code, the amendments made by this section shall apply to elections with respect to returns filed for partnership taxable years beginning after December 31, 2017.

“(4) ELECTION.—A partnership may elect (at such time and in such form and manner as the Secretary of the Treasury may prescribe) for the amendments made by this section (other than the election under section 6221(b) of such Code (as added by this Act)) to apply to any return of the partnership filed for partnership taxable years beginning after the date of the enactment of this Act [Nov. 2, 2015] and before January 1, 2018.”

§ 6222. Partner's return must be consistent with partnership return

(a) In general

A partner shall, on the partner's return, treat each item of income, gain, loss, deduction, or credit attributable to a partnership in a manner which is consistent with the treatment of such income, gain, loss, deduction, or credit on the partnership return.

(b) Underpayment due to inconsistent treatment assessed as math error

Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

(c) Exception for notification of inconsistent treatment

(1) In general

In the case of any item referred to in subsection (a), if—

(A)(i) the partnership has filed a return but the partner's treatment on the partner's return is (or may be) inconsistent with the treatment of the item on the partnership return, or

(ii) the partnership has not filed a return, and

(B) the partner files with the Secretary a statement identifying the inconsistency,

subsections (a) and (b) shall not apply to such item.

(2) Partner receiving incorrect information

A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to an item if the partner—

(A) demonstrates to the satisfaction of the Secretary that the treatment of the item on

the partner's return is consistent with the treatment of the item on the statement furnished to the partner by the partnership, and

(B) elects to have this paragraph apply with respect to that item.

(d) Final decision on certain positions not binding on partnership

Any final decision with respect to an inconsistent position identified under subsection (c) in a proceeding to which the partnership is not a party shall not be binding on the partnership.

(e) Addition to tax for failure to comply with section

For addition to tax in the case of a partner's disregard of the requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 626.)

PRIOR PROVISIONS

A prior section 6222, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 99-514, title XV, §1503(c)(1), Oct. 22, 1986, 100 Stat. 2743; Pub. L. 101-239, title VII, §7721(c)(7), Dec. 19, 1989, 103 Stat. 2400, required partner's return to be consistent with partnership return or Secretary to be notified of inconsistency, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6223. Partners bound by actions of partnership

(a) Designation of partnership representative

Each partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) with a substantial presence in the United States as the partnership representative who shall have the sole authority to act on behalf of the partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any person as the partnership representative.

(b) Binding effect

A partnership and all partners of such partnership shall be bound—

(1) by actions taken under this subchapter by the partnership, and

(2) by any final decision in a proceeding brought under this subchapter with respect to the partnership.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 627.)

PRIOR PROVISIONS

Prior sections 6223 and 6224 were repealed by Pub. L. 114-74, title XI, §1101(a), (g), Nov. 2, 2015, 129 Stat. 625, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6223, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 649, related to notice to partners of proceedings.

Section 6224, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 651; amended Pub. L. 107-147, title IV, §416(d)(1)(A), Mar. 9, 2002, 116 Stat. 55, related to partner participation in administrative proceedings, waiver of partner's rights, and settlement agreements.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

PART II—PARTNERSHIP ADJUSTMENTS

Sec. 6225.	Partnership adjustment by Secretary.
6226.	Alternative to payment of imputed underpayment by partnership.
6227.	Administrative adjustment request by partnership.

§ 6225. Partnership adjustment by Secretary

(a) In general

In the case of any adjustment by the Secretary in the amount of any item of income, gain, loss, deduction, or credit of a partnership, or any partner's distributive share thereof—

(1) the partnership shall pay any imputed underpayment with respect to such adjustment in the adjustment year as provided in section 6232, and

(2) any adjustment that does not result in an imputed underpayment shall be taken into account by the partnership in the adjustment year—

(A) except as provided in subparagraph (B), as a reduction in non-separately stated income or an increase in non-separately stated loss (whichever is appropriate) under section 702(a)(8), or

(B) in the case of an item of credit, as a separately stated item.

(b) Determination of imputed underpayments

For purposes of this subchapter—

(1) In general

Except as provided in subsection (c), any imputed underpayment with respect to any partnership adjustment for any reviewed year shall be determined—

(A) by netting all adjustments of items of income, gain, loss, or deduction and multiplying such net amount by the highest rate of tax in effect for the reviewed year under section 1 or 11,

(B) by treating any net increase or decrease in loss under subparagraph (A) as a decrease or increase, respectively, in income, and

(C) by taking into account any adjustments to items of credit as an increase or decrease, as the case may be, in the amount determined under subparagraph (A).

(2) Adjustments to distributive shares of partners not netted

In the case of any adjustment which reallocates the distributive share of any item from one partner to another, such adjustment shall be taken into account under paragraph (1) by disregarding—

(A) any decrease in any item of income or gain, and

(B) any increase in any item of deduction, loss, or credit.

(c) Modification of imputed underpayments

(1) In general

The Secretary shall establish procedures under which the imputed underpayment

amount may be modified consistent with the requirements of this subsection.

(2) Amended returns of partners

(A) In general

Such procedures shall provide that if—

(i) one or more partners file returns (notwithstanding section 6511) for the taxable year of the partners which includes the end of the reviewed year of the partnership,

(ii) such returns take into account all adjustments under subsection (a) properly allocable to such partners (and for any other taxable year with respect to which any tax attribute is affected by reason of such adjustments), and

(iii) payment of any tax due is included with such return,

then the imputed underpayment amount shall be determined without regard to the portion of the adjustments so taken into account.

(B) Reallocation of distributive share

In the case of any adjustment which reallocates the distributive share of any item from one partner to another, paragraph (2) shall apply only if returns are filed by all partners affected by such adjustment.

(3) Tax-exempt partners

Such procedures shall provide for determining the imputed underpayment without regard to the portion thereof that the partnership demonstrates is allocable to a partner that would not owe tax by reason of its status as a tax-exempt entity (as defined in section 168(h)(2)).

(4) Modification of applicable highest tax rates

(A) In general

Such procedures shall provide for taking into account a rate of tax lower than the rate of tax described in subsection (b)(1)(A) with respect to any portion of the imputed underpayment that the partnership demonstrates is allocable to a partner which—

(i) is a C corporation, or

(ii) in the case of a capital gain or qualified dividend, is an individual.

In no event shall the lower rate determined under the preceding sentence be less than the highest rate in effect with respect to the income and taxpayer described in clause (i) or clause (ii), as the case may be. For purposes of clause (ii), an S corporation shall be treated as an individual.

(B) Portion of imputed underpayment to which lower rate applies

(i) In general

Except as provided in clause (ii), the portion of the imputed underpayment to which the lower rate applies with respect to a partner under subparagraph (A) shall be determined by reference to the partners' distributive share of items to which the imputed underpayment relates.

(ii) Rule in case of varied treatment of items among partners

If the imputed underpayment is attributable to the adjustment of more than 1

item, and any partner's distributive share of such items is not the same with respect to all such items, then the portion of the imputed underpayment to which the lower rate applies with respect to a partner under subparagraph (A) shall be determined by reference to the amount which would have been the partner's distributive share of net gain or loss if the partnership had sold all of its assets at their fair market value as of the close of the reviewed year of the partnership.

(5) Certain passive losses of publicly traded partnerships

(A) In general

In the case of a publicly traded partnership (as defined in section 469(k)(2)), such procedures shall provide—

(i) for determining the imputed underpayment without regard to the portion thereof that the partnership demonstrates is attributable to a net decrease in a specified passive activity loss which is allocable to a specified partner, and

(ii) for the partnership to take such net decrease into account as an adjustment in the adjustment year with respect to the specified partners to which such net decrease relates.

(B) Specified passive activity loss

For purposes of this paragraph, the term "specified passive activity loss" means, with respect to any specified partner of such publicly traded partnership, the lesser of—

(i) the passive activity loss of such partner which is separately determined with respect to such partnership under section 469(k) with respect to such partner's taxable year in which or with which the reviewed year of such partnership ends, or

(ii) such passive activity loss so determined with respect to such partner's taxable year in which or with which the adjustment year of such partnership ends.

(C) Specified partner

For purposes of this paragraph, the term "specified partner" means any person if such person—

(i) is a partner of the publicly traded partnership referred to in subparagraph (A),

(ii) is described in section 469(a)(2), and

(iii) has a specified passive activity loss with respect to such publicly traded partnership,

with respect to each taxable year of such person which is during the period beginning with the taxable year of such person in which or with which the reviewed year of such publicly traded partnership ends and ending with the taxable year of such person in which or with which the adjustment year of such publicly traded partnership ends.

(6) Other procedures for modification of imputed underpayment

The Secretary may by regulations or guidance provide for additional procedures to modify imputed underpayment amounts on the

basis of such other factors as the Secretary determines are necessary or appropriate to carry out the purposes of this subsection.

(7) Year and day for submission to Secretary

Anything required to be submitted pursuant to paragraph (1) shall be submitted to the Secretary not later than the close of the 270-day period beginning on the date on which the notice of a proposed partnership adjustment is mailed under section 6231 unless such period is extended with the consent of the Secretary.

(8) Decision of Secretary

Any modification of the imputed underpayment amount under this subsection shall be made only upon approval of such modification by the Secretary.

(d) Definitions

For purposes of this subchapter—

(1) Reviewed year

The term “reviewed year” means the partnership taxable year to which the item being adjusted relates.

(2) Adjustment year

The term “adjustment year” means the partnership taxable year in which—

(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under section 6234, such decision becomes final,

(B) in the case of an administrative adjustment request under section 6227, such administrative adjustment request is made, or

(C) in any other case, notice of the final partnership adjustment is mailed under section 6231.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 628; amended Pub. L. 114-113, div. Q, title IV, §411(a), Dec. 18, 2015, 129 Stat. 3121.)

PRIOR PROVISIONS

A prior section 6225, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 652; amended Pub. L. 105-34, title XII, §1239(a), Aug. 5, 1997, 111 Stat. 1027, allowing assessments to be made only after partnership level proceedings were completed, was repealed by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2015—Subsec. (c)(4)(A)(i). Pub. L. 114-113, §411(a)(1), struck out “in the case of ordinary income,” before “is a C corporation”.

Subsec. (c)(5) to (8). Pub. L. 114-113, §411(a)(2), added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6226. Alternative to payment of imputed underpayment by partnership

(a) In general

If the partnership—

(1) not later than 45 days after the date of the notice of final partnership adjustment, elects the application of this section with respect to an imputed underpayment, and

(2) at such time and in such manner as the Secretary may provide, furnishes to each partner of the partnership for the reviewed year and to the Secretary a statement of the partner's share of any adjustment to income, gain, loss, deduction, or credit (as determined in the notice of final partnership adjustment),

section 6225 shall not apply with respect to such underpayment and each such partner shall take such adjustment into account as provided in subsection (b). The election under paragraph (1) shall be made in such manner as the Secretary may provide and, once made, shall be revocable only with the consent of the Secretary.

(b) Adjustments taken into account by partner

(1) Tax imposed in year of statement

Each partner's tax imposed by chapter 1 for the taxable year which includes the date the statement was furnished under subsection (a) shall be increased by the aggregate of the adjustment amounts determined under paragraph (2) for the taxable years referred to therein.

(2) Adjustment amounts

The adjustment amounts determined under this paragraph are—

(A) in the case of the taxable year of the partner which includes the end of the reviewed year, the amount by which the tax imposed under chapter 1 would increase if the partner's share of the adjustments described in subsection (a) were taken into account for such taxable year, plus

(B) in the case of any taxable year after the taxable year referred to in subparagraph (A) and before the taxable year referred to in paragraph (1), the amount by which the tax imposed under chapter 1 would increase by reason of the adjustment to tax attributes under paragraph (3).

(3) Adjustment of tax attributes

Any tax attribute which would have been affected if the adjustments described in subsection (a) were taken into account for the taxable year referred to in paragraph (2)(A) shall—

(A) in the case of any taxable year referred to in paragraph (2)(B), be appropriately adjusted for purposes of applying such paragraph, and

(B) in the case of any subsequent taxable year, be appropriately adjusted.

(c) Penalties and interest

(1) Penalties

Notwithstanding subsections (a) and (b), any penalties, additions to tax, or additional amount shall be determined as provided under section 6221 and the partners of the partnership for the reviewed year shall be liable for any such penalty, addition to tax, or additional amount.

(2) Interest

In the case of an imputed underpayment with respect to which the application of this

section is elected, interest shall be determined—

(A) at the partner level,

(B) from the due date of the return for the taxable year to which the increase is attributable (determined by taking into account any increases attributable to a change in tax attributes for a taxable year under subsection (b)(2)), and

(C) at the underpayment rate under section 6621(a)(2), determined by substituting “5 percentage points” for “3 percentage points” in subparagraph (B) thereof.

(d) Judicial review

For the time period within which a partnership may file a petition for a readjustment, see section 6234(a).

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 630; amended Pub. L. 114-113, div. Q, title IV, §411(b)(1), Dec. 18, 2015, 129 Stat. 3122.)

PRIOR PROVISIONS

A prior section 6226, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 653; amended Pub. L. 97-448, title III, §306(c)(1)(A), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 102-572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105-34, title XII, §§1238(b)(1), 1239(b), 1240(a), Aug. 5, 1997, 111 Stat. 1026-1028, related to judicial review of final partnership administrative adjustments, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2015—Subsec. (d). Pub. L. 114-113 added subsec. (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6227. Administrative adjustment request by partnership

(a) In general

A partnership may file a request for an administrative adjustment in the amount of one or more items of income, gain, loss, deduction, or credit of the partnership for any partnership taxable year.

(b) Adjustment

Any such adjustment under subsection (a) shall be determined and taken into account for the partnership taxable year in which the administrative adjustment request is made—

- (1) by the partnership under rules similar to the rules of section 6225 (other than paragraphs (2), (6) and (7) of subsection (c) thereof) for the partnership taxable year in which the administrative adjustment request is made, or
- (2) by the partnership and partners under rules similar to the rules of section 6226 (determined without regard to the substitution described in subsection (c)(2)(C) thereof).

In the case of an adjustment that would not result in an imputed underpayment, paragraph (1)

shall not apply and paragraph (2) shall apply with appropriate adjustments.

(c) Period of limitations

A partnership may not file such a request more than 3 years after the later of—

- (1) the date on which the partnership return for such year is filed, or
- (2) the last day for filing the partnership return for such year (determined without regard to extensions).

In no event may a partnership file such a request after a notice of an administrative proceeding with respect to the taxable year is mailed under section 6231.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 631.)

PRIOR PROVISIONS

Prior sections 6227 to 6230 were repealed by Pub. L. 114-74, title XI, §1101(a), (g), Nov. 2, 2015, 129 Stat. 625, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6227, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 655; amended Pub. L. 105-34, title XII, §§1236(a), 1243(a), Aug. 5, 1997, 111 Stat. 1025, 1029; Pub. L. 107-147, title IV, §417(19)(A), Mar. 9, 2002, 116 Stat. 56, related to administrative adjustment requests.

Section 6228, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 656; amended Pub. L. 97-448, title III, §306(c)(1)(B), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 102-572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 107-147, title IV, §417(19)(B), Mar. 9, 2002, 116 Stat. 56, related to judicial review where administrative adjustment request is not allowed in full.

Section 6229, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 659; amended Pub. L. 99-514, title XVIII, §1875(d)(1), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100-647, title I, §1018(o)(3), Nov. 10, 1988, 102 Stat. 3585; Pub. L. 105-34, title XII, §§1233(a)-(c), 1235(a), Aug. 5, 1997, 111 Stat. 1023, 1024; Pub. L. 107-147, title IV, §416(d)(1)(B), Mar. 9, 2002, 116 Stat. 55; Pub. L. 111-147, title V, §513(a)(2)(B), Mar. 18, 2010, 124 Stat. 112, related to period of limitations for making assessments.

Section 6230, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 660; amended Pub. L. 98-369, div. A, title VII, §714(p)(2)(A), July 18, 1984, 98 Stat. 964; Pub. L. 99-514, title XVIII, §1875(d)(2)(A), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100-647, title I, §1018(o)(1), Nov. 10, 1988, 102 Stat. 3584; Pub. L. 102-572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105-34, title XII, §§1237(a)-(c)(1), 1238(b)(2)-(6), 1239(c)(1), Aug. 5, 1997, 111 Stat. 1025-1028; Pub. L. 105-206, title III, §3201(e)(2), July 22, 1998, 112 Stat. 740; Pub. L. 110-172, §11(a)(36), Dec. 29, 2007, 121 Stat. 2487, related to additional administrative provisions.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

PART 1¹—PROCEDURE

Sec. 6231.	Notice of proceedings and adjustment.
6232.	Assessment, collection, and payment.
6233.	Interest and penalties.
6234.	Judicial review of partnership adjustment.
6235.	Period of limitations on making adjustments.

¹ So in original. Probably should be “PART III”.

§ 6231. Notice of proceedings and adjustment**(a) In general**

The Secretary shall mail to the partnership and the partnership representative—

(1) notice of any administrative proceeding initiated at the partnership level with respect to an adjustment of any item of income, gain, loss, deduction, or credit of a partnership for a partnership taxable year, or any partner's distributive share thereof,

(2) notice of any proposed partnership adjustment resulting from such proceeding, and

(3) notice of any final partnership adjustment resulting from such proceeding.

Any notice of a final partnership adjustment shall not be mailed earlier than 270 days after the date on which the notice of the proposed partnership adjustment is mailed. Such notices shall be sufficient if mailed to the last known address of the partnership representative or the partnership (even if the partnership has terminated its existence). The first sentence shall apply to any proceeding with respect to an administrative adjustment request filed by a partnership under section 6227.

(b) Further notices restricted

If the Secretary mails a notice of a final partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6234 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

(c) Authority to rescind notice with partnership consent

The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment for purposes of this subchapter, and the taxpayer shall have no right to bring a proceeding under section 6234 with respect to such notice.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 632.)

PRIOR PROVISIONS

A prior section 6231, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 663; amended Pub. L. 98-369, div. A, title VII, §714(p)(2)(B)-(D), (I), July 18, 1984, 98 Stat. 964, 965; Pub. L. 105-34, title XI, §1141(b), title XII, §§1232(a), 1234(a), Aug. 5, 1997, 111 Stat. 981, 1023, 1024; Pub. L. 105-206, title III, §3507(a), July 22, 1998, 112 Stat. 772; Pub. L. 107-147, title IV, §416(d)(1)(C), 417(19)(C), Mar. 9, 2002, 116 Stat. 55, 57, defined terms for purposes of this subchapter and listed special rules for partnership items, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

Pub. L. 97-248, title IV, §406, Sept. 3, 1982, 96 Stat. 670, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat.

2095, provided that: “[Former] Subchapter C of chapter 63 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.”

§ 6232. Assessment, collection, and payment**(a) In general**

Any imputed underpayment shall be assessed and collected in the same manner as if it were a tax imposed for the adjustment year by subtitle A, except that in the case of an administrative adjustment request to which section 6227(b)(1) applies, the underpayment shall be paid when the request is filed.

(b) Limitation on assessment

Except as otherwise provided in this chapter, no assessment of a deficiency may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

(1) the close of the 90th day after the day on which a notice of a final partnership adjustment was mailed, and

(2) if a petition is filed under section 6234 with respect to such notice, the decision of the court has become final.

(c) Premature action may be enjoined

Notwithstanding section 7421(a), any action which violates subsection (b) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6234 and then only in respect of the adjustments that are the subject of such petition.

(d) Exceptions to restrictions on adjustments**(1) Adjustments arising out of math or clerical errors****(A) In general**

If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a¹ item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

(B) Special rule

If a partnership is a partner in another partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6222(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

(2) Partnership may waive restrictions

The partnership may at any time (whether or not any notice of partnership adjustment

¹ So in original. Probably should be “an”.

has been issued), by a signed notice in writing filed with the Secretary, waive the restrictions provided in subsection (b) on the making of any partnership adjustment.

(e) Limit where no proceeding begun

If no proceeding under section 6234 is begun with respect to any notice of a final partnership adjustment during the 90-day period described in subsection (b) thereof, the amount for which the partnership is liable under section 6225 shall not exceed the amount determined in accordance with such notice.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 632.)

PRIOR PROVISIONS

A prior section 6232, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 666, related to extension of subchapter provisions, respecting tax treatment of partnership items, to windfall profit tax, prior to repeal by Pub. L. 100-418, title I, §1941(b)(1), Aug. 23, 1988, 102 Stat. 1323.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6233. Interest and penalties

(a) Interest and penalties determined from reviewed year

(1) In general

Except to the extent provided in section 6226(c), in the case of a partnership adjustment for a reviewed year—

(A) interest shall be computed under paragraph (2), and

(B) the partnership shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

(2) Determination of amount of interest

The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67 for the period beginning on the day after the return due date for the reviewed year and ending on the return due date for the adjustment year (or, if earlier, the date payment of the imputed underpayment is made). Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the reviewed year and before the adjustment year by reason of such partnership adjustment.

(3) Penalties

Any penalty, addition to tax, or additional amount shall be determined at the partnership level as if such partnership had been an individual subject to tax under chapter 1 for the reviewed year and the imputed underpayment were an actual underpayment (or understatement) for such year.

(b) Interest and penalties with respect to adjustment year return

(1) In general

In the case of any failure to pay an imputed underpayment on the date prescribed therefor, the partnership shall be liable—

(A) for interest as determined under paragraph (2), and

(B) for any penalty, addition to tax, or additional amount as determined under paragraph (3).

(2) Interest

Interest determined under this paragraph is the interest that would be determined by treating the imputed underpayment as an underpayment of tax imposed in the adjustment year.

(3) Penalties

Penalties, additions to tax, or additional amounts determined under this paragraph are the penalties, additions to tax, or additional amounts that would be determined—

(A) by applying section 6651(a)(2) to such failure to pay, and

(B) by treating the imputed underpayment as an underpayment of tax for purposes of part II of subchapter A of chapter 68.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 633.)

PRIOR PROVISIONS

A prior section 6233, added Pub. L. 98-369, div. A, title VII, §714(p)(1), July 18, 1984, 98 Stat. 964; amended Pub. L. 104-188, title I, §1307(c)(3)(B), Aug. 20, 1996, 110 Stat. 1782, related to extension to entities filing partnership returns, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6234. Judicial review of partnership adjustment

(a) In general

Within 90 days after the date on which a notice of a final partnership adjustment is mailed under section 6231 with respect to any partnership taxable year, the partnership may file a petition for a readjustment for such taxable year with—

(1) the Tax Court,

(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

(3) the Court of Federal Claims.

(b) Jurisdictional requirement for bringing action in district court or Court of Federal Claims

(1) In general

A readjustment petition under this section may be filed in a district court of the United States or the Court of Federal Claims only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount of the imputed underpayment (as of the date of the filing of the petition) if the partnership adjustment was made as provided by the notice of final partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the

amount required to be deposited is timely corrected.

(2) Interest payable

Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

(c) Scope of judicial review

A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all items of income, gain, loss, deduction, or credit of the partnership for the partnership taxable year to which the notice of final partnership adjustment relates, the proper allocation of such items among the partners, and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under this subchapter.

(d) Determination of court reviewable

Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

(e) Effect of decision dismissing action

If an action brought under this section is dismissed other than by reason of a rescission under section 6231(c), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 634; amended Pub. L. 114-113, div. Q, title IV, §411(b)(2), (3), Dec. 18, 2015, 129 Stat. 3122.)

PRIOR PROVISIONS

A prior section 6234, added Pub. L. 105-34, title XII, §1231(a), Aug. 5, 1997, 111 Stat. 1020; amended Pub. L. 107-147, title IV, §416(d)(1)(D), Mar. 9, 2002, 116 Stat. 55, related to declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2015—Pub. L. 114-113 substituted “Court of Federal Claims” for “Claims Court” wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

§ 6235. Period of limitations on making adjustments

(a) In general

Except as otherwise provided in this section, no adjustment under this subpart¹ for any part-

nership taxable year may be made after the later of—

(1) the date which is 3 years after the latest of—

(A) the date on which the partnership return for such taxable year was filed,

(B) the return due date for the taxable year, or

(C) the date on which the partnership filed an administrative adjustment request with respect to such year under section 6227, or

(2) in the case of any modification of an imputed underpayment under section 6225(c), the date that is 270 days (plus the number of days of any extension consented to by the Secretary under paragraph (7) thereof) after the date on which everything required to be submitted to the Secretary pursuant to such section is so submitted, or

(3) in the case of any notice of a proposed partnership adjustment under section 6231(a)(2), the date that is 330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)² after the date of such notice.

(b) Extension by agreement

The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

(c) Special rule in case of fraud, etc.

(1) False return

In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein and such amount is described in section 6501(e)(1)(A), subsection (a) shall be applied by substituting “6 years” for “3 years”.

(3) No return

In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

(4) Return filed by Secretary

For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

(d) Suspension when Secretary mails notice of adjustment

If notice of a final partnership adjustment with respect to any taxable year is mailed under section 6231, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

(1) for the period during which an action may be brought under section 6234 (and, if a petition is filed under such section with respect to such notice, until the decision of the court becomes final), and

¹ So in original. This part does not contain subparts.

² So in original. Another closing parenthesis probably should appear.

(2) for 1 year thereafter.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 635; amended Pub. L. 114-113, div. Q, title IV, §411(c), Dec. 18, 2015, 129 Stat. 3122.)

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114-113, §411(c)(1), substituted “paragraph (7)” for “paragraph (4)”.

Subsec. (a)(3). Pub. L. 114-113, §411(c)(2), substituted “330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7))” for “270 days”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

PART 2¹—DEFINITIONS AND SPECIAL RULES

Sec.
6241. Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter D, Treatment of Electing Large Partnerships, consisted of sections 6240 to 6255, prior to repeal by Pub. L. 114-74, title XI, §1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6240, added Pub. L. 105-34, title XII, §1222(a), Aug. 5, 1997, 111 Stat. 1009, related to application of subchapter D to electing large partnerships and partners in such partnerships.

Another prior subchapter D, Tax Treatment of Subchapter S Items, consisted of sections 6241 to 6245, prior to repeal by Pub. L. 104-188, title I, §1307(c)(1), Aug. 20, 1996, 110 Stat. 1781.

§ 6241. Definitions and special rules

For purposes of this subchapter—

(1) Partnership

The term “partnership” means any partnership required to file a return under section 6031(a).

(2) Partnership adjustment

The term “partnership adjustment” means any adjustment in the amount of any item of income, gain, loss, deduction, or credit of a partnership, or any partner’s distributive share thereof.

(3) Return due date

The term “return due date” means, with respect to the taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

(4) Payments nondeductible

No deduction shall be allowed under subtitle A for any payment required to be made by a partnership under this subchapter.

(5) Partnerships having principal place of business outside United States

For purposes of sections 6234, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

(6) Partnerships in cases under title 11 of United States Code

(A) Suspension of period of limitations on making adjustment, assessment, or collection

The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any imputed underpayment determined under this subchapter) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

- (i) for adjustment or assessment, 60 days thereafter, and
- (ii) for collection, 6 months thereafter.

A rule similar to the rule of section 6213(f)(2) shall apply for purposes of section 6232(b).

(B) Suspension of period of limitation for filing for judicial review

The running of the period specified in section 6234 shall, in a case under title 11 of the United States Code, be suspended during the period during which the partnership is prohibited by reason of such case from filing a petition under section 6234 and for 60 days thereafter.

(7) Treatment where partnership ceases to exist

If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

(8) Extension to entities filing partnership return

If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership (or that there is no entity) for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 636.)

PRIOR PROVISIONS

A prior section 6241, added Pub. L. 105-34, title XII, §1222(a), Aug. 5, 1997, 111 Stat. 100, related to consistency of a partner’s return with the partnership return, prior to repeal by Pub. L. 114-74, title XI, §1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Another prior section 6241, added Pub. L. 97-354, §4(a), Oct. 19, 1982, 96 Stat. 1691, directed that tax treatment be determined at the corporate level, prior to repeal by

¹ So in original. Probably should be “PART IV”.

Pub. L. 104-188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6242, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1010, related to procedures for taking partnership adjustments into account, prior to repeal by Pub. L. 114-74, title XI, § 1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Another prior section 6242, added Pub. L. 97-354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that shareholder's return be consistent with corporate return, prior to repeal by Pub. L. 104-188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6243, added Pub. L. 97-354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that shareholders be notified of proceedings and given opportunity to participate, prior to repeal by Pub. L. 104-188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6244, added Pub. L. 97-354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that certain provisions of subchapter C apply to subchapter S items, prior to repeal by Pub. L. 104-188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6245, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1013, authorized and directed Secretary to make necessary partnership adjustment, prior to repeal by Pub. L. 114-74, title XI, § 1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Another prior section 6245, added Pub. L. 97-354, § 4(a), Oct. 19, 1982, 96 Stat. 1692, defined "subchapter S item" for purposes of subchapter, prior to repeal by Pub. L. 104-188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

Prior sections 6246 to 6255 were repealed by Pub. L. 114-74, title XI, § 1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6246, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1013, related to restrictions on partnership adjustments.

Section 6247, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1014, related to judicial review of partnership adjustment.

Section 6248, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1015, related to period of limitations for making adjustments under this subpart.

Section 6251, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1016, related to administrative adjustment requests.

Section 6252, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1016, related to judicial review where administrative adjustment request is not allowed in full.

Section 6255, added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1017, defined terms for former subchapter D and listed special rules.

EFFECTIVE DATE

Section 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 a note under section 6221 of this title.

CHAPTER 64—COLLECTION

Subchapter	Sec. ¹
A. General provisions	6301
B. Receipt of payment	6311
C. Lien for taxes	6321

¹ Section numbers editorially supplied.

D. Seizure of property for collection of taxes	6331
[E. Repealed.]	

AMENDMENTS

1990—Pub. L. 101-508, title XI, § 11801(b)(14), Nov. 5, 1990, 104 Stat. 1388-522, struck out item for subchapter E "Collection of State individual income taxes".

1972—Pub. L. 92-512, title II, § 202(b), Oct. 20, 1972, 86 Stat. 944, added item for subchapter E.

Subchapter A—General Provisions

Sec.	
6301.	Collection authority
6302.	Mode or time of collection.
6303.	Notice and demand for tax.
6304.	Fair tax collection practices.
6305.	Collection of certain liability.
6306.	Qualified tax collection contracts.
6307.	Special compliance personnel program account.

AMENDMENTS

2015—Pub. L. 114-94, div. C, title XXXII, § 32103(c), Dec. 4, 2015, 129 Stat. 1737, added item 6307.

2004—Pub. L. 108-357, title VIII, § 881(a)(2)(B), Oct. 22, 2004, 118 Stat. 1626, added item 6306.

1998—Pub. L. 105-206, title III, § 3466(b), July 22, 1998, 112 Stat. 769, added item 6304.

1976—Pub. L. 94-455, title XIX, § 1906(b)(5), Oct. 4, 1976, 90 Stat. 1833, struck out item "6304. Collection under the Tariff Act".

1975—Pub. L. 93-647, § 101(b)(2), Jan. 4, 1975, 88 Stat. 2358, added item 6305.

§ 6301. Collection authority

The Secretary shall collect the taxes imposed by the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary".

APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES

Pub. L. 105-206, title III, § 3421, July 22, 1998, 112 Stat. 758, provided that:

"(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

"(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken; and

"(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

"(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

"(1) reviewed the taxpayer's information;

"(2) verified that a balance is due; and

"(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act [July 22, 1998].

"(2) AUTOMATED COLLECTION SYSTEM ACTIONS.—In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000."

§ 6302. Mode or time of collection**(a) Establishment by regulations**

If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) Discretionary method

Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) Use of Government depositories

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositories or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(d) Time for payment of manufacturers' excise tax on recreational equipment

The taxes imposed by subchapter D of chapter 32 of this title (relating to taxes on recreational equipment) shall be due and payable on the date for filing the return for such taxes.

(e) Time for deposit of taxes on communications services and airline tickets**(1) In general**

Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

(2) Special rule for tax due in September**(A) Amounts considered collected**

In the case of a person required to make deposits of the tax imposed by sections¹ 4251, 4261, or 4271 with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

(B) Special rule where September 29 is on Saturday or Sunday

If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

(i) in the case of Saturday, the preceding day, and

(ii) in the case of Sunday, the following day.

(C) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting "September 10" for "September 11" and "September 28" for "September 29".

(f) Time for deposit of certain excise taxes**(1) General rule**

Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29.

(2) Taxes on ozone depleting chemicals

If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

(A) the second semimonthly period in August, and

(B) the period beginning on September 1 and ending on September 11,

not later than September 29.

(3) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting "September 25" for "September 26", "September 10" for "September 11", and "September 28" for "September 29".

(4) Special rule where due date on Saturday or Sunday

If, but for this paragraph, the due date under paragraph (1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

(A) in the case of Saturday, the preceding day, and

(B) in the case of Sunday, the following day.

(g) Deposits of social security taxes and withheld income taxes

If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21, 22, and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has \$100,000 or more of such taxes for deposit.

(h) Use of electronic fund transfer system for collection of certain taxes**(1) Establishment of system****(A) In general**

The Secretary shall prescribe such regulations as may be necessary for the develop-

¹ So in original. Probably should be "section".

ment and implementation of an electronic fund transfer system which is required to be used for the collection of depository taxes. Such system shall be designed in such manner as may be necessary to ensure that such taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the Federal tax deposit system.

(B) Exemptions

The regulations prescribed under subparagraph (A) may contain such exemptions as the Secretary may deem appropriate.

(2) Definitions

For purposes of this subsection—

(A) Depository tax

The term “depository tax” means any tax if the Secretary is authorized to require deposits of such tax.

(B) Electronic fund transfer

The term “electronic fund transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution or other financial intermediary to debit or credit an account.

(3) Coordination with other electronic fund transfer requirements

Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; June 29, 1956, ch. 462, title II, §206(b), 70 Stat. 391; Pub. L. 94-455, title XIX, §1906(a)(17), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 95-147, §3(a), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 95-600, title I, §105(e), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96-223, title I, §101(c)(2), Apr. 2, 1980, 94 Stat. 250; Pub. L. 98-369, div. A, title X, §1015(c), July 18, 1984, 98 Stat. 1018; Pub. L. 100-418, title I, §1941(b)(2)(G), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title VI, §6107(a), Nov. 10, 1988, 102 Stat. 3712; Pub. L. 101-239, title VII, §§7502(a), 7507(a), 7632(a), Dec. 19, 1989, 103 Stat. 2362, 2369, 2379; Pub. L. 101-508, title XI, §§11217(b)(1), 11334(a), 11801(c)(22)(A), Nov. 5, 1990, 104 Stat. 1388-437, 1388-470, 1388-528; Pub. L. 103-66, title XIII, §13242(d)(15), Aug. 10, 1993, 107 Stat. 524; Pub. L. 103-182, title V, §523(a), Dec. 8, 1993, 107 Stat. 2161; Pub. L. 103-465, title VII, §712(a), (d), Dec. 8, 1994, 108 Stat. 4999, 5001; Pub. L. 104-188, title I, §§1702(c)(3), 1704(t)(52), Aug. 20, 1996, 110 Stat. 1869, 1890; Pub. L. 111-226, title II, §219(b)(2), Aug. 10, 2010, 124 Stat. 2403; Pub. L. 111-237, §2(a), Aug. 16, 2010, 124 Stat. 2497; Pub. L. 113-295, div. A, title II, §221(a)(110), Dec. 19, 2014, 128 Stat. 4053.)

AMENDMENTS

2014—Subsec. (e)(2). Pub. L. 113-295, §221(a)(110)(A), substituted “imposed by sections 4251, 4261, or 4271 with respect to” for “imposed by—

“(i) section 4251, or

“(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to”.

Subsec. (f)(1). Pub. L. 113-295, §221(a)(110)(B), struck out last sentence which read as follows: “In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.”

Subsec. (h)(2). Pub. L. 113-295, §221(a)(110)(C)(i), redesignated par. (3) as (2) and struck out former par. (2) which related to phase-in of the electronic fund transfer system.

Subsec. (h)(3), (4). Pub. L. 113-295, §221(a)(110)(C), redesignated par. (4) as (3) and amended it generally. Prior to amendment, text read as follows:

“(A) COORDINATION WITH CERTAIN EXCISE TAXES.—In determining whether the requirements of subparagraph (B) of paragraph (2) are met, taxes required to be paid by electronic fund transfer under sections 5061(e) and 5703(b) shall be disregarded.

“(B) ADDITIONAL REQUIREMENT.—Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied.”

2010—Subsec. (d). Pub. L. 111-237 amended subsec. (d) generally. Prior to amendment, text read as follows: “The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.”

Subsec. (i). Pub. L. 111-226 struck out subsec. (i). Text read as follows: “For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).”

1996—Subsec. (b). Pub. L. 104-188, §1704(t)(52), provided that section 11801(c)(22)(A) of Pub. L. 101-508 shall be applied as if “chapters 21” appeared instead of “chapter 21” in the material to be stricken. See 1990 Amendment note below.

Subsec. (g). Pub. L. 104-188, §1702(c)(3), inserted “, 22,” after “chapters 21”.

1994—Subsec. (e). Pub. L. 103-465, §712(d), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.”

Subsec. (f). Pub. L. 103-465, §712(a), substituted “certain excise taxes” for “taxes on gasoline and diesel fuel” in heading and amended text generally. Prior to amendment, text read as follows:

“(1) GENERAL RULE.—Notwithstanding section 518 of the Highway Revenue Act of 1982, any person whose liability for tax under section 4081 is payable with respect to semimonthly periods shall, not later than September 27, make deposits of such tax for the period beginning on September 16 and ending on September 22.

“(2) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (1) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.”

1993—Subsec. (f). Pub. L. 103-66 inserted “and diesel fuel” after “gasoline” in heading.

Subsecs. (h), (i). Pub. L. 103-182 added subsec. (h) and redesignated former subsec. (h) as (i).

1990—Subsec. (b). Pub. L. 101-508, §11801(c)(22)(A), which directed the substitution of “chapter 21, 31, 32, or 33, or by section 4481” for “chapter 21” and all that follows down through “chapter 37,” was executed by mak-

ing the substitution for “chapters 21, 31, 32, 33, section 4481 of chapter 36, section 4501(a) of chapter 37” to reflect the probable intent of Congress. See 1996 Amendment note above.

Subsec. (e). Pub. L. 101-508, §11217(b)(1), inserted “communications services and” before “airline” in heading and “section 4251 or” after “imposed by” in text.

Subsec. (g). Pub. L. 101-508, §11334(a), amended subsec. (g) generally, striking out par. (1) designation and striking heading, striking out “, for the years specified in paragraph (2),” after “such person shall”, substituting “on the 1st banking day” for “on the applicable banking day”, and striking out par. (2), which provided that for purposes of par. (1) the applicable banking day for 1990 is the 1st, for 1991 the 2nd, for 1992 the 3rd, for 1993 the 1st, and for 1994 the 1st.

1989—Subsec. (e). Pub. L. 101-239, §7502(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-239, §7507(a), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101-239, §7502(a), redesignated former subsec. (e) as (f).

Subsec. (g). Pub. L. 101-239, §7632(a), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 101-239, §7507(a), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 101-239, §7632(a), redesignated former subsec. (g) as (h).

1988—Subsec. (d). Pub. L. 100-647 substituted “Time for payment of manufacturers’ excise tax on sporting goods” for “Time for payment of manufacturers excise tax on sport fishing equipment” in heading and amended text generally. Prior to amendment, subsec. (d) read as follows: “The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment) shall be due and payable on the date for filing the return for such tax.”

Subsec. (e). Pub. L. 100-418 substituted “For” for “(1) For” and struck out par. (2) which read as follows: “For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b).”

1984—Subsecs. (d), (e). Pub. L. 98-369 added subsec. (d) and redesignated former subsec. (d) as (e).

1980—Subsec. (d). Pub. L. 96-223 designated existing cross reference as par. (1), substituted “For treatment of earned income advance amounts” for “For treatment of payment of earned income advance amounts”, and added par. (2).

1978—Subsec. (d). Pub. L. 95-600 added subsec. (d).

1977—Subsec. (c). Pub. L. 95-147 substituted “, trust companies, domestic building and loan associations, or credit unions” for “or trust companies” and “, trust companies, domestic building and loan associations, and credit unions” for “and trust companies”.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1906(a)(17), (b)(13)(A), substituted “section 4501(a) of chapter 37” for “sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39” and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1956—Subsec. (b). Act June 29, 1956, inserted reference to section 4481 of chapter 36.

EFFECTIVE DATE OF 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

Pub. L. 111-237, §2(b), Aug. 16, 2010, 124 Stat. 2497, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act [Aug. 16, 2010].”

Amendment by Pub. L. 111-226 applicable to taxable years beginning after Dec. 31, 2010, see section 219(c) of Pub. L. 111-226, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(c)(3) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 712(e) of Pub. L. 103-465, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Pub. L. 103-182, title V, §523(b)(1), Dec. 8, 1993, 107 Stat. 2163, provided that: “The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].”

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11217(b)(2), Nov. 5, 1990, 104 Stat. 1388-437, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to payments of taxes considered collected during semi-monthly periods beginning after December 31, 1990.”

Pub. L. 101-508, title XI, §11334(c), Nov. 5, 1990, 104 Stat. 1388-470, provided that: “The amendments made by this section [amending this section and provisions set out below] shall apply to amounts required to be deposited after December 31, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7502(b), Dec. 19, 1989, 103 Stat. 2362, provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments of taxes considered collected for semi-monthly periods beginning after June 30, 1990.”

Pub. L. 101-239, title VII, §7507(b), Dec. 19, 1989, 103 Stat. 2369, provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments of taxes for tax periods beginning after December 31, 1989.”

Pub. L. 101-239, title VII, §7632(b), Dec. 19, 1989, 103 Stat. 2379, as amended by Pub. L. 101-508, title XI, §11334(b), Nov. 5, 1990, 104 Stat. 1388-470, provided that:

“(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply to amounts required to be deposited after July 31, 1990.

“[(2) Repealed. Pub. L. 101-508, title XI, §11334(b), Nov. 5, 1990, 104 Stat. 1388-470.]”

EFFECTIVE DATE OF 1988 AMENDMENTS

Pub. L. 100-647, title VI, §6107(b), Nov. 10, 1988, 102 Stat. 3712, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold by the manufacturer, producer, or importer after December 31, 1988.”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to articles sold by manufacturer, producer, or importer after Sept. 30, 1984, see section 1015(e) of Pub. L. 98-369, set out as an Effective Date note under section 4162 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective with respect to remuneration paid after June 30, 1979, see section 105(g)(2) of Pub. L. 95-600, set out as a note under section 6051 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-147, §3(c), Oct. 28, 1977, 91 Stat. 1228, provided that: "The amendments made by this section [amending this section and section 7502 of this title] shall apply to amounts deposited after the date of the enactment of this Act [Oct. 28, 1977]."

REGULATIONS

Pub. L. 103-182, title V, §523(b)(2), Dec. 8, 1993, 107 Stat. 2163, provided that: "Not later than 210 days after the date of enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall prescribe temporary regulations under section 6302(h) of the Internal Revenue Code of 1986 (as added by this section)."

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(22)(A) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

DELAYED DEPOSITS OF HIGHWAY MOTOR FUEL TAX REVENUES

Pub. L. 105-34, title IX, §901(e), Aug. 5, 1997, 111 Stat. 872, provided that: "Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by sections 4041 and 4081 (other than subsection (a)(2)(A)(ii)) of the Internal Revenue Code of 1986, the due date for any deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998."

WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES

Pub. L. 105-34, title IX, §931, Aug. 5, 1997, 111 Stat. 881, provided that: "No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—
 "(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and
 "(2) such failure occurs before July 1, 1998."

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Pub. L. 105-34, title X, §1031(g), Aug. 5, 1997, 111 Stat. 933, provided that: "Notwithstanding section 6302 of the Internal Revenue Code of 1986—

"(1) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1997, and before October 1, 1997, shall be October 10, 1997,

"(2) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1998, and before October 1, 1998, shall be October 5, 1998, and

"(3) in the case of deposits of taxes imposed by sections 4081(a)(2)(A)(ii), 4091, and 4271 of such Code, the

due date for any such deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998."

DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT

Pub. L. 104-188, title I, §1809, Aug. 20, 1996, 110 Stat. 1904, provided that: "Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997."

DEPOSITARY SCHEDULES

Pub. L. 98-76, title II, §226, Aug. 12, 1983, 97 Stat. 426, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Effective on and after January 1, 1984, the times for making payments prescribed under section 6302 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to the taxes imposed by chapter 22 of such Code shall be the same as the times prescribed under such section which apply to the taxes imposed by chapters 21 and 24 of such Code."

Pub. L. 98-76, title II, §227(c), Aug. 12, 1983, 97 Stat. 426, provided that: "Section 226 [set out above] shall take effect on January 1, 1984."

§ 6303. Notice and demand for tax

(a) General rule

Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) Assessment prior to last date for payment

Except where the Secretary believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

§ 6304. Fair tax collection practices

(a) Communication with the taxpayer

Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to

respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

(b) Prohibition of harassment and abuse

The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

(c) Civil action for violations of section

For civil action for violations of this section, see section 7433.

(Added Pub. L. 105-206, title III, §3466(a), July 22, 1998, 112 Stat. 768.)

PRIOR PROVISIONS

A prior section 6304, act Aug. 16, 1954, ch. 736, 68A Stat. 776, related to a cross reference to sections 4504 and 4601 for collection under the Tariff Act of 1930, prior to repeal by Pub. L. 94-455, title XIX, §1906(a)(18), (d)(1), Oct. 4, 1976, 90 Stat. 1825, 1835, effective on first day of first month which begins more than 90 days after Oct. 4, 1976.

EFFECTIVE DATE

Pub. L. 105-206, title III, §3466(c), July 22, 1998, 112 Stat. 769, provided that: "The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

§ 6305. Collection of certain liability

(a) In general

Upon receiving a certification from the Secretary of Health and Human Services, under section 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the Secretary of Health and Human Services, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax im-

posed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children,

(4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303, and

(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.

(b) Review of assessments and collections

No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

(Added Pub. L. 93-647, §101(b)(1), Jan. 4, 1975, 88 Stat. 2358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-35, title XXIII, §2332(g), Aug. 13, 1981, 95 Stat. 862; Pub. L. 104-193, title III, §361(a), Aug. 22, 1996, 110 Stat. 2242.)

REFERENCES IN TEXT

Section 452(b) of the Social Security Act, referred to in subsec. (a), is classified to section 652(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193, §361(a)(4), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" in two places in introductory provisions.

Subsec. (a)(5). Pub. L. 104-193, §361(a)(1)–(3), added par. (5).

1981—Subsec. (a)(4). Pub. L. 97-35 inserted reference to administrative order.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-193, title III, §361(b), Aug. 22, 1996, 110 Stat. 2242, provided that: "The amendments made by this section [amending this section] shall become effective October 1, 1997."

For provisions relating to effective date of title III of Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97-35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as a note under section 651 of Title 42, the Public Health and Welfare.

§ 6306. Qualified tax collection contracts**(a) In general**

Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

(b) Qualified tax collection contract

For purposes of this section, the term “qualified tax collection contract” means any contract which—

(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

(A) to locate and contact any taxpayer specified by the Secretary,

(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 5 years, and

(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

(3) prohibits subcontractors from—

(A) having contacts with taxpayers,

(B) providing quality assurance services, and

(C) composing debt collection notices, and

(4) permits subcontractors to perform other services only with the approval of the Secretary.

(c) Collection of inactive tax receivables**(1) In general**

Notwithstanding any other provision of law, the Secretary shall enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables.

(2) Inactive tax receivables

For purposes of this section—

(A) In general

The term “inactive tax receivable” means any tax receivable if—

(i) at any time after assessment, the Internal Revenue Service removes such receivable from the active inventory for lack of resources or inability to locate the taxpayer,

(ii) more than $\frac{1}{3}$ of the period of the applicable statute of limitation has lapsed

and such receivable has not been assigned for collection to any employee of the Internal Revenue Service, or

(iii) in the case of a receivable which has been assigned for collection, more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering the collection of such receivable.

(B) Tax receivable

The term “tax receivable” means any outstanding assessment which the Internal Revenue Service includes in potentially collectible inventory.

(d) Certain tax receivables not eligible for collection under qualified tax collections contracts

A tax receivable shall not be eligible for collection pursuant to a qualified tax collection contract if such receivable—

(1) is subject to a pending or active offer-in-compromise or installment agreement,

(2) is classified as an innocent spouse case,

(3) involves a taxpayer identified by the Secretary as being—

(A) deceased,

(B) under the age of 18,

(C) in a designated combat zone, or

(D) a victim of tax-related identity theft,

(4) is currently under examination, litigation, criminal investigation, or levy, or

(5) is currently subject to a proper exercise of a right of appeal under this title.

(e) Fees

The Secretary may retain and use—

(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

(2) an amount not in excess of 25 percent of such amount collected to fund the special compliance personnel program account under section 6307.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

(f) No Federal liability

The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

(g) Application of Fair Debt Collection Practices Act

The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

(h) Contracting priority

In contracting for the services of any person under this section, the Secretary shall utilize private collection contractors and debt collection centers on the schedule required under section 3711(g) of title 31, United States Code, including the technology and communications infrastructure established therein, to the extent such private collection contractors and debt col-

lection centers are appropriate to carry out the purposes of this section.

(i) Taxpayers in presidentially declared disaster areas

The Secretary may prescribe procedures under which a taxpayer determined to be affected by a Federally declared disaster (as defined by section 165(i)(5)) may request—

- (1) relief from immediate collection measures by contractors under this section, and
- (2) a return of the inactive tax receivable to the inventory of the Internal Revenue Service to be collected by an employee thereof.

(j) Report to Congress

Not later than 90 days after the last day of each fiscal year (beginning with the first such fiscal year ending after the date of the enactment of this subsection), the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report with respect to qualified tax collection contracts under this section which shall include—

- (1) annually, with respect to such fiscal year—

- (A) the total number and amount of tax receivables provided to each contractor for collection under this section,

- (B) the total amounts collected (and amounts of installment agreements entered into under subsection (b)(1)(B)) with respect to each contractor and the collection costs incurred (directly and indirectly) by the Internal Revenue Service with respect to such amounts,

- (C) the impact of such contracts on the total number and amount of unpaid assessments, and on the number and amount of assessments collected by Internal Revenue Service personnel after initial contact by a contractor,

- (D) the amount of fees retained by the Secretary under subsection (e) and a description of the use of such funds, and

- (E) a disclosure safeguard report in a form similar to that required under section 6103(p)(5), and

- (2) biannually (beginning with the second report submitted under this subsection)—

- (A) an independent evaluation of contractor performance, and

- (B) a measurement plan that includes a comparison of the best practices used by the private collectors to the collection techniques used by the Internal Revenue Service and mechanisms to identify and capture information on successful collection techniques used by the contractors that could be adopted by the Internal Revenue Service.

(k) Cross references

(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(g).

(Added Pub. L. 108-357, title VIII, §881(a)(1), Oct. 22, 2004, 118 Stat. 1625; amended Pub. L. 114-94, div. C, title XXXII, §§32102(a)-(c), (e), (f)(1), 32103(a), Dec. 4, 2015, 129 Stat. 1733-1736.)

REFERENCES IN TEXT

The Fair Debt Collection Practices Act, referred to in subsec. (e), is title VIII of Pub. L. 90-321, as added by Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 874, as amended, which is classified generally to subchapter V (§1692 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-94, §32102(a), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 114-94, §32102(b), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 114-94, §32102(a), (b), successively redesignated subsec. (c) as (d) and then as (e). Former subsec. (e) redesignated (g).

Subsec. (e)(2). Pub. L. 114-94, §32103(a), substituted “to fund the special compliance personnel program account under section 6307” for “for collection enforcement activities of the Internal Revenue Service”.

Subsec. (f). Pub. L. 114-94, §32102(a), (b), successively redesignated subsec. (d) as (e) and then as (f). Former subsec. (f) redesignated (k).

Subsec. (g). Pub. L. 114-94, §32102(a), (b), successively redesignated subsec. (e) as (f) and then as (g).

Subsec. (h). Pub. L. 114-94, §32102(c), added subsec. (h).

Subsec. (i). Pub. L. 114-94, §32102(e), added subsec. (i).

Subsec. (j). Pub. L. 114-94, §32102(f)(1), added subsec. (j).

Subsec. (k). Pub. L. 114-94, §32102(a), (b), (c), (e), (f)(1), successively redesignated subsec. (f) as (g), (h), (i), (j), and then (k).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-94, div. C, title XXXII, §32102(g)(1), (2), Dec. 4, 2015, 129 Stat. 1736, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall apply to tax receivables identified by the Secretary [probably means Secretary of the Treasury] after the date of the enactment of this Act [Dec. 4, 2015].

“(2) CONTRACTING PRIORITY.—The Secretary shall begin entering into contracts and agreements as described in the amendment made by subsection (c) [amending this section] within 3 months after the date of the enactment of this Act.”

Pub. L. 114-94, div. C, title XXXII, §32102(g)(4), Dec. 4, 2015, 129 Stat. 1736, provided that: “The amendments made by subsections (e) and (f) [amending this section and repealing provisions formerly set out as a note under this section] shall take effect on the date of the enactment of this Act [Dec. 4, 2015].”

Pub. L. 114-94, div. C, title XXXII, §32103(d), Dec. 4, 2015, 129 Stat. 1738, provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts collected and retained by the Secretary [probably means Secretary of the Treasury] after the date of the enactment of this Act [Dec. 4, 2015].”

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §881(f), Oct. 22, 2004, 118 Stat. 1627, provided that: “The amendments made to [by] this section [enacting this section and section 7433A of this title, amending sections 7809 and 7811 of this title, and amending provisions set out as a note under section 7804 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].”

BIENNIAL REPORT

Pub. L. 108-357, title VIII, §881(e), Oct. 22, 2004, 118 Stat. 1627, directed the Secretary of the Treasury to biennially submit (beginning in 2005) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report

with respect to qualified tax collection contracts under this section, prior to repeal by Pub. L. 114-94, div. C, title XXXII, § 32102(f)(2), Dec. 4, 2015, 129 Stat. 1736.

§ 6307. Special compliance personnel program account

(a) Establishment of a special compliance personnel program account

The Secretary shall establish an account within the Department for carrying out a program consisting of the hiring, training, and employment of special compliance personnel, and shall transfer to such account from time to time amounts retained by the Secretary under section 6306(e)(2).

(b) Restrictions

The program described in subsection (a) shall be subject to the following restrictions:

(1) No funds shall be transferred to such account except as described in subsection (a).

(2) No other funds from any other source shall be expended for special compliance personnel employed under such program, and no funds from such account shall be expended for the hiring of any personnel other than special compliance personnel.

(3) Notwithstanding any other authority, the Secretary is prohibited from spending funds out of such account for any purpose other than for costs under such program associated with the employment of special compliance personnel and the retraining and reassignment of current noncollections personnel as special compliance personnel, and to reimburse the Internal Revenue Service or other government agencies for the cost of administering qualified tax collection contracts under section 6306.

(c) Reporting

Not later than March of each year, the Commissioner of Internal Revenue shall submit a report to the Committees on Finance and Appropriations of the Senate and the Committees on Ways and Means and Appropriations of the House of Representatives consisting of the following:

(1) For the preceding fiscal year, all funds received in the account established under subsection (a), administrative and program costs for the program described in such subsection, the number of special compliance personnel hired and employed under the program, and the amount of revenue actually collected by such personnel.

(2) For the current fiscal year, all actual and estimated funds received or to be received in the account, all actual and estimated administrative and program costs, the number of all actual and estimated special compliance personnel hired and employed under the program, and the actual and estimated revenue actually collected or to be collected by such personnel.

(3) For the following fiscal year, an estimate of all funds to be received in the account, all estimated administrative and program costs, the estimated number of special compliance personnel hired and employed under the program, and the estimated revenue to be collected by such personnel.

(d) Definitions

For purposes of this section—

(1) Special compliance personnel

The term “special compliance personnel” means individuals employed by the Internal Revenue Service as field function collection officers or in a similar position, or employed to collect taxes using the automated collection system or an equivalent replacement system.

(2) Program costs

The term “program costs” means—

(A) total salaries (including locality pay and bonuses), benefits, and employment taxes for special compliance personnel employed or trained under the program described in subsection (a), and

(B) direct overhead costs, salaries, benefits, and employment taxes relating to support staff, rental payments, office equipment and furniture, travel, data processing services, vehicle costs, utilities, telecommunications, postage, printing and reproduction, supplies and materials, lands and structures, insurance claims, and indemnities for special compliance personnel hired and employed under this section.

For purposes of subparagraph (B), the cost of management and supervision of special compliance personnel shall be taken into account as direct overhead costs to the extent such costs, when included in total program costs under this paragraph, do not represent more than 10 percent of such total costs.

(Added Pub. L. 114-94, div. C, title XXXII, § 32103(b), Dec. 4, 2015, 129 Stat. 1736.)

Subchapter B—Receipt of Payment

Sec.	
6311.	Payment of tax by commercially acceptable means.
[6312.	Repealed.]
6313.	Fractional parts of a cent.
6314.	Receipt for taxes.
6315.	Payments of estimated income tax.
6316.	Payment by foreign currency.
6317.	Payments of Federal unemployment tax for calendar quarter.

AMENDMENTS

1997—Pub. L. 105-34, title XII, § 1205(b), Aug. 5, 1997, 111 Stat. 998, substituted “Payment of tax by commercially acceptable means” for “Payment by check or money order” in item 6311.

1971—Pub. L. 92-5, title I, § 4(a)(2), Mar. 17, 1971, 85 Stat. 5, struck out item 6312 “Payment by United States notes and certificates of indebtedness”.

1969—Pub. L. 91-53, § 2(f)(2), Aug. 7, 1969, 83 Stat. 93, added item 6317.

REPEALS

Pub. L. 92-5, title I, § 4(a)(2), Mar. 17, 1971, 85 Stat. 5, which struck out item 6312, was repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§ 6311. Payment of tax by commercially acceptable means

(a) Authority to receive

It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for in-

ternal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

(b) Ultimate liability

If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

(c) Liability of banks and others

If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

(2) the amount of such money order upon all the assets of the issuer thereof, or

(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) Payment by other means

(1) Authority to prescribe regulations

The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

(A) specify which methods of payment by commercially acceptable means will be acceptable,

(B) specify when payment by such means will be considered received,

(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

(2) Authority to enter into contracts

Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means

where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A.

(3) Special provisions for use of credit cards

If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

(D) the term “creditor” under section 103(f)¹ of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

(e) Confidentiality of information

(1) In general

Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(9) other than for purposes directly related to the processing of such transactions, or

¹ See References in Text note below.

the billing or collection of amounts charged or debited pursuant thereto.

(2) Exceptions

(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

- (i) statistical risk and profitability assessment;
- (ii) transferring receivables, accounts, or interest therein;
- (iii) auditing the account information;
- (iv) complying with Federal, State, or local law; and
- (v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

(3) Procedures

Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(Aug. 16, 1954, ch. 736, 68A Stat. 777; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, §448(a), July 18, 1984, 98 Stat. 817; Pub. L. 105-34, title XII, §1205(a), Aug. 5, 1997, 111 Stat. 995; Pub. L. 105-206, title VI, §6012(b)(1), July 22, 1998, 112 Stat. 819; Pub. L. 105-277, div. J, title IV, §4003(k), Oct. 21, 1998, 112 Stat. 2681-910.)

REFERENCES IN TEXT

Section 103(f) of the Truth in Lending Act, referred to in subsec. (d)(3)(D), was redesignated section 103(g) of the Truth in Lending Act by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105-277 substituted “under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A” for “under such contracts”.

Subsec. (e)(1). Pub. L. 105-206 substituted “section 6103(k)(9)” for “section 6103(k)(8)”.

1997—Pub. L. 105-34 amended section catchline and text generally, substituting provisions relating to payment of tax by commercially acceptable means for provisions consisting of subsecs. (a) and (b) relating to payment by check or money order and liability if a check or money order received is not duly paid.

1984—Subsec. (b)(2). Pub. L. 98-369 substituted “or cashier's check (or other guaranteed draft)” for “or cashier's check”, “the amount of such check (or draft)” for “the amount of such check”, and “the financial institution” for “the bank or trust company”, and substituted “such financial institution” for “such bank” in two places.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub.

L. 105-34, to which such amendment relates, see section 4003(f) of Pub. L. 105-277, set out as a note under section 86 of this title.

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105-34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title IV, §448(b), July 18, 1984, 98 Stat. 818, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].”

REGULATIONS

Pub. L. 105-206, title III, §3703, July 22, 1998, 112 Stat. 777, provided that: “The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.”

REQUIRED NOTICE OF CERTAIN PAYMENTS

Pub. L. 104-168, title XII, §1202, July 30, 1996, 110 Stat. 1470, provided that: “If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.”

[§ 6312. Repealed. Pub. L. 92-5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 777, permitted the Secretary to receive Treasury bills, notes and certificates of indebtedness issued by the United States in payment of any internal revenue taxes or stamps.

EFFECTIVE DATE OF REPEAL

Pub. L. 92-5, title I, §4(a), Mar. 17, 1971, 85 Stat. 5, provided that the repeal of this section is effective with respect to obligations issued after Mar. 3, 1971.

REPEALS

Pub. L. 92-5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, which repealed this section and provided for the effective date of that repeal, was itself repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§ 6313. Fractional parts of a cent

In the payment of any tax imposed by this title, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 94-455, title XIX, §1906(a)(19), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “not payable by stamp” after “title”.

§ 6314. Receipt for taxes

(a) General rule

The Secretary shall, upon request, give receipts for all sums collected by him, excepting

only when the same are in payment for stamps sold and delivered; but no receipt shall be issued in lieu of a stamp representing a tax.

(b) Duplicate receipts for payment of estate taxes

The Secretary shall, upon request, give to the person paying the tax under chapter 11 (relating to the estate tax) duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

(c) Cross references

(1) For receipt required to be furnished by employer to employee with respect to employment taxes, see section 6051.

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 91-614, title I, §101(d)(2), Dec. 31, 1970, 84 Stat. 1837; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1970—Subsec. (c)(2). Pub. L. 91-614 substituted “fiduciary” for “executor”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

§ 6315. Payments of estimated income tax

Payment of the estimated income tax, or any installment thereof, shall be considered payment on account of the income taxes imposed by subtitle A for the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 778.)

§ 6316. Payment by foreign currency

The Secretary is authorized in his discretion to allow payment of taxes in the currency of a foreign country under such circumstances and subject to such conditions as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in two places.

§ 6317. Payments of Federal unemployment tax for calendar quarter

Payment of Federal unemployment tax for a calendar quarter or other period within a calendar year pursuant to section 6157 shall be considered payment on account of the tax imposed by chapter 23 of such calendar year.

(Added Pub. L. 91-53, §2(c), Aug. 7, 1969, 83 Stat. 92; amended Pub. L. 98-76, title II, §231(b)(2)(B), Aug. 12, 1983, 97 Stat. 429; Pub. L. 100-647, title VII, §7106(c)(3), Nov. 10, 1988, 102 Stat. 3773.)

AMENDMENTS

1988—Pub. L. 100-647 struck out “or tax imposed by section 3321” after “unemployment tax” and “and 23A, as the case may be,” after “chapter 23”.

1983—Pub. L. 98-76 inserted “or tax imposed by section 3321” after “Federal unemployment tax”, and substituted “chapter 23 and 23A, as the case may be,” for “chapter 23”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE

Section applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as a note under section 6157 of this title.

Subchapter C—Lien for Taxes

Part

- I. Due process for liens.
- II. Liens.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3401(a), July 22, 1998, 112 Stat. 746, added part analysis.

PART I—DUE PROCESS FOR LIENS

Sec.

- 6320. Notice and opportunity for hearing upon filing of notice of lien.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3401(a), July 22, 1998, 112 Stat. 746, added part heading and analysis consisting of item 6320.

§ 6320. Notice and opportunity for hearing upon filing of notice of lien

(a) Requirement of notice

(1) In general

The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

- (A) given in person;
- (B) left at the dwelling or usual place of business of such person; or
- (C) sent by certified or registered mail to such person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

- (A) the amount of unpaid tax;
- (B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);
- (C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals;

(D) the provisions of this title and procedures relating to the release of liens on property; and

(E) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports of individuals with such debts pursuant to section 32101 of the FAST Act.

(b) Right to fair hearing

(1) In general

If the person requests a hearing in writing under subsection (a)(3)(B) and states the grounds for the requested hearing, such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

(4) Coordination with section 6330

To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

(c) Conduct of hearing; review; suspensions

For purposes of this section, subsections (c), (d) (other than paragraph (3)(B) thereof), (e), and (g) of section 6330 shall apply.

(Added Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 746; amended Pub. L. 109-432, div. A, title IV, § 407(c), Dec. 20, 2006, 120 Stat. 2962; Pub. L. 114-94, div. C, title XXXII, § 32101(b)(1), Dec. 4, 2015, 129 Stat. 1731; Pub. L. 114-113, div. Q, title IV, § 424(c), Dec. 18, 2015, 129 Stat. 3125.)

REFERENCES IN TEXT

Section 32101 of the FAST Act, referred to in subsec. (a)(3)(E), is section 32101 of Pub. L. 114-94, which enacted section 7345 of this title and section 2714a of Title 22, Foreign Relations and Intercourse, and amended this section and sections 6103, 6331, and 7508 of this title.

AMENDMENTS

2015—Subsec. (a)(3)(E). Pub. L. 114-94 added subpar. (E).

Subsec. (c). Pub. L. 114-113 substituted “(3)(B)” for “(2)(B)”.

2006—Subsec. (b)(1). Pub. L. 109-432, § 407(c)(1), substituted “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing” for “under subsection (a)(3)(B)”.

Subsec. (c). Pub. L. 109-432, § 407(c)(2), substituted “(e), and (g)” for “and (e)”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, § 407(f), Dec. 20, 2006, 120 Stat. 2962, provided that: “The amendments made by this section [amending this section and sections 6330, 6702, and 7122 of this title] shall apply to submis-

sions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a) [list prescribed Mar. 16, 2007, see I.R.S. Notice 2007-30, 2007-14, I.R.B. 883].”

EFFECTIVE DATE

Pub. L. 105-206, title III, § 3401(d), July 22, 1998, 112 Stat. 750, provided that: “The amendments made by this section [enacting this section and section 6330 of this title and amending section 7443A of this title] shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act [July 22, 1998].”

PART II—LIENS

Sec.	
6321.	Lien for taxes.
6322.	Period of lien.
6323.	Validity and priority against certain persons.
6324.	Special liens for estate and gift taxes.
6324A.	Special lien for estate tax deferred under section 6166.
6324B.	Special lien for additional estate tax attributable to farm, etc., valuation.
6325.	Release of lien or discharge of property.
6326.	Administrative appeal of liens.
6327.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 747, added part heading.

1988—Pub. L. 100-647, title VI, § 6238(c), Nov. 10, 1988, 102 Stat. 3743, added item 6326 and redesignated former item 6326 as 6327.

1981—Pub. L. 97-34, title IV, § 422(e)(6)(D), Aug. 13, 1981, 95 Stat. 316, struck out “or 6166A” after “section 6166” in item 6324A.

1976—Pub. L. 94-455, title XX, §§ 2003(d)(2), 2004(f)(1), Oct. 4, 1976, 90 Stat. 1862, 1871, added items 6324A and 6324B.

1966—Pub. L. 89-719, title I, §§ 101(b)(1), 103(b), Nov. 2, 1966, 80 Stat. 1131, 1135, substituted “Validity and priority against certain persons” for “Validity against mortgagees, pledgees, purchasers, and judgment creditors” in item 6323, and struck out “partial” before “discharge” in item 6325.

§ 6321. Lien for taxes

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

(Aug. 16, 1954, ch. 736, 68A Stat. 779.)

SHORT TITLE

Pub. L. 89-719, § 1(a), Nov. 2, 1966, 80 Stat. 1125, provided that: “This Act [enacting sections 3505, 7425, 7426, and 7810 of this title, amending sections 545, 6322 to 6325, 6331, 6332, 6334, 6335, 6337 to 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, sections 1346, 1402, and 2410 of Title 28, Judiciary and Judicial Procedure, and section 270a of former Title 40, Public Buildings, Property, and Works, redesignating section 7425 as 7427 of this title, and enacting provisions set out as notes under sections 6323 and 7424 of this title, and under section 1346 of Title 28] may be cited as the ‘Federal Tax Lien Act of 1966’.”

§ 6322. Period of lien

Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise

at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time. (Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 89-719, title I, § 113(a), Nov. 2, 1966, 80 Stat. 1146.)

AMENDMENTS

1966—Pub. L. 89-719 inserted “(or a judgment against the taxpayer arising out of such liability)”.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6323. Validity and priority against certain persons

(a) Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors

The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary.

(b) Protection for certain interests even though notice filed

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) Securities

With respect to a security (as defined in subsection (h)(4))—

(A) as against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) as against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) Motor vehicles

With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) at the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) Personal property purchased at retail

With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) Personal property purchased in casual sale

With respect to household goods, personal effects, or other tangible personal property described in section 6334(a) purchased (not for resale) in a casual sale for less than \$1,000, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) Personal property subject to possessory lien

With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) Real property tax and special assessment liens

With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) a tax of general application levied by any taxing authority based upon the value of such property;

(B) a special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) Residential property subject to a mechanic's lien for certain repairs and improvements

With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than \$5,000.

(8) Attorneys' liens

With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or a contract enforceable against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) Certain insurance contracts

With respect to a life insurance, endowment, or annuity contract, as against the organiza-

tion which is the insurer under such contract, at any time—

(A) before such organization had actual notice or knowledge of the existence of such lien;

(B) after such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) after satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) Deposit-secured loans

With respect to a savings deposit, share, or other account with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account.

(c) Protection for certain commercial transactions financing agreements, etc.

(1) In general

To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

- (i) a commercial transactions financing agreement,
- (ii) a real property construction or improvement financing agreement, or
- (iii) an obligatory disbursement agreement, and

(B) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) Commercial transactions financing agreement

For purposes of this subsection—

(A) Definition

The term “commercial transactions financing agreement” means an agreement (entered into by a person in the course of his trade or business)—

- (i) to make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or
- (ii) to purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) Commercial financing security defined

The term “commercial financing security” means (i) paper of a kind ordinarily arising in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) Purchaser treated as acquiring security interest

A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security

(3) Real property construction or improvement financing agreement

For purposes of this subsection—

(A) Definition

The term “real property construction or improvement financing agreement” means an agreement to make cash disbursements to finance—

- (i) the construction or improvement of real property,
- (ii) a contract to construct or improve real property, or
- (iii) the raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to a real property construction or improvement financing agreement, includes only—

- (i) in the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,
- (ii) in the case of subparagraph (A)(ii), the proceeds of the contract described therein, and
- (iii) in the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) Obligatory disbursement agreement

For purposes of this subsection—

(A) Definition

The term “obligatory disbursement agreement” means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) Special rules for surety agreements

Where the obligatory disbursement agreement is an agreement ensuring the performance of a contract between the taxpayer and another person—

(i) the term “qualified property” shall be treated as also including the proceeds of the contract the performance of which was ensured, and

(ii) if the contract the performance of which was ensured was a contract to construct or improve real property, to produce goods, or to furnish services, the term “qualified property” shall be treated as also including any tangible personal property used by the taxpayer in the performance of such ensured contract.

(d) 45-day period for making disbursements

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

(1) is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and

(2) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(e) Priority of interest and expenses

If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

(1) any interest or carrying charges upon the obligation secured,

(2) the reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,

(3) the reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) the reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) the reasonable costs of insuring payment of the obligation secured, and

(6) amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

(f) Place for filing notice; form**(1) Place for filing**

The notice referred to in subsection (a) shall be filed—

(A) Under State laws**(i) Real property**

In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) Personal property

In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State; or

(B) With clerk of district court

In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) With Recorder of Deeds of the District of Columbia

In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) Situs of property subject to lien

For purposes of paragraphs (1) and (4), property shall be deemed to be situated—

(A) Real property

In the case of real property, at its physical location; or

(B) Personal property

In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) Form

The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(4) Indexing required with respect to certain real property

In the case of real property, if—

(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien.

(5) National filing systems

The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system.

(g) Refiling of notice

For purposes of this section—

(1) General rule

Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) Place for filing

A notice of lien refiled during the required refiling period shall be effective only—

(A) if—

(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and

(B) in any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary received written information (in the manner prescribed in regulations issued by the Secretary) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) Required refiling period

In the case of any notice of lien, the term "required refiling period" means—

(A) the one-year period ending 30 days after the expiration of 10 years after the date of the assessment of the tax, and

(B) the one-year period ending with the expiration of 10 years after the close of the preceding required refiling period for such notice of lien.

(4) Transitional rule

Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

(h) Definitions

For purposes of this section and section 6324—

(1) Security interest

The term "security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) Mechanic's lienor

The term "mechanic's lienor" means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) Motor vehicle

The term "motor vehicle" means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country.

(4) Security

The term "security" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(5) Tax lien filing

The term "tax lien filing" means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) Purchaser

The term "purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of

subsection (a) of this section, and for purposes of section 6324—

- (A) a lease of property,
- (B) a written executory contract to purchase or lease property,
- (C) an option to purchase or lease property or any interest therein, or
- (D) an option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

(i) Special rules

(1) Actual notice or knowledge

For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routine. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) Subrogation

Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) Forfeitures

For purposes of this subchapter, a forfeiture under local law of property seized by a law enforcement agency of a State, county, or other local governmental subdivision shall relate back to the time of seizure, except that this paragraph shall not apply to the extent that under local law the holder of an intervening claim or interest would have priority over the interest of the State, county, or other local governmental subdivision in the property.

(4) Cost-of-living adjustment

In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting “calendar year 1996” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.

(j) Withdrawal of notice in certain circumstances

(1) In general

The Secretary may withdraw a notice of a lien filed under this section and this chapter

shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

(2) Notice to credit agencies, etc.

Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 88-272, title II, §236(a), (c)(1), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89-493, §17(a), July 5, 1966, 80 Stat. 266; Pub. L. 89-719, title I, §101(a), Nov. 2, 1966, 80 Stat. 1125; Pub. L. 94-455, title XII, §1202(h)(2), title XIX, §1906(b)(13)(A), title XX, §2008(c), Oct. 4, 1976, 90 Stat. 1688, 1834, 1892; Pub. L. 95-600, title VII, §702(q)(1), (2), Nov. 6, 1978, 92 Stat. 2937, 2938; Pub. L. 99-514, title XV, §1569(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100-647, title I, §1015(s)(1), Nov. 10, 1988, 102 Stat. 3573; Pub. L. 101-508, title XI, §§11317(b), 11704(a)(26), Nov. 5, 1990, 104 Stat. 1388-458, 1388-519; Pub. L. 104-168, title V, §501(a), July 30, 1996, 110 Stat. 1460; Pub. L. 105-206, title I, §1102(d)(1)(A), title III, §3435(a), (b), July 22, 1998, 112 Stat. 704, 760, 761; Pub. L. 115-97, title I, §11002(d)(1)(HH), 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)(4)(B). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

1998—Subsec. (b)(4). Pub. L. 105-206, §3435(a)(1)(A), substituted “\$1,000” for “\$250”.

Subsec. (b)(7). Pub. L. 105-206, §3435(a)(1)(B), substituted “\$5,000” for “\$1,000”.

Subsec. (b)(10). Pub. L. 105-206, §3435(b), in heading substituted “Deposit-secured loans” for “Passbook loans”, and in text struck out “, evidenced by a passbook,” after “other account” and substituted period at end for “and if such institution has been continuously

in possession of such passbook from the time the loan is made.”

Subsec. (i)(4). Pub. L. 105-206, §3435(a)(2), added par. (4).

Subsec. (j)(1)(D). Pub. L. 105-206, §1102(d)(1)(A), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

1996—Subsec. (j). Pub. L. 104-168 added subsec. (j).

1990—Subsec. (a). Pub. L. 101-508, §11704(a)(26), substituted “Purchasers” for “Purchases” in heading.

Subsec. (g)(3). Pub. L. 101-508, §11317(b), substituted “10 years” for “6 years” wherever appearing.

1988—Subsec. (f)(1)(A)(ii). Pub. L. 100-647, §1015(s)(1)(A), inserted exception that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

Subsec. (f)(5). Pub. L. 100-647, §1015(s)(1)(B), added par. (5).

1986—Subsec. (i)(3). Pub. L. 99-514 added par. (3).

1978—Subsec. (f)(4). Pub. L. 95-600, §702(q)(1), in heading substituted “Indexing required with respect to certain real property” for “Index” and in text inserted provisions relating to the validity of a deed, under the laws of the State in which the real property is located, as against a purchaser who does not have actual notice or knowledge of the existence of such deed and provisions relating to the maintenance of an adequate system for the public indexing of Federal tax liens.

Subsec. (g)(2)(A). Pub. L. 95-600, §702(q)(2), inserted reference to real property.

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (f)(2). Pub. L. 94-455, §2008(c)(1)(B), inserted introductory reference to par. (4).

Subsec. (f)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (f)(4). Pub. L. 94-455, §2008(c)(1)(A), added par. (4).

Subsec. (g)(2)(A), (B). Pub. L. 94-455, §§1906(b)(13)(A), 2008(c)(2), required the fact of refiling be entered and recorded in an index in accordance with subsec. (f)(4), and struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (i)(3). Pub. L. 94-455, §1202(h)(2), struck out par. (3) which related to a special rule respecting disclosure of amount of outstanding lien.

1966—Subsec. (a). Pub. L. 89-719 redesignated as subsec. (a) that part of former subsec. (a) which preceded pars. (1) to (3) thereof, and, in subsec. (a) as so redesignated, substituted holder of a security interest, mechanic’s lienor, and judgment lien creditor for mortgagee, pledgee, and judgment creditor, struck out reference to an exception provided in subsecs. (c) and (d), and inserted reference to requirements of subsec. (f).

Subsec. (a)(3). Pub. L. 89-493 substituted the Recorder of Deeds of the District of Columbia for the clerk of the United States District Court for the District of Columbia.

Subsec. (b)(1). Pub. L. 89-719 redesignated provisions of subsec. (c)(1) as subsec. (b)(1) and substituted “holder of a security interest” for “mortgagee and pledgee” and purchaser of such security interest for purchaser of such security for any adequate and full consideration in money or money’s worth.

Subsec. (b)(2). Pub. L. 89-719 redesignated provisions of subsec. (d)(1) as subsec. (b)(2) and substituted purchaser of such motor vehicle for purchaser of such motor vehicle for an adequate and full consideration in money or money’s worth and substituted actual notice or knowledge for notice or knowledge.

Subsec. (b)(3) to (10). Pub. L. 89-719 added pars. (3) to (10).

Subsecs. (c) to (e). Pub. L. 89-719 added subsecs. (c) to (e).

Subsec. (f)(1). Pub. L. 89-719 redesignated provisions of former subsec. (a)(1) to (3) as subsec. (f)(1).

Subsec. (f)(2). Pub. L. 89-719 added par. (2).

Subsec. (f)(3). Pub. L. 89-719 redesignated provisions of former subsec. (b) as subsec. (f)(3) and substituted

provisions that the form and content of the notice be prescribed by the Secretary or his delegate for provisions limiting the effectiveness of the notice to situations in which the notice is in such form as would be valid if filed with the clerk of the United States district court when state or territory law fails to designate an office for the filing of notice.

Subsec. (g). Pub. L. 89-719 added subsec. (g).

Subsec. (h)(1), (2). Pub. L. 89-719 added pars. (1) and (2).

Subsec. (h)(3). Pub. L. 89-719 redesignated provisions of former subsec. (d)(2) as subsec. (h)(3).

Subsec. (h)(4). Pub. L. 89-719 redesignated provisions of former subsec. (c)(2) as subsec. (h)(4).

Subsec. (h)(5), (6). Pub. L. 89-719 added pars. (5), (6).

Subsec. (i)(1), (2). Pub. L. 89-719 added pars. (1), (2).

Subsec. (i)(3). Pub. L. 89-719 redesignated provisions of former subsec. (e) as subsec. (i)(3) and substituted “regulations” for “rules and relations”.

1964—Subsec. (a). Pub. L. 88-272, §236(c)(1), substituted “subsections (c) and (d)” for “subsection (c)”.

Subsecs. (d), (e). Pub. L. 88-272, §236(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 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

Amendment by section 1102(d)(1)(A) of Pub. L. 105-206 effective July 22, 1998, see section 1102(f)(1) of Pub. L. 105-206, set out as a note under section 7803 of this title.

Pub. L. 105-206, title III, §3435(c), July 22, 1998, 112 Stat. 761, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title V, §501(d), July 30, 1996, 110 Stat. 1461, provided that: “The amendments made by this section [amending this section and section 6343 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11317(c), Nov. 5, 1990, 104 Stat. 1388-458, provided that: “The amendments made by this section [amending this section and section 6502 of this title] shall apply to—

“(1) taxes assessed after the date of the enactment of this Act [Nov. 5, 1990], and

“(2) taxes assessed on or before such date if the period specified in section 6502 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by subsection (a) [amending section 6502 of this title]) for collection of such taxes has not expired as of such date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(s)(2), Nov. 10, 1988, 102 Stat. 3573, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1569(b), Oct. 22, 1986, 100 Stat. 2764, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §702(q)(3), Nov. 6, 1978, 92 Stat. 2938, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) The amendments made by this subsection [amending this section] shall apply with respect to

liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act [Nov. 6, 1978].

“(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1202(h)(2) of Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

Pub. L. 94-455, title XX, §2008(d)(3), Oct. 4, 1976, 90 Stat. 1893, provided that: “The amendment made by subsection (c) [amending this section] shall take effect—

“(A) in the case of liens filed before the date of the enactment of this Act [Oct. 4, 1976], on the 270th day after such date of enactment, or

“(B) in the case of liens filed on or after the date of enactment of this Act [Oct. 4, 1976], on the 120th day after such date of enactment.”

EFFECTIVE DATE OF 1966 AMENDMENTS

Pub. L. 89-719, title I, §114(a)–(c), Nov. 2, 1966, 80 Stat. 1146, 1147, provided that:

“(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this title [enacting sections 3505, 7425, 7426, and 7810 of this title, amending this section, sections 545, 6322, 6324, 6325, 6331, 6332, 6334, 6335, 6337, 6338, 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, and section 270a of former Title 40, Public Buildings, Property, and Works, redesignating former section 7425 as 7427 of this title, and enacting provisions set out as notes under this section and section 7424 of this title] shall apply after the date of enactment of this Act [Nov. 2, 1966], regardless of when a lien or a title of the United States arose or when the lien or interest of any other person was acquired.

“(b) EXCEPTIONS.—The amendments made by this title shall not apply in any case—

“(1) in which a lien or a title derived from enforcement of a lien held by the United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before the date of enactment of this Act; or

“(2) in which such amendments would—

“(A) impair a priority enjoyed by any person (other than the United States) holding a lien or interest prior to the date of enactment of this Act;

“(B) operate to increase the liability of any such person; or

“(C) shorten the time for bringing suit with respect to transactions occurring before the date of enactment of this Act.

“(c) LIABILITY FOR WITHHELD TAXES.—

“(1) The amendments made by section 105(a) (relating to effect on third parties) [adding section 3505 of this title] shall apply only with respect to wages paid on or after January 1, 1967.

“(2) The amendments made by section 105(b) (relating to performance bonds of contractors for public buildings or works) [amending section 270a of former Title 40] shall apply to contracts entered into pursuant to invitations for bids issued after June 30, 1967.”

Pub. L. 89-493, §21, July 5, 1966, 80 Stat. 266, provided that: “This Act [amending this section] shall take effect on the first day of the first month which is at least ninety days after the date of approval of this Act [July 5, 1966].”

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §236(d), Feb. 26, 1964, 78 Stat. 128, provided that: “The amendments made by this sec-

tion [amending this section and section 6324 of this title] shall apply only with respect to purchases made after the date of the enactment of this Act [Feb. 26, 1964.]”

§ 6324. Special liens for estate and gift taxes

(a) Liens for estate tax

Except as otherwise provided in subsection (c)—

(1) Upon gross estate

Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) Liability of transferees and others

If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, non-exercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) Continuance after discharge of fiduciary

The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

(b) Lien for gift tax

Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which

the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) Exceptions

(1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though notice filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 780; Pub. L. 88-272, title II, §236(b), (c)(2), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89-719, title I, §102, Nov. 2, 1966, 80 Stat. 1132; Pub. L. 91-614, title I, §§101(d)(2), 102(d)(7), Dec. 31, 1970, 84 Stat. 1837, 1842.)

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91-614, §101(d)(2), substituted “fiduciary” for “executor” in heading and text.

Subsec. (b). Pub. L. 91-614, §102(d)(7), substituted “period for which the return was filed” for “calendar year”.

1966—Subsec. (a)(1). Pub. L. 89-719 inserted “, or becomes unenforceable by reason of lapse of time,” after “sooner paid in full” and substituted “10 years from the date of death” for “10 years upon the gross estate of the decedent”.

Subsec. (a)(2). Pub. L. 89-719 substituted “person in possession, or beneficiary, to a purchaser or holder of a security interest” for “person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money and money's worth” and “except any part transferred to a purchaser or a holder of a security interest” for “except any part transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth”.

Subsec. (a)(3). Pub. L. 89-719 substituted “purchaser or a holder of a security interest” for “bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth” and “purchaser or holder of a security interest” for “purchaser, mortgagee, or pledgee”.

Subsec. (b). Pub. L. 89-719 substituted reference to exception provided in subsec. (c) for reference to exceptions provided in subsecs. (c) and (d), inserted reference to tax becoming unenforceable by reason of lapse of time, and substituted “purchaser or holder of a security interest” for “bona-fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth”.

Subsec. (c). Pub. L. 89-719 redesignated as par. (1) provisions formerly constituting subsec. (c), substituted “valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b)” for “valid with respect to a security, as defined in section 6323(c)(2), as against any mortgagee, pledgee, or purchaser of any such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien”, and added par. (2).

Subsec. (d). Pub. L. 89-719 struck out subsec. (d) dealing with exceptions in the case of motor vehicles. See subsec. (c) above and reference therein to section 6323(b).

1964—Subsecs. (a), (b). Pub. L. 88-272, §236(c)(2), inserted “and subsection (d) (relating to purchases of motor vehicles)”.

Subsec. (d). Pub. L. 88-272, §236(b), added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(d)(2) of Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

Amendment by section 102(d)(7) of Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to purchases made after Feb. 26, 1964, see section 236(d) of Pub. L. 88-272, set out as a note under section 6323 of this title.

§ 6324A. Special lien for estate tax deferred under section 6166

(a) General rule

In the case of any estate with respect to which an election has been made under section 6166, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

(b) Section 6166 lien property

(1) In general

For purposes of this section, the term “section 6166 lien property” means interests in real and other property to the extent such interests—

(A) can be expected to survive the deferral period, and

(B) are designated in the agreement referred to in subsection (c).

(2) Maximum value of required property

The maximum value of the property which the Secretary may require as section 6166 lien

property with respect to any estate shall be a value which is not greater than the sum of—

- (A) the deferred amount, and
- (B) the required interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

(3) Partial substitution of bond for lien

If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

(c) Agreement

The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

(1) consenting to the creation of the lien under this section with respect to such property, and

(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or this section.

(d) Special rules

(1) Requirement that lien be filed

The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323(f) has been filed by the Secretary. Such notice shall not be required to be refiled.

(2) Period of lien

The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

(3) Priorities

Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

(A) Real property tax and special assessment liens

To the extent provided in section 6323(b)(6).

(B) Real property subject to a mechanic's lien for repairs and improvement

In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

(C) Real property construction or improvement financing agreement

As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g).

(4) Lien to be in lieu of section 6324 lien

If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

(5) Additional lien property required in certain cases

If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the required interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g).

(6) Lien to be in lieu of bond

The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

(e) Definitions

For purposes of this section—

(1) Deferred amount

The term “deferred amount” means the aggregate amount deferred under section 6166 (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

(2) Required interest amount

The term “required interest amount” means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11).

(3) Deferral period

The term “deferral period” means the period for which the payment of tax is deferred pursuant to the election under section 6166.

(4) Application of definitions in case of deficiencies

In the case of a deficiency, a separate deferred amount, required interest amount, and

deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166.

(Added Pub. L. 94-455, title XX, §2004(d)(1), Oct. 4, 1976, 90 Stat. 1868; amended Pub. L. 95-600, title VII, §702(e)(1), Nov. 6, 1978, 92 Stat. 2929; Pub. L. 97-34, title IV, §422(e)(6)(A)–(C), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Pub. L. 97-34, §422(e)(6)(C), struck out “or 6166A” after “section 6166” in section catchline.

Subsecs. (a), (c)(2). Pub. L. 97-34, §422(e)(6)(A), struck out “or 6166A” after “section 6166”.

Subsec. (d)(3), (5). Pub. L. 97-34, §422(e)(6)(B), struck out “or 6166A(h)” after “section 6166(g)”.

Subsec. (e)(1), (3), (4). Pub. L. 97-34, §422(e)(6)(A), struck out “or 6166A” after “section 6166”.

1978—Subsec. (b)(2)(B). Pub. L. 95-600, §702(e)(1)(B), substituted “required interest amount” for “aggregate interest amount”.

Subsec. (d)(5). Pub. L. 95-600, §702(e)(1)(C), substituted “required interest amount” for “aggregate interest amount”.

Subsec. (e)(2). Pub. L. 95-600, §702(e)(1)(A), substituted “Required interest amount” for “Aggregate interest amount” in heading and in text “required interest amount”, “over the first 4 years of the deferral period” and “for the payment” for “aggregate interest amount”, “over the deferral period” and “for payment”, respectively.

Subsec. (e)(4). Pub. L. 95-600, §702(e)(1)(D), substituted “required interest amount” for “aggregate interest amount”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §702(e)(2), Nov. 6, 1978, 92 Stat. 2930, provided that: “The amendments made by this section [amending this section] shall apply to the estates of decedents dying after December 31, 1976.”

§ 6324B. Special lien for additional estate tax attributable to farm, etc., valuation

(a) General rule

In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

(b) Period of lien

The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified real property—

(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

(c) Certain rules and definitions made applicable

(1) In general

The rule set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect

to the lien imposed by this section as if it were a lien imposed by section 6324A.

(2) Qualified real property

For purposes of this section, the term “qualified real property” includes qualified replacement property (within the meaning of section 2032A(h)(3)(B)) and qualified exchange property (within the meaning of section 2032A(i)(3)).

(d) Substitution of security for lien

To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.

(Added Pub. L. 94-455, title XX, §2003(b), Oct. 4, 1976, 90 Stat. 1861; amended Pub. L. 95-600, title VII, §702(r)(4), Nov. 6, 1978, 92 Stat. 2939; Pub. L. 96-222, title I, §108(d), Apr. 1, 1980, 94 Stat. 228; Pub. L. 97-34, title IV, §421(d)(2)(B), Aug. 13, 1981, 95 Stat. 309.)

AMENDMENTS

1981—Subsec. (c)(2). Pub. L. 97-34 defined “qualified real property” to include qualified exchange property (within the meaning of section 2032A(i)(3)).

1980—Subsec. (c). Pub. L. 96-222 designated existing provisions as par. (1), substituted “The rule” for “The rules”, and added par. (2).

1978—Subsec. (b). Pub. L. 95-600 substituted “qualified real property” for “qualified farm real property”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to exchanges after Dec. 31, 1981, see section 421(k)(3) of Pub. L. 97-34, set out as a note under section 2032A of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to estates of decedents dying after Dec. 31, 1976, see section 702(r)(5) of Pub. L. 95-600, set out as a note under section 2051 of this title.

§ 6325. Release of lien or discharge of property

(a) Release of lien

Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—

(1) Liability satisfied or unenforceable

The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) Bond accepted

There is furnished to the Secretary and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, con-

ditions, and form of the bond and sureties thereon, as may be specified by such regulations.

(b) Discharge of property

(1) Property double the amount of the liability

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority over such lien.

(2) Part payment; interest of United States valueless

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if—

(A) there is paid over to the Secretary in partial satisfaction of the liability secured by the lien an amount determined by the Secretary, which shall not be less than the value, as determined by the Secretary, of the interest of the United States in the part to be so discharged, or

(B) the Secretary determines at any time that the interest of the United States in the part to be so discharged has no value.

In determining the value of the interest of the United States in the part to be so discharged, the Secretary shall give consideration to the value of such part and to such liens thereon as have priority over the lien of the United States.

(3) Substitution of proceeds of sale

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if such part of the property is sold and, pursuant to an agreement with the Secretary, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.

(4) Right of substitution of value

(A) In general

At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property; or

(ii) furnishes a bond acceptable to the Secretary in a like amount.

(B) Refund of deposit with interest and release of bond

The Secretary shall refund the amount so deposited (and shall pay interest at the over-

payment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property; or

(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

(C) Use of deposit, etc., if action to contest lien not filed

If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien; and

(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

(D) Exception

Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.

(c) Estate or gift tax

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary finds that the liability secured by such lien has been fully satisfied or provided for.

(d) Subordination of lien

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of subordination of any lien imposed by this chapter upon any part of the property subject to such lien if—

(1) there is paid over to the Secretary an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States,

(2) the Secretary believes that the amount realizable by the United States from the property to which the certificate relates, or from any other property subject to the lien, will ultimately be increased by reason of the issuance of such certificate and that the ultimate collection of the tax liability will be facilitated by such subordination, or

(3) in the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination.

(e) Nonattachment of lien

If the Secretary determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed under section 6323 refers to such person, the Secretary may issue a certificate that the lien does not attach to the property of such person.

(f) Effect of certificate**(1) Conclusiveness**

Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:

(A) in the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished;

(B) in the case of a certificate of discharge, such certificate shall be conclusive that the property covered by such certificate is discharged from the lien;

(C) in the case of a certificate of subordination, such certificate shall be conclusive that the lien or interest to which the lien of the United States is subordinated is superior to the lien of the United States; and

(D) in the case of a certificate of nonattachment, such certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in such certificate.

(2) Revocation of certificate of release or nonattachment

If the Secretary determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary may revoke such certificate and reinstate the lien—

(A) by mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and

(B) by filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).

Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

(3) Certificates void under certain conditions

Notwithstanding any other provision of this subtitle, any lien imposed by this chapter shall attach to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires such property after such certificate has been issued.

(g) Filing of certificates and notices

If a certificate or notice issued pursuant to this section may not be filed in the office des-

ignated by State law in which the notice of lien imposed by section 6321 is filed, such certificate or notice shall be effective if filed in the office of the clerk of the United States district court for the judicial district in which such office is situated.

(h) Cross reference

For provisions relating to bonds, see chapter 73 (sec. 7101 and following).

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 85-866, title I, § 77, Nov. 2, 1966, 72 Stat. 1662; Pub. L. 89-719, title I, § 103(a), Nov. 2, 1966, 80 Stat. 1133; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title V, § 513(a), Nov. 6, 1978, 92 Stat. 2883; Pub. L. 97-248, title III, § 348(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 105-206, title III, § 3106(a), July 22, 1998, 112 Stat. 732.)

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105-206 added par. (4).

1982—Subsec. (a). Pub. L. 97-248 in introductory provisions substituted “shall issue” for “may issue” and “not later than 30 days after the day on which” for “if”.

1978—Subsec. (d)(3). Pub. L. 95-600 added par. (3).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b)(3). Pub. L. 89-719 added par. (3).

Subsecs. (d), (e). Pub. L. 89-719 added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated, with amendments, as subsecs. (f)(1) and (h), respectively.

Subsec. (f). Pub. L. 89-719 redesignated as par. (1) provisions formerly constituting subsec. (d), inserted reference to exceptions provided in pars. (2) and (3) and reference to the filing of the certificate in the same office as the notice of lien to which it refers and expanded the types of certificates to include separate certificates of release, discharge, subordination, and nonattachment, and added pars. (2) and (3).

Subsec. (g). Pub. L. 89-719 added subsec. (g).

Subsec. (h). Pub. L. 89-719 redesignated as subsec. (h) provisions formerly constituting subsec. (e) and struck out cross references for single bonds, suits to enforce liens, and suits to clear title to realty.

1958—Subsec. (a)(1). Pub. L. 85-866, § 77(1), substituted “or” for “,” after “satisfied” and struck out “, or, in the case of the estate tax imposed by chapter 11 or the gift tax imposed by chapter 12, has been fully satisfied or provided for” after “unenforceable”.

Subsec. (c). Pub. L. 85-866, § 77(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 85-866, § 77(2), (3), redesignated former subsec. (c) as (d) and in heading and text struck out “partial” before “discharge”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-866, § 77(2), redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3106(c), July 22, 1998, 112 Stat. 734, provided that: “The amendments made by this section [amending this section and sections 6503 and 7426 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, § 348(b), Sept. 3, 1982, 96 Stat. 638, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to liens—

“(1) which are filed after December 31, 1982,

“(2) which are satisfied after December 31, 1982, or

“(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on

the grounds that the liability was satisfied or legally unenforceable.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, § 513(b), Nov. 6, 1978, 92 Stat. 2883, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 6326. Administrative appeal of liens

(a) In general

In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien.

(b) Certificate of release

If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous.

(Added Pub. L. 100-647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

PRIOR PROVISIONS

A prior section 6326 was renumbered 6327 of this title.

EFFECTIVE DATE

Pub. L. 100-647, title VI, § 6238(d), Nov. 10, 1988, 102 Stat. 3743, provided that: “The amendments made by this section [enacting this section] shall take effect on the date which is 60 days after the date regulations are issued under subsection (b) [set out below].”

REGULATIONS

Pub. L. 100-647, title VI, § 6238(b), Nov. 10, 1988, 102 Stat. 3743, required Secretary of the Treasury or Secretary's delegate to prescribe regulations necessary to implement administrative appeal provided for in amendment made by subsection (a) [enacting this section] within 180 days after Nov. 10, 1988.

§ 6327. Cross references

(1) For lien in case of tax on distilled spirits, see section 5004.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases

under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 782, § 6326; Pub. L. 94-455, title XIX, § 1906(a)(20), Oct. 4, 1976, 90 Stat. 1825; Pub. L. 96-589, § 6(i)(10), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-258, § 3(f)(7), Sept. 13, 1982, 96 Stat. 1064; renumbered § 6327, Pub. L. 100-647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

AMENDMENTS

1982—Par. (6). Pub. L. 97-258 substituted “section 3713(a) of title 31, United States Code” for “R.S. 3466 (31 U.S.C. 191)”.

1980—Par. (2). Pub. L. 96-589, § 6(i)(10)(A), substituted “cases under title 11 of the United States Code, see section 523 of such title 11” for “bankruptcy, see section 17 of the Bankruptcy Act, as amended (11 U.S.C. 35)”.

Par. (3). Pub. L. 96-589, § 6(i)(10)(A), redesignated par. (4) as (3) and substituted “cases under title 11 of the United States Code, see sections 545 and 724 of such title 11” for “proceedings under the Bankruptcy Act, see section 67(b) and (c) of that act, as amended (11 U.S.C. 107)”. Former par. (3), which provided cross reference to section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (4). Pub. L. 96-589, § 6(i)(10)(A), redesignated par. (5) as (4) and substituted “plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11” for “wage earners’ plans in bankruptcy courts, see section 680 of the Bankruptcy Act, as added by the act of June 22, 1938 (11 U.S.C. 1080)”. Former par. (4) redesignated (3).

Pars. (5) to (7). Pub. L. 96-589, § 6(i)(10)(A), (B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1976—Pars. (2) to (5). Pub. L. 94-455 struck out parenthetical references to “52 Stat. 851;”, “52 Stat. 867;”, “52 Stat. 867-877;” and “52 Stat. 938;” preceding parenthetical references to sections of title 11.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Subchapter D—Seizure of Property for Collection of Taxes

Part

- I. Due process for collections.
- II. Levy.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part analysis.

PART I—DUE PROCESS FOR COLLECTIONS

Sec.

- 6330. Notice and opportunity for hearing before levy.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part heading and analysis consisting of item 6330.

§ 6330. Notice and opportunity for hearing before levy

(a) Requirement of notice before levy

(1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

- (A) given in person;
- (B) left at the dwelling or usual place of business of such person; or
- (C) sent by certified or registered mail, return receipt requested, to such person's last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

- (A) the amount of unpaid tax;
- (B) the right of the person to request a hearing during the 30-day period under paragraph (2); and
- (C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—
 - (i) the provisions of this title relating to levy and sale of property;
 - (ii) the procedures applicable to the levy and sale of property under this title;
 - (iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;
 - (iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and
 - (v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing in writing under subsection (a)(3)(B) and states the grounds for the requested hearing, such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has

had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

(c) Matters considered at hearing

In the case of any hearing conducted under this section—

(1) Requirement of investigation

The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

(2) Issues at hearing

(A) In general

The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

- (i) appropriate spousal defenses;
- (ii) challenges to the appropriateness of collection actions; and
- (iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(3) Basis for the determination

The determination by an appeals officer under this subsection shall take into consideration—

- (A) the verification presented under paragraph (1);
- (B) the issues raised under paragraph (2); and
- (C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(4) Certain issues precluded

An issue may not be raised at the hearing if—

- (A)(i) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and
- (ii) the person seeking to raise the issue participated meaningfully in such hearing or proceeding;
- (B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A); or
- (C) a final determination has been made with respect to such issue in a proceeding brought under subchapter C of chapter 63.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

(d) Proceeding after hearing**(1) Petition for review by Tax Court**

The person may, within 30 days of a determination under this section, petition the Tax Court for review of such determination (and the Tax Court shall have jurisdiction with respect to such matter).

(2) Suspension of running of period for filing petition in title 11 cases

In the case of a person who is prohibited by reason of a case under title 11, United States Code, from filing a petition under paragraph (1) with respect to a determination under this section, the running of the period prescribed by such subsection for filing such a petition with respect to such determination shall be suspended for the period during which the person is so prohibited from filing such a petition, and for 30 days thereafter, and¹

(3) Jurisdiction retained at IRS Office of Appeals

The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

(A) collection actions taken or proposed with respect to such determination; and

(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

(e) Suspension of collections and statute of limitations**(1) In general**

Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing. Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.

(2) Levy upon appeal

Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

¹ So in original.

(f) Exceptions

If—

(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy,

(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund,

(3) the Secretary has served a disqualified employment tax levy, or

(4) the Secretary has served a Federal contractor levy,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

(g) Frivolous requests for hearing, etc.

Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 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.

(h) Definitions related to exceptions

For purposes of subsection (f)—

(1) Disqualified employment tax levy

A disqualified employment tax levy is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served. For purposes of the preceding sentence, the term “employment taxes” means any taxes under chapter 21, 22, 23, or 24.

(2) Federal contractor levy

A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor.

(Added Pub. L. 105-206, title III, §3401(b), July 22, 1998, 112 Stat. 747; amended Pub. L. 106-554, §1(a)(7) [title III, §313(b)(2)(A), (d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-642, 2763A-643; Pub. L. 109-280, title VIII, §855(a), Aug. 17, 2006, 120 Stat. 1019; Pub. L. 109-432, div. A, title IV, §407(b), Dec. 20, 2006, 120 Stat. 2961; Pub. L. 110-28, title VIII, §8243(a), (b), May 25, 2007, 121 Stat. 200; Pub. L. 111-240, title II, §2104(a)-(c), Sept. 27, 2010, 124 Stat. 2565; Pub. L. 114-74, title XI, §1101(d), Nov. 2, 2015, 129 Stat. 637; Pub. L. 114-113, div. Q, title IV, §424(b)(1), Dec. 18, 2015, 129 Stat. 3124.)

AMENDMENTS

2015—Subsec. (c)(4)(C). Pub. L. 114-74 added subpar. (C).

Subsec. (d)(1). Pub. L. 114-113, §424(b)(1)(A), (B), substituted “Petition for review by Tax Court” for “Judicial review of determination” in heading and “petition the Tax Court for review of such determination” for “appeal such determination to the Tax Court” in text.

Subsec. (d)(2), (3). Pub. L. 114-113, § 424(b)(1)(C), (D), added par. (2) and redesignated former par. (2) as (3).

2010—Subsec. (f). Pub. L. 111-240, § 2104(c), substituted “Exceptions” for “Jeopardy and State refund collection” in heading.

Subsec. (f)(4). Pub. L. 111-240, § 2104(a), added par. (4).

Subsec. (h). Pub. L. 111-240, § 2104(b), substituted “Definitions related to exceptions” for “Disqualified employment tax levy” in heading, inserted introductory provisions and par. (1) designation and heading, substituted “A disqualified employment tax levy is” for “For purposes of subsection (f), a disqualified employment tax levy is”, and added par. (2).

2007—Subsec. (f)(3). Pub. L. 110-28, § 8243(a), added par. (3).

Subsec. (h). Pub. L. 110-28, § 8243(b), added subsec. (h). 2006—Subsec. (b)(1). Pub. L. 109-432, § 407(b)(3), substituted “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing” for “under subsection (a)(3)(B)”.

Subsec. (c)(4)(A), (B). Pub. L. 109-432, § 407(b)(2), redesignated subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), in cl. (ii) substituted “; or” for period at end, and added subpar. (B).

Subsec. (d)(1). Pub. L. 109-280, § 855(a), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “The person may, within 30 days of a determination under this section, appeal such determination—

“(A) to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter); or

“(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.”

Subsec. (g). Pub. L. 109-432, § 407(b)(1), added subsec. (g).

2000—Subsec. (d)(1)(A). Pub. L. 106-554, § 1(a)(7) [title III, § 313(d)], substituted “with respect to” for “to hear”.

Subsec. (e)(1). Pub. L. 106-554, § 1(a)(7) [title III, § 313(b)(2)(A)], inserted at end “Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.”

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 424(b)(2), Dec. 18, 2015, 129 Stat. 3124, provided that: “The amendments made by this subsection [amending this section] shall apply to petitions filed under section 6330 of the Internal Revenue Code of 1986 after the date of the enactment of this Act [Dec. 18, 2015].”

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 2010 AMENDMENT

Pub. L. 111-240, title II, § 2104(d), Sept. 27, 2010, 124 Stat. 2565, provided that: “The amendments made by this section [amending this section] shall apply to levies issued after the date of the enactment of this Act [Sept. 27, 2010].”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-28, title VIII, § 8243(c), May 25, 2007, 121 Stat. 200, provided that: “The amendments made by this section [amending this section] shall apply to lev-

ies served on or after the date that is 120 days after the date of the enactment of this Act [May 25, 2007].”

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.

Pub. L. 109-280, title VIII, § 855(b), Aug. 17, 2006, 120 Stat. 1019, provided that: “The amendment made by this section [amending this section] shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(a)(7) [title III, § 313(b)(2)(A)] of Pub. L. 106-554 effective Dec. 21, 2000, and amendment by section 1(a)(7) [title III, § 313(d)] of Pub. L. 106-554, effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, to which such amendment relates, see section 1(a)(7) [title III, § 313(f)] of Pub. L. 106-554, set out as a note under section 6015 of this title.

EFFECTIVE DATE

Section applicable to collection actions initiated after the date which is 180 days after July 22, 1998, see section 3401(d) of Pub. L. 105-206, set out as a note under section 6320 of this title.

PART II—LEVY

Sec.	
6331.	Levy and distraint.
6332.	Surrender of property subject to levy.
6333.	Production of books.
6334.	Property exempt from levy.
6335.	Sale of seized property.
6336.	Sale of perishable goods.
6337.	Redemption of property.
6338.	Certificate of sale; deed of real property.
6339.	Legal effect of certificate of sale of personal property and deed of real property.
6340.	Records of sale.
6341.	Expense of levy and sale.
6342.	Application of proceeds of levy.
6343.	Authority to release levy and return property.
6344.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 749, added part heading.

1966—Pub. L. 89-719, title I, § 104(j), Nov. 2, 1966, 80 Stat. 1138, inserted “and return property” in item 6343.

§ 6331. Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the

Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term “levy” as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy

(1) In general

Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) 30-day requirement

The notice required under paragraph (1) shall be—

- (A) given in person,
- (B) left at the dwelling or usual place of business of such person, or
- (C) sent by certified or registered mail to such persons's last known address,

no less than 30 days before the day of the levy.

(3) Jeopardy

Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) Information included with notice

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

- (A) the provisions of this title relating to levy and sale of property,
- (B) the procedures applicable to the levy and sale of property under this title,
- (C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,
- (D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),
- (E) the provisions of this title relating to redemption of property and release of liens on property,

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title, and

(G) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports of individuals with such debts pursuant to section 32101 of the FAST Act.

(e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons

(1) In general

No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy

This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Continuing levy on certain payments

(1) In general

If the Secretary approves a levy under this subsection, the effect of such levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified payment

For the purposes of paragraph (1), the term “specified payment” means—

- (A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,
- (B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and
- (C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

(3) Increase in levy for certain payments

Paragraph (1) shall be applied by substituting “100 percent” for “15 percent” in the case of any specified payment due to a vendor of property, goods, or services sold or leased to the Federal Government and by substituting “100 percent” for “15 percent” in the case of any specified payment due to a Medicare provider or supplier under title XVIII of the Social Security Act.

(i) No levy during pendency of proceedings for refund of divisible tax**(1) In general**

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if—

(A) the decision in such proceeding would be res judicata with respect to such unpaid tax; or

(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

(2) Divisible tax

For purposes of paragraph (1), the term “divisible tax” means—

(A) any tax imposed by subtitle C; and

(B) the penalty imposed by section 6672 with respect to any such tax.

(3) Exceptions**(A) Certain unpaid taxes**

This subsection shall not apply with respect to any unpaid tax if—

(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax; or

(ii) the Secretary finds that the collection of such tax is in jeopardy.

(B) Certain levies

This subsection shall not apply to—

(i) any levy to carry out an offset under section 6402; and

(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

(4) Limitation on collection activity; authority to enjoin collection**(A) Limitation on collection**

No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

(i) any counterclaim in a proceeding under such paragraph; or

(ii) any proceeding relating to a proceeding under such paragraph.

(B) Authority to enjoin

Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

(5) Suspension of statute of limitations on collection

The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

(6) Pendency of proceeding

For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.

(j) No levy before investigation of status of property**(1) In general**

For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

(2) Elements in investigation

For purposes of paragraph (1), an investigation of the status of any property shall include—

(A) a verification of the taxpayer's liability;

(B) the completion of an analysis under subsection (f);

(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability; and

(D) a thorough consideration of alternative collection methods.

(k) No levy while certain offers pending or installment agreement pending or in effect**(1) Offer-in-compromise pending**

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary; and

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

(2) Installment agreements

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary;

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending);

(C) during the period that such an installment agreement for payment of such unpaid tax is in effect; and

(D) if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

(3) Certain rules to apply

Rules similar to the rules of—

(A) paragraphs (3) and (4) of subsection (i), and

(B) except in the case of paragraph (2)(C), paragraph (5) of subsection (i),

shall apply for purposes of this subsection.

(I) Cross references

(1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property see section 6335.

(3) For release and notice of release of levy, see section 6343.

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 89-719, title I, §104(a), Nov. 2, 1966, 80 Stat. 1135; Pub. L. 92-178, title II, §211(a), Dec. 10, 1971, 85 Stat. 520; Pub. L. 94-455, title XII, §1209(d)(1), (2), (4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1711, 1834; Pub. L. 97-248, title III, §349(a), Sept. 3, 1982, 96 Stat. 639; Pub. L. 98-369, div. A, title VII, §714(o), July 18, 1984, 98 Stat. 964; Pub. L. 100-647, title VI, §6236(a), (b), (d), Nov. 10, 1988, 102 Stat. 3737, 3739; Pub. L. 105-34, title X, §1024(a), Aug. 5, 1997, 111 Stat. 923; Pub. L. 105-206, title III, §§3433(a), 3444(a), 3462(b), title VI, §6010(f), July 22, 1998, 112 Stat. 759, 762, 765, 814; Pub. L. 106-554, §1(a)(7) [title III, §313(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-642; Pub. L. 107-147, title IV, §416(e)(1), Mar. 9, 2002, 116 Stat. 55; Pub. L. 108-357, title VIII, §887(a), Oct. 22, 2004, 118 Stat. 1641; Pub. L. 112-56, title III, §301(a), Nov. 21, 2011, 125 Stat. 733; Pub. L. 113-295, div. B, title II, §209(a), Dec. 19, 2014, 128 Stat. 4074; Pub. L. 114-10, title IV, §413(a), Apr. 16, 2015, 129 Stat. 162; Pub. L. 114-94, div. C, title XXXII, §32101(b)(2), Dec. 4, 2015, 129 Stat. 1731.)

REFERENCES IN TEXT

Section 32101 of the FAST Act, referred to in subsec. (d)(4)(G), is section 32101 of Pub. L. 114-94, which enacted section 7345 of this title and section 2714a of Title 22, Foreign Relations and Intercourse, and amended this section and sections 6103, 6320, and 7508 of this title.

The Railroad Retirement Act, referred to in subsec. (h)(2)(C), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (h)(2)(C), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Social Security Act, referred to in subsec. (h)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. 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

2015—Subsec. (d)(4)(G). Pub. L. 114-94 added subpar. (G).

Subsec. (h)(3). Pub. L. 114-10 substituted “and by substituting ‘100 percent’” for “and by substituting ‘30 percent’”.

2014—Subsec. (h)(3). Pub. L. 113-295 inserted “and by substituting ‘30 percent’ for ‘15 percent’ in the case of any specified payment due to a Medicare provider or supplier under title XVIII of the Social Security Act” before period at end.

2011—Subsec. (h)(3). Pub. L. 112-56 substituted “property, goods, or services” for “goods or services”.

2004—Subsec. (h)(3). Pub. L. 108-357 added par. (3).

2002—Subsec. (k)(3). Pub. L. 107-147 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Rules similar to the rules of paragraphs (3) and (4) of subsection (i) shall apply for purposes of this subsection.”

2000—Subsec. (k)(3). Pub. L. 106-554 substituted “(3) and (4)” for “(3), (4), and (5)”.

1998—Subsec. (h)(1). Pub. L. 105-206, §6010(f), substituted “If the Secretary approves a levy under this subsection, the effect of such levy” for “The effect of a levy”.

Subsec. (i). Pub. L. 105-206, §3433(a), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105-206, §3444(a), added subsec. (j). Former subsec. (j) redesignated (k).

Pub. L. 105-206, §3433(a), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 105-206, §3462(b), added subsec. (k). Former subsec. (k) redesignated (l).

Pub. L. 105-206, §3444(a), redesignated subsec. (j) as (k).

Subsec. (l). Pub. L. 105-206, §3462(b), redesignated subsec. (k) as (l).

1997—Subsecs. (h), (i). Pub. L. 105-34 added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (d)(2). Pub. L. 100-647, §6236(a)(1), (2), substituted “30-day” for “10-day” in heading and “30 days” for “10 days” in text.

Subsec. (d)(4). Pub. L. 100-647, §6236(a)(3), added par. (4).

Subsec. (e). Pub. L. 100-647, §6236(b)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) consisted of two pars. relating to effect of continuing levy on salary and wages and release and notice of release of levy.

Subsecs. (f), (g). Pub. L. 100-647, §6236(d), added subsecs. (f) and (g). Former subsec. (f) redesignated (h).

Subsec. (h). Pub. L. 100-647, §6236(b)(2), (d), redesignated subsec. (f) as (h) and added par. (3).

1984—Subsec. (b). Pub. L. 98-369 substituted “subsection (e)” for “subsection (d)(3)”.

1982—Subsec. (d). Pub. L. 97-248 inserted authority to levy upon property other than salary or wages, substituted “person” for “individual” wherever appearing, designated second sentence of former par. (1) as par. (2) and in par. (2)(C) as so designated substituted “certified or registered mail” for “mail”, and redesignated former par. (2) as (3) and former par. (3) as subsec. (e).

Subsec. (e). Pub. L. 97-248 redesignated former subsec. (d)(3) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97-248 redesignated former subsec. (e) as (f).

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §§1209(d)(2), 1906(b)(13)(A), substituted in second sentence “Except as otherwise provided in subsection (d)(3), a levy” for “A levy” and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1). Pub. L. 94-455, §§1209(d)(4), 1906(b)(13)(A), struck out provision that no additional notice shall be required in the case of successive levies with respect to such tax and “or his delegate” after “Secretary”.

Subsec. (d)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(3). Pub. L. 94-455, §1209(d)(1), added par. (3).

1971—Subsecs. (d), (e). Pub. L. 92-178 added subsec. (d) and redesignated former subsec. (d) as (e).

1966—Subsec. (b). Pub. L. 89-719 inserted sentence providing that a levy shall extend only to property possessed and obligations existing at the time thereof.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-10, title IV, §413(b), Apr. 16, 2015, 129 Stat. 162, provided that: “The amendment made by this section [amending this section] shall apply to payments made after 180 days after the date of the enactment of this Act [Apr. 16, 2015].”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. B, title II, §209(b), Dec. 19, 2014, 128 Stat. 4074, provided that: “The amendment made by this section [amending this section] shall apply to payments made after 180 days after the date of the enactment of this Act [Dec. 19, 2014].”

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-56, title III, §301(b), Nov. 21, 2011, 125 Stat. 733, provided that: “The amendment made by this section [amending this section] shall apply to levies issued after the date of the enactment of this Act [Nov. 21, 2011].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §887(b), Oct. 22, 2004, 118 Stat. 1642, 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, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title IV, §416(e)(2), Mar. 9, 2002, 116 Stat. 55, provided that: “The amendment made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Mar. 9, 2002].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3433(b), July 22, 1998, 112 Stat. 760, provided that: “The amendment made by this section [amending this section] shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.”

Pub. L. 105-206, title III, §3444(b), July 22, 1998, 112 Stat. 762, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

Pub. L. 105-206, title III, §3462(e), July 22, 1998, 112 Stat. 766, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6159 and 7122 of this title] shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act [July 22, 1998].

“(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) [amending this section] shall apply to offers-in-compromise pending on or made after December 31, 1999.”

Amendment by section 6010(f) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1024(b), Aug. 5, 1997, 111 Stat. 924, provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6236(h), Nov. 10, 1988, 102 Stat. 3740, provided that:

“(1) IN GENERAL.—The amendments made by this section (other than subsection (g)) [amending this section and sections 6332, 6334, and 6343 of this title] shall apply to levies issued on or after July 1, 1989.

“(2) SUBSECTION (g).—The amendment made by subsection (g) [amending section 6335 of this title] shall apply to requests made on or after January 1, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §349(b), Sept. 3, 1982, 96 Stat. 639, provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(1), (2), (4) of Pub. L. 94-455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94-455 as amended by section 2(c) of Pub. L. 94-528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title II, §211(b), Dec. 10, 1971, 85 Stat. 520, provided that: “The amendments made by this section [amending this section] shall apply with respect to levies made after March 31, 1972.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6332. Surrender of property subject to levy

(a) Requirement

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) Special rule for life insurance and endowment contracts

(1) In general

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

(2) Satisfaction of levy

Such levy shall be deemed to be satisfied if such organization pays over to the Secretary

the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge.

(3) Enforcement proceedings

The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

(c) Special rule for banks

Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy.

(d) Enforcement of levy

(1) Extent of personal liability

Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(2) Penalty for violation

In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(e) Effect of honoring levy

Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary (or who pays a liability under subsection (d)(1)) shall be discharged from any obligation or li-

ability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(f) Person defined

The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 89-719, title I, §104(b), Nov. 2, 1966, 80 Stat. 1135; Pub. L. 93-625, §7(a)(2)(D), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XII, §1209(d)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1834; Pub. L. 99-514, title XV, §1511(c)(9), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-647, title I, §1015(t)(1), title VI, §6236(e), Nov. 10, 1988, 102 Stat. 3573, 3739; Pub. L. 101-508, title XI, §11704(a)(27), Nov. 5, 1990, 104 Stat. 1388-519.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508 substituted "this section" for "subsections (b) and (c)".

1988—Subsec. (a). Pub. L. 100-647, §6236(e)(2)(A), substituted "subsections (b) and (c)" for "subsection (b)".

Subsec. (c). Pub. L. 100-647, §6236(e)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-647, §6236(e)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 100-647, §1015(t)(1), inserted "and any other person" after "delinquent taxpayer" and struck out sentence at end providing that in the case of a levy which is satisfied pursuant to subsection (b), such organization shall also be discharged from any obligation or liability to any beneficiary arising from such surrender or payment.

Subsec. (e). Pub. L. 100-647, §6236(e)(1), (2)(B), redesignated subsec. (d) as (e) and substituted "subsection (d)(1)" for "subsection (c)(1)". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 100-647, §6236(e)(1), redesignated subsec. (e) as (f).

1986—Subsec. (c)(1). Pub. L. 99-514 substituted "the underpayment rate established under section 6621" for "an annual rate established under section 6621".

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

Subsec. (c)(1). Pub. L. 94-455, §§1209(d)(3), 1906(b)(13)(A), inserted "(or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)" after "date of such levy", and struck out "or his delegate" after "Secretary".

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

1975—Subsec. (c)(1). Pub. L. 93-625 substituted "an annual rate established under section 6621" for "the rate of 6 percent per annum".

1966—Subsec. (a). Pub. L. 89-719, §104(b)(1), substituted "Except as otherwise provided in subsection (b), any person" for "Any person".

Subsec. (b). Pub. L. 89-719, §104(b)(2), added subsec. (b). Former subsec. (b) redesignated, with amendments, as subsec. (c)(1).

Subsec. (c). Pub. L. 89-719, §104(b)(2)-(4), redesignated as par. (1) provisions formerly set out as subsec. (b), inserted provisions that any amount other than costs recovered under par. (1) shall be credited against the tax liability for the collection of which the levy was made, and added par. (2). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 89-719, §104(b)(4), added subsec. (d).

Subsec. (e). Pub. L. 89-719, §104(b)(3), redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(t)(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]."

Amendment by section 6236(e) of Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(3) of Pub. L. 94-455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94-455, as amended by section 2(c) of Pub. L. 94-528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6333. Production of books

If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary, exhibit such books or records to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

§ 6334. Property exempt from levy**(a) Enumeration**

There shall be exempt from levy—

(1) Wearing apparel and school books

Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

(2) Fuel, provisions, furniture, and personal effects

So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$6,250 in value;

(3) Books and tools of a trade, business, or profession

So many of the books and tools necessary for the trade, business, or profession of the

taxpayer as do not exceed in the aggregate \$3,125 in value.

(4) Unemployment benefits

Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) Undelivered mail

Mail, addressed to any person, which has not been delivered to the addressee.

(6) Certain annuity and pension payments

Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) Workmen's compensation

Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) Judgments for support of minor children

If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.

(9) Minimum exemption for wages, salary, and other income

Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

(10) Certain service-connected disability payments

Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

(A) subchapter II, III, IV, V,¹ or VI of chapter 11 of such title 38, or

(B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.

(11) Certain public assistance payments

Any amount payable to an individual as a recipient of public assistance under—

(A) title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

¹ So in original.

(B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) Assistance under Job Training Partnership Act

Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

(13) Residences exempt in small deficiency cases and principal residences and certain business assets exempt in absence of certain approval or jeopardy

(A) Residences in small deficiency cases

If the amount of the levy does not exceed \$5,000—

- (i) any real property used as a residence by the taxpayer; or
- (ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

(B) Principal residences and certain business assets

Except to the extent provided in subsection (e)—

- (i) the principal residence of the taxpayer (within the meaning of section 121); and
- (ii) tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.

(b) Appraisal

The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary shall summon three disinterested individuals who shall make the valuation.

(c) No other property exempt

Notwithstanding any other law of the United States (including section 207 of the Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

(d) Exempt amount of wages, salary, or other income

(1) Individuals on weekly basis

In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount.

(2) Exempt amount

For purposes of paragraph (1), the term “exempt amount” means an amount equal to—

- (A) the sum of—
 - (i) the standard deduction, and
 - (ii) the aggregate amount of the deductions for personal exemptions allowed the

taxpayer under section 151 in the taxable year in which such levy occurs, divided by (B) 52.

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(3) Individuals on basis other than weekly

In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.

(4) Years when personal exemption amount is zero

(A) In general

In the case of any taxable year in which the exemption amount under section 151(d) is zero, paragraph (2) shall not apply and for purposes of paragraph (1) the term “exempt amount” means an amount equal to—

- (i) the sum of the amount determined under subparagraph (B) and the standard deduction, divided by
- (ii) 52.

(B) Amount determined

For purposes of subparagraph (A), the amount determined under this subparagraph is \$4,150 multiplied by the number of the taxpayer's dependents for the taxable year in which the levy occurs.

(C) Inflation adjustment

In the case of any taxable year beginning in a calendar year after 2018, the \$4,150 amount in subparagraph (B) 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 “2017” for “2016” in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100, such increase shall be rounded to the next lowest multiple of \$100.

(D) Verified statement

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with no dependents.

(e) Levy allowed on principal residences and certain business assets in certain circumstances

(1) Principal residences

(A) Approval required

A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

(B) Jurisdiction

The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

(2) Certain business assets

Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

(A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or

(B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

(f) Levy allowed on certain specified payments

Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

(g) Inflation adjustment

(1) In general

In the case of any calendar year beginning after 1999, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting “calendar year 1998” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any dollar amount after being increased under paragraph (1) is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 85-840, title IV, § 406, Aug. 28, 1958, 72 Stat. 1047; Pub. L. 89-44, title VIII, § 812(a), June 21, 1965, 79 Stat. 170; Pub. L. 89-719, title I, § 104(c), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 91-172, title IX, § 945(a), Dec. 30, 1969, 83 Stat. 729; Pub. L. 94-455, title XII, § 1209(a)–(c), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1709, 1710, 1834; Pub. L. 97-248, title III, § 347(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 98-369, div. B, title VI, § 2661(o)(5), July 18, 1984, 98 Stat. 1159; Pub. L. 99-514, title XV, § 1565(a), Oct. 22, 1986, 100 Stat. 2763; Pub. L. 100-647, title I, § 1015(o), title VI, § 6236(c), Nov. 10, 1988, 102 Stat. 3572, 3738; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-168, title V, § 502(a)–(c), July 30, 1996, 110

Stat. 1461; Pub. L. 104-193, title I, § 110(l)(3), formerly § 110(l)(6), Aug. 22, 1996, 110 Stat. 2173, renumbered and amended Pub. L. 105-33, title V, § 5514(a)(2), (3), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-34, title III, § 312(d)(1), title X, § 1025(a), Aug. 5, 1997, 111 Stat. 839, 924; Pub. L. 105-206, title III, § 3431(a)–(c), 3445(a), (b), July 22, 1998, 112 Stat. 758, 762, 763; Pub. L. 115-97, title I, § 11002(d)(1)(II), 11041(d), Dec. 22, 2017, 131 Stat. 2060, 2084.)

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 Railroad Retirement Act, referred to in subsec. (a)(6), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (a)(6), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Social Security Act, referred to in subsecs. (a)(11)(A) and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§ 601 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Section 207 of the Social Security Act is classified to section 407 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (a)(12), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105-220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to former section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, were deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and, effective July 1, 2000, were deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. The Workforce Investment Act of 1998 was repealed by Pub. L. 113-128, title V, § 511(a), July 22, 2014, 128 Stat. 1705, effective July 1, 2015. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of the Job Training Partnership Act and the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2017—Subsec. (d)(4). Pub. L. 115-97, § 11041(d), added par. (4).

Subsec. (g)(1)(B). Pub. L. 115-97, § 11002(d)(1)(II), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

1998—Subsec. (a)(2). Pub. L. 105-206, § 3431(a), substituted “\$6,250” for “\$2,500”.

Subsec. (a)(3). Pub. L. 105-206, § 3431(b), substituted “\$3,125” for “\$1,250”.

Subsec. (a)(13). Pub. L. 105-206, § 3445(a), amended heading and text of par. (13) generally. Prior to amendment, text read as follows: "Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121)."

Subsec. (e). Pub. L. 105-206, § 3445(b), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: "Property described in subsection (a)(13) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

Subsec. (g)(1). Pub. L. 105-206, § 3431(c)(1), substituted "1999" for "1997" in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 105-206, § 3431(c)(2), substituted "1998" for "1996".

1997—Subsec. (a)(11)(A). Pub. L. 105-33, § 5514(a)(3), made technical amendment to directory language of Pub. L. 104-193, § 110(l)(3). See 1996 Amendment note below.

Subsec. (a)(13). Pub. L. 105-34, § 312(d)(1), substituted "section 121" for "section 1034".

Subsecs. (f), (g). Pub. L. 105-34 added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (a)(2). Pub. L. 104-168, § 502(a), substituted "So" for "If the taxpayer is the head of a family, so", "the taxpayer's household" for "his household", and "\$2,500" for "\$1,650 (\$1,550 in the case of levies issued during 1989)".

Subsec. (a)(3). Pub. L. 104-168, § 502(b), substituted "\$1,250" for "\$1,100 (\$1,050 in the case of levies issued during 1989)".

Subsec. (a)(11)(A). Pub. L. 104-193, § 110(l)(3), formerly § 110(l)(6), as renumbered and amended by Pub. L. 105-33, struck out "(relating to aid to families with dependent children)" after "title IV".

Subsec. (f). Pub. L. 104-168, § 502(c), added subsec. (f). 1991—Subsec. (a)(6). Pub. L. 102-83 substituted "1562" for "562".

1988—Subsec. (a)(2). Pub. L. 100-647, § 6236(c)(1), substituted "\$1,650 (\$1,550 in the case of levies issued during 1989)" for "\$1,500".

Subsec. (a)(3). Pub. L. 100-647, § 6236(c)(2), substituted "\$1,100 (\$1,050 in the case of levies issued during 1989)" for "\$1,000".

Subsec. (a)(10)(A). Pub. L. 100-647, § 1015(o)(1), substituted "III, IV, V," for "IV" and added "or" at end.

Subsec. (a)(10)(B), (C). Pub. L. 100-647, § 1015(o)(2), (3), redesignated subpar. (C) as (B) and substituted "13, 21, 23" for "21", and struck out former subpar. (B), which read as follows: "subchapter I, II, or III of chapter 19 of such title 38, or".

Subsec. (a)(11) to (13). Pub. L. 100-647, § 6236(c)(4)(A), added pars. (11) to (13).

Subsec. (d)(1). Pub. L. 100-647, § 6236(c)(3)(A), amended par. (1) generally, striking out after introductory provisions the following definition of exempt amount:

"(A) \$75, plus

"(B) \$25 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

"(i) over half of whose support for the payroll period was received from the taxpayer,

"(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

"(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period. For purposes of subparagraph (B)(ii) of the preceding sentence, 'payroll period' shall be substituted for 'taxable year' each place it appears in paragraph (9) of section 152(a)."

Subsec. (d)(2), (3). Pub. L. 100-647, § 6236(c)(3)(B), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 100-647, § 6236(c)(4)(B), added subsec. (e).

1986—Subsec. (a)(10). Pub. L. 99-514 added par. (10).

1984—Subsec. (c). Pub. L. 98-369 inserted "(including section 207 of the Social Security Act)".

1982—Subsec. (a)(2). Pub. L. 97-248, § 347(a)(1), substituted "\$1,500" for "\$500".

Subsec. (a)(3). Pub. L. 97-248, § 347(a)(2), substituted "\$1,000" for "\$250".

Subsec. (d)(1)(A). Pub. L. 97-248, § 347(a)(3)(A), substituted "\$75" for "\$50".

Subsec. (d)(1)(B). Pub. L. 97-248, § 347(a)(3)(B), substituted "\$25" for "\$15".

1976—Subsec. (a)(8). Pub. L. 94-455, § 1209(c), substituted "Judgments for support of minor children" for "Salary, wages, or other income" in heading.

Subsec. (a)(9). Pub. L. 94-455, § 1209(a), added par. (9).

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (d). Pub. L. 94-455, § 1209(b), added subsec. (d).

1969—Subsec. (a)(8). Pub. L. 91-172 added par. (8).

1966—Subsec. (a)(4). Pub. L. 89-719, § 104(c)(1), struck out "or Territory" after "of any State".

Subsec. (a)(6), (7). Pub. L. 89-719, § 104(c)(2), added pars. (6) and (7).

1965—Subsec. (a)(5). Pub. L. 89-44 added par. (5).

1958—Subsec. (a)(4). Pub. L. 85-840 added par. (4).

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(1)(II) 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 11041(d) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11041(f)(1) of Pub. L. 115-97, set out as a note under section 151 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3431(d), July 22, 1998, 112 Stat. 758, provided that: "The amendments made by this section [amending this section] shall take effect with respect to levies issued after the date of the enactment of this Act [July 22, 1998]."

Pub. L. 105-206, title III, § 3445(d), July 22, 1998, 112 Stat. 763, provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 312(d)(1) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Pub. L. 105-34, title X, § 1025(b), Aug. 5, 1997, 111 Stat. 924, provided that: "The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997]."

Amendment by Pub. L. 105-33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105-33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 110(l)(3) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for

terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

Pub. L. 104-168, title V, §502(d), July 30, 1996, 110 Stat. 1461, provided that: "The amendments made by this section [amending this section] shall take effect with respect to levies issued after December 31, 1996."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1015(o), Nov. 10, 1988, 102 Stat. 3572, provided that the amendment made by that section is effective with respect to levies made after Dec. 31, 1988.

Amendment by section 6236(c) of Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1565(b), Oct. 22, 1986, 100 Stat. 2763, provided that: "The amendment made by this section [amending this section] shall apply to amounts payable after December 31, 1986."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98-21, see section 2664(a) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §347(b), Sept. 3, 1982, 96 Stat. 638, provided that: "The amendments made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1209(e), Oct. 4, 1976, 90 Stat. 1711, as amended by Pub. L. 94-528, §2(c), Oct. 17, 1976, 90 Stat. 2483, provided that: "The amendments made by this section [amending this section and sections 6331 and 6332 of this title] shall apply only with respect to levies made after February 28, 1977."

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §945(b), Dec. 30, 1969, 83 Stat. 729, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to levies made 30 days or more after the date of the enactment of this Act [Dec. 30, 1969]."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §812(b), June 21, 1965, 79 Stat. 170, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [June 21, 1965]."

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 Reor-

ganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STATE FISH AND WILDLIFE PERMITS

Pub. L. 105-206, title III, §3445(c), July 22, 1998, 112 Stat. 763, provided that:

"(1) IN GENERAL.—With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, the term 'other assets' as used in section 6334(e)(2) of the Internal Revenue Code of 1986 shall include future income which may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

"(2) CONSTRUCTION.—Paragraph (1) shall not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in permits described in paragraph (1) is not property or a right to property under the Internal Revenue Code of 1986."

§ 6335. Sale of seized property

(a) Notice of seizure

As soon as practicable after seizure of property, notice in writing shall be given by the Secretary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) Notice of sale

The Secretary shall as soon as practicable after the seizure of the property give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

(c) Sale of indivisible property

If any property liable to levy is not divisible, so as to enable the Secretary by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

(d) Time and place of sale

The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by special order of the Secretary.

(e) Manner and conditions of sale**(1) In general****(A) Determinations relating to minimum price**

Before the sale of property seized by levy, the Secretary shall determine—

- (i) a minimum price below which such property shall not be sold (taking into account the expense of making the levy and conducting the sale), and
- (ii) whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

(B) Sale to highest bidder at or above minimum price

If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

(C) Property deemed sold to United States at minimum price in certain cases

If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

(D) Release to owner in other cases

If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C.

(2) Additional rules applicable to sale

The Secretary shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary shall select the alternatives applicable to the sale. Such regulations shall provide:

- (A) That the sale shall not be conducted in any manner other than—
 - (i) by public auction, or
 - (ii) by public sale under sealed bids.

(B) In the case of the seizure of several items of property, whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) Whether the announcement of the minimum price determined by the Secretary may be delayed until the receipt of the highest bid.

(D) Whether payment in full shall be required at the time of acceptance of a bid, or

whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary to be appropriate.

(E) The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F) Under what circumstances the Secretary may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

(3) Payment of amount bid

If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary, the sale may be declared by the Secretary to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b) and (c) and this subsection. In the event of such readvertisement and sale any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.

(f) Right to request sale of seized property within 60 days

The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States.

(g) Stay of sale of seized property pending Tax Court decision

For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3).

(Aug. 16, 1954, ch. 736, 68A Stat. 785; Pub. L. 89-719, title I, §104(d), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, §1570(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100-647, title VI, §6236(g), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 105-206, title III, §3441(a), (b), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (e)(1)(A)(i). Pub. L. 105-206, §3441(a), substituted “a minimum price below which such property shall not be sold” for “a minimum price for which such property shall be sold”.

Subsec. (e)(4). Pub. L. 105-206, §3441(b), added par. (4). 1988—Subsecs. (f), (g). Pub. L. 100-647 added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsec. (e)(1). Pub. L. 99-514 amended par. (1) generally. Prior to amendment, par. (1) “Minimum price” read as follows: “Before the sale the Secretary shall determine a minimum price for which the property shall be sold, and if no person offers for such property at the sale the amount of the minimum price, the property shall be declared to be purchased at such price for the United States; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the Secretary shall take into account the expense of making the levy and sale.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b). Pub. L. 89-719 inserted an alternative to the publication of notice of sale to allow publication in a newspaper generally circulated within the county in which the property is seized even though the newspaper is not published in such county.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3441(c), July 22, 1998, 112 Stat. 761, provided that: “The amendments made by this section [amending this section] shall apply to sales made after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to requests made on or after Jan. 1, 1989, see section 6236(h)(2) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1570(b), Oct. 22, 1986, 100 Stat. 2765, provided that: “The amendment made by subsection (a) [amending this section] shall apply to—

“(1) property seized after the date of the enactment of this Act [Oct. 22, 1986], and

“(2) property seized on or before such date which is held by the United States on such date.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

UNIFORM ASSET DISPOSAL MECHANISM

Pub. L. 105-206, title III, §3443, July 22, 1998, 112 Stat. 762, provided that: “Not later than the date which is 2 years after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury or the Secretary’s delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.”

§ 6336. Sale of perishable goods

If the Secretary determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and—

(1) Return to owner

If the owner of the property can be readily found, the Secretary shall give him notice of such determination of the appraised value of the property. The property shall be returned

to the owner if, within such time as may be specified in the notice, the owner—

(A) Pays to the Secretary an amount equal to the appraised value, or

(B) Gives bond in such form, with such sureties, and in such amount as the Secretary shall prescribe, to pay the appraised amount at such time as the Secretary determines to be appropriate in the circumstances.

(2) Immediate sale

If the owner does not pay such amount or furnish such bond in accordance with this section, the Secretary shall as soon as practicable make public sale of the property in accordance with such regulations as may be prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 786; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 6337. Redemption of property

(a) Before sale

Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Secretary at any time prior to the sale thereof, and upon such payment the Secretary shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) Redemption of real estate after sale

(1) Period

The owners of any real property sold as provided in section 6335, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 180 days after the sale thereof.

(2) Price

Such property or tract of property shall be permitted to be redeemed upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the Secretary, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum.

(c) Record

When any lands sold are redeemed as provided in this section, the Secretary shall cause entry of the fact to be made upon the record mentioned in section 6340, and such entry shall be evidence of such redemption.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 89-719, title I, §104(e), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §349A(a), Sept. 3, 1982, 96 Stat. 639.)

AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97-248 substituted “180 days” for “120 days”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b)(1). Pub. L. 89-719 substituted “120 days” for “1 year”.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §349A(b), Sept. 3, 1982, 96 Stat. 639, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to property sold after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6338. Certificate of sale; deed of real property**(a) Certificate of sale**

In the case of property sold as provided in section 6335, the Secretary shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, such certificate shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) Deed to real property

In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time provided in section 6337, the Secretary shall execute (in accordance with the laws of the State in which such real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(c) Real property purchased by United States

If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary shall at the proper time execute a deed therefor; and without delay cause such deed to be duly recorded in the proper registry of deeds.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 85-866, title I, §78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89-719, title I, §104(f), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (c). Pub. L. 89-719 struck out provisions requiring the endorsement of approval as to the form of the deed by the United States Attorney for the district in which the property is situated.

1958—Subsec. (c). Pub. L. 85-866 struck out “district” before “attorney”.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States

arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 6339. Legal effect of certificate of sale of personal property and deed of real property**(a) Certificate of sale of property other than real property**

In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) As evidence

Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(2) As conveyances

Shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold; and

(3) As authority for transfer of corporate stock

If such property consists of stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) As receipts

If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) As authority for transfer of title to motor vehicle

If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(b) Deed of real property

In the case of the sale of real property pursuant to section 6335—

(1) Deed as evidence

The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

(2) Deed as conveyance of title

If the proceedings of the Secretary as set forth have been substantially in accordance

with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

(c) Effect of junior encumbrances

A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

(d) Cross references

(1) For distribution of surplus proceeds, see section 6342(b).

(2) For judicial procedure with respect to surplus proceeds, see section 7426(a)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 788; Pub. L. 85-866, title I, § 79, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89-719, title I, § 104(g), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1966—Subsecs. (c), (d). Pub. L. 89-719 added subsecs. (c) and (d).

1958—Subsec. (b)(2). Pub. L. 85-866 substituted “as” for “of” after “Deed” in heading.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 6340. Records of sale

(a) Requirement

The Secretary shall, for each internal revenue district, keep a record of all sales of property under section 6335 and of redemptions of such property. The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property.

(b) Copy as evidence

A copy of such record, or any part thereof, certified by the Secretary shall be evidence in any court of the truth of the facts therein stated.

(c) Accounting to taxpayer

The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

(1) the record under subsection (a) (other than the names of the purchasers);

(2) the amount from such sale applied to the taxpayer's liability; and

(3) the remaining balance of such liability.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title III, § 3442(a), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206, § 3442(a)(1), struck out “real” after “sales of” and inserted “or certificate of sale of personal property” after “deed”.

Subsec. (c). Pub. L. 105-206, § 3442(a)(2), added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3442(b), July 22, 1998, 112 Stat. 762, provided that: “The amendments made by this section [amending this section] shall apply to seizures occurring after the date of the enactment of this Act [July 22, 1998].”

§ 6341. Expense of levy and sale

The Secretary shall determine the expenses to be allowed in all cases of levy and sale.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 6342. Application of proceeds of levy

(a) Collection of liability

Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2)¹ thereof), or by sale of seized property) or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

(1) Expense of levy and sale

First, against the expenses of the proceedings;

(2) Specific tax liability on seized property

If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) Liability of delinquent taxpayer

The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

(b) Surplus proceeds

Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary to the person or persons legally entitled thereto.

¹ See References in Text note below.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89-719, title I, §104(h), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

Section 6332(c), referred to in subsec. (a), was redesignated section 6332(d) by Pub. L. 100-647, title VI, §6236(e)(1), Nov. 10, 1988, 102 Stat. 3739.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (a). Pub. L. 89-719 inserted in introductory provisions, references to an exception in the case of surrender under section 6332(c)(2) and to sale of property redeemed by the United States if the interest of the United States in such property was a lien arising under the provisions of this title, struck out “under this subchapter” after “proceedings” in par. (1), and inserted “or the sale was conducted” after “levy was made” in par. (3).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6343. Authority to release levy and return property

(a) Release of levy and notice of release

(1) In general

Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

(B) release of such levy will facilitate the collection of such liability,

(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

(2) Expedited determination on certain business property

In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) Subsequent levy

The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

(b) Return of property

If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

(1) the specific property levied upon,

(2) an amount of money equal to the amount of money levied upon, or

(3) an amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of 2 years from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(c) Interest

Interest shall be allowed and paid at the overpayment rate established under section 6621—

(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days.

(d) Return of property in certain cases

If—

(1) any property has been levied upon, and

(2) the Secretary determines that—

(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the return of such property will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongfully levied upon, except that no interest shall be allowed under subsection (c).

(e) Release of levy upon agreement that amount is not collectible

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon

agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89-719, title I, §104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §4(a), Dec. 29, 1979, 93 Stat. 1276; Pub. L. 99-514, title XV, §1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-647, title VI, §6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104-168, title V, §501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105-206, title I, §1102(d)(1)(B), title III, §3432(a), July 22, 1998, 112 Stat. 704, 759; Pub. L. 115-97, title I, §11071(a), Dec. 22, 2017, 131 Stat. 2091.)

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-97 substituted “2 years” for “9 months” in concluding provisions.

1998—Subsec. (d)(2)(D). Pub. L. 105-206, §1102(d)(1)(B), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

Subsec. (e). Pub. L. 105-206, §3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104-168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100-647 inserted “and notice of release” after “levy” in heading and amended text generally. Prior to amendment, text read as follows: “It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.”

1986—Subsec. (c). Pub. L. 99-514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1979—Subsec. (c). Pub. L. 96-167 added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Pub. L. 89-719 inserted “and return property” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §11071(c), Dec. 22, 2017, 131 Stat. 2092, provided that: “The amendments made by this section [amending this section and section 6532 of this title] shall apply to—

“(1) levies made after the date of the enactment of this Act [Dec. 22, 2017], and

“(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102 of Pub. L. 105-206 effective July 22, 1998, see section 1102(f) of Pub. L. 105-206, set out as a note under section 7803 of this title.

Pub. L. 105-206, title III, §3432(b), July 22, 1998, 112 Stat. 759, provided that: “The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-167, §4(c)(1), Dec. 29, 1979, 93 Stat. 1276, provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 6344. Cross references

(a) Length of period

For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6502(a).

(b) Delinquent collection officers

For distraint proceedings against delinquent internal revenue officers, see section 7804(c).

(c) Other references

For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91-172, title I, §101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, §1307(d)(2)(F)(v), title XVI, §1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96-223, title I, §101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100-418, title I, §1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105-206, title I, §1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-206 substituted “section 7804(c)” for “section 7803(d)”.

1988—Subsec. (a)(1). Pub. L. 100-418 substituted “or 44” for “44, or 45”.

1980—Subsec. (a)(1). Pub. L. 96-223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94-455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93-406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91-172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub.

L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[Subchapter E—Repealed]

[[§ 6361 to 6365. Repealed. Pub. L. 101-508, title XI, § 11801(a)(45), Nov. 5, 1990, 104 Stat. 1388-522]

Section 6361, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95-473, § 2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95-600, title IV, § 421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-248, title II, § 201(d)(7), formerly § 201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97-448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, § 5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97-424, title V, § 547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-369, div. A, title IV, §§ 412(b)(6), 474(r)(35), title VII, § 721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99-514, title XIII, § 1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, § 402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, § 1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97-248, title III, §§ 307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—Procedure in General

Sec.	
6401.	Amounts treated as overpayments.

¹ Section numbers editorially supplied.

Sec.	
6402.	Authority to make credits or refunds.
6403.	Overpayment of installment.
6404.	Abatements.
6405.	Reports of refunds and credits.
6406.	Prohibition of administrative review of decisions.
6407.	Date of allowance of refund or credit.
6408.	State escheat laws not to apply.
6409.	Refunds disregarded in the administration of Federal programs and federally assisted programs.

AMENDMENTS

2010—Pub. L. 111-312, title VII, § 728(b), Dec. 17, 2010, 124 Stat. 3317, added item 6409.

1987—Pub. L. 100-203, title X, § 10621(b), Dec. 22, 1987, 101 Stat. 1330-452, added item 6408.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term “overpayment” includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, and G of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89-44, title VIII, § 809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title III, § 331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91-258, title II, § 207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94-12, title II, § 204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title VII, § 701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95-600, title VII, § 701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95-618, title III, § 301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96-222, title I, § 103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96-223, title II, § 223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97-248, title III, §§ 307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, § 474(r)(36), title VII, § 735(c)(16), July 18, 1984,

98 Stat. 846, 985; Pub. L. 99-514, title XII, §1246(b), Oct. 22, 1986, 100 Stat. 2582; Pub. L. 100-647, title I, §1012(s)(1)(B), Nov. 10, 1988, 102 Stat. 3527; Pub. L. 105-206, title VI, §6022(a), July 22, 1998, 112 Stat. 824; Pub. L. 109-58, title XIII, §1303(c)(4), Aug. 8, 2005, 119 Stat. 997; Pub. L. 110-234, title XV, §15316(c)(3), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(c)(3), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 111-5, div. B, title I, §1531(c)(5), Feb. 17, 2009, 123 Stat. 360; Pub. L. 115-97, title I, §13404(c)(4), Dec. 22, 2017, 131 Stat. 2138.)

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

2017—Subsec. (b)(1). Pub. L. 115-97 substituted “and G” for “G, H, I, and J”.

2009—Subsec. (b)(1). Pub. L. 111-5 substituted “I, and J” for “and I”.

2008—Subsec. (b)(1). Pub. L. 110-246, §15316(c)(3), substituted “H, and I” for “and H”.

2005—Subsec. (b)(1). Pub. L. 109-58 substituted “G, and H” for “and G”.

1998—Subsec. (b)(1). Pub. L. 105-206 substituted “D, and G” for “and D”.

1988—Subsec. (b)(2). Pub. L. 100-647 amended last sentence generally, substituting “credit so allowed by reason of section 1446” for “amount deducted and withheld under section 1446”.

1986—Subsec. (b)(2). Pub. L. 99-514 inserted last sentence.

1984—Subsec. (b). Pub. L. 98-369, §474(r)(36), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “If the amount allowable as credits under sections 31 (relating to tax withheld on wages) and 39 (relating to certain uses of gasoline and special fuels), and 43 (relating to earned income credit), exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, and 43), the amount of such excess shall be considered an overpayment. For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31.”

Pub. L. 98-369, §735(c)(16), substituted “and special fuels” for “, special fuels, and lubricating oil”.

1983—Subsec. (b). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-247 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (d). Pub. L. 96-223 struck out subsec. (d) which made a cross reference to section 46(a)(9)(C) for a rule allowing a refund for excess investment credit attributable to solar or wind energy property.

Pub. L. 96-222 substituted “46(a)(9)(C)” for “46(a)(10)(C)”.

1978—Subsec. (b). Pub. L. 95-600 inserted provisions relating to credit to a nonresident alien individual.

Subsec. (d). Pub. L. 95-618 added subsec. (d).

1976—Subsec. (b). Pub. L. 94-455 substituted “wages) and” and “lubricating oil), and” for “wages),” and “lubricating oil),”, respectively; and pars. (2) and (3) made identical change: striking out “and 667(b) (relating to taxes paid by certain trusts)” after “(relating to earned income credit)”.

1975—Subsec. (b). Pub. L. 94-12 inserted “43 (relating to earned income credit),” before “and 667(b)” and substituted “, 39, and 43” for “and 39”.

1970—Subsec. (b). Pub. L. 91-258 inserted reference to credits under section 39 relating to certain uses of special fuels.

1969—Subsec. (b). Pub. L. 91-172 struck out “under sections 31 and 39” after “Excessive credits” in heading and inserted in text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89-44 substituted “Excessive credits under sections 31 and 39” for “Excessive withholding” in heading and expanded text to include credits under section 39.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment 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 an Effective Date of Repeal note under former section 54 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 1400N of this title.

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 15316(c)(3) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 1400N of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 applicable to taxable years beginning after Dec. 31, 2005, see section 1303(e) of Pub. L. 109-58, set out as a note under section 6049 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title VI, §6022(b), July 22, 1998, 112 Stat. 824, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986 [Pub. L. 99-514].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1987, see section 1012(s)(1)(D) of Pub. L. 100-647, set out as a note under section 1446 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to distributions after Dec. 31, 1987, or, if earlier, the effective date of the initial regulations issued under section 1446 of this title, which date shall not be earlier than Jan. 1, 1987, see section 1246(d) of Pub. L. 99-514, set out as an Effective Date note under section 1446 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(36) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of

Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 735(c)(16) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-223 applicable to qualified investment for taxable years beginning after Dec. 31, 1979, see section 223(b)(3) of Pub. L. 96-223, set out as a note under section 46 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600, to the extent amendment relates to chapter 1 or 5 of this title, applicable to taxable years ending on or after Dec. 31, 1975, and, to the extent amendment relates to wage withholding under chapter 24 of this title, applicable to remuneration paid on or after the first day of the first month which begins more than 90 days after Nov. 6, 1978, see section 701(u)(15)(E) of Pub. L. 95-600, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(h) of Pub. L. 94-455, set out as a note under section 667 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94-12, as amended, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning before Jan. 1, 1970, see section 331(d) of Pub. L. 91-172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

§ 6402. Authority to make credits or refunds

(a) General rule

In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c), (d), (e), and (f)¹ refund any balance to such person.

(b) Credits against estimated tax

The Secretary is authorized to prescribe regulations providing for the crediting against the

estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary to be an overpayment of the income tax for a preceding taxable year.

(c) Offset of past-due support against overpayments

The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of of² such Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.

(d) Collection of debts owed to Federal agencies

(1) In general

Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26)³ of the Social Security Act and before such overpayment is reduced pursuant to subsections (e) and (f) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) Treatment of OASDI overpayments

(A) Requirements

Paragraph (1) shall apply with respect to an OASDI overpayment only if the require-

¹ So in original. Probably should be followed by a comma.

² So in original.

³ See References in Text note below.

ments of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

(B) Notice; protection of other persons filing joint return

(i) Notice

In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

(ii) Adjustments based on protections given to other taxpayers on joint return

If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

(C) Deposit of amount of reduction into appropriate trust fund

In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Commissioner of Social Security, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Commissioner of Social Security.

(D) OASDI overpayment

For purposes of this paragraph, the term “OASDI overpayment” means any overpayment of benefits made to an individual under title II of the Social Security Act.

(e) Collection of past-due, legally enforceable State income tax obligations

(1) In general

Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such

person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

(2) Offset permitted only against residents of State seeking offset

Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

(3) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) or subsection (f) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(4) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

(5) Past-due, legally enforceable State income tax obligation

For purposes of this subsection, the term “past-due, legally enforceable State income tax obligation” means a debt—

(A)(i) which resulted from—

(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

(ii) which is no longer subject to judicial review; or

(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term “State income tax” includes any local income tax administered by the chief tax administration agency of the State.

(6) Regulations

The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(7) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(f) Collection of unemployment compensation debts

(1) In general

Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such

person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(3) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or is not a covered unemployment compensation debt;

(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and is a covered unemployment compensation debt; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

(4) Covered unemployment compensation debt

For purposes of this subsection, the term “covered unemployment compensation debt” means—

(A) a past-due debt for erroneous payment of unemployment compensation due to fraud or the person's failure to report earnings which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected;

(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable and which remain uncollected; and

(C) any penalties and interest assessed on such debt.

(5) Regulations

(A) In general

The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

(B) Fee payable to Secretary

The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(C) Submission of notices through Secretary of Labor

The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

(6) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(g) Review of reductions

No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c), (d), (e), or (f). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equi-

table, or administrative action against the Federal agency or State to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

(h) Federal agency

For purposes of this section, the term “Federal agency” means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

(i) Treatment of payments to States

The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c), (e), or (f) to a State shall be treated as a payment to the person or persons making the overpayment.

(j) Cross reference

For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.

(k) Refunds to certain fiduciaries of insolvent members of affiliated groups

Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

(l) Explanation of reason for refund disallowance

In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.

(m) Earliest date for certain refunds

No credit or refund of an overpayment for a taxable year shall be made to a taxpayer before the 15th day of the second month following the close of such taxable year if a credit is allowed to such taxpayer under section 24 (by reason of subsection (d) thereof) or 32 for such taxable year.

(Aug. 6, 1954, ch. 736, 68A Stat. 791; Pub. L. 94-455, title XIX, §1906(b)(13) (A), (K), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 97-35, title XXIII, §2331(c), Aug. 13, 1981, 95 Stat. 861; Pub. L. 98-369, div. B, title VI, §2653(b)(1), (2), July 18, 1984, 98 Stat. 1154, 1155; Pub. L. 98-378, §21(e), Aug. 16, 1984, 98 Stat. 1325; Pub. L. 100-647, title VI, §6276, Nov. 10, 1988, 102 Stat. 3753; Pub. L. 101-508, title V, §5129(c), Nov. 5, 1990, 104 Stat. 1388-288; Pub. L. 103-296, title I, §108(h)(7), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104-134, title III, §31001(u)(2), Apr. 26, 1996, 110 Stat. 1321-375; Pub. L. 104-193, title I, §110(l)(7), Aug. 22, 1996, 110 Stat. 2173; Pub. L. 105-33, title V, §5514(a)(1), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-206, title III, §§3505(a), 3711(a), (c), July 22, 1998, 112 Stat. 771, 779, 781; Pub. L. 109-171, title VII, §7301(d), Feb. 8, 2006,

120 Stat. 144; Pub. L. 110-328, §3(a), (d), Sept. 30, 2008, 122 Stat. 3570, 3573; Pub. L. 111-291, title VIII, §801(a), Dec. 8, 2010, 124 Stat. 3157; Pub. L. 111-312, title V, §503(a), Dec. 17, 2010, 124 Stat. 3308; Pub. L. 114-113, div. Q, title II, §201(b), Dec. 18, 2015, 129 Stat. 3076.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c), (d)(2), (3)(D), and (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 204, 464, and 471(a)(17) of the Act are classified to sections 404, 664, and 671(a)(17) of Title 42. Section 402 of the Act, which was classified to section 602 of Title 42, was repealed and a new section 402 enacted by Pub. L. 104-193, title I, §103(a)(1), Aug. 22, 1996, 110 Stat. 2112. As so enacted section 402 does not contain a subsec. (a)(26). For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (m). Pub. L. 114-113 added subsec. (m).

2010—Subsec. (f). Pub. L. 111-291, §801(a)(1), struck out “resulting from fraud” after “debts” in heading.

Subsec. (f)(3). Pub. L. 111-291, §801(a)(2), redesignated par. (4) as (3) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: “Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.”

Subsec. (f)(3)(A). Pub. L. 111-291, §801(a)(3)(A), struck out “by certified mail with return receipt” after “notifies”.

Subsec. (f)(3)(B). Pub. L. 111-291, §801(a)(3)(B), substituted “is not a covered unemployment compensation debt” for “due to fraud”.

Subsec. (f)(3)(C). Pub. L. 111-312 substituted “is a covered unemployment compensation debt” for “is not a covered unemployment compensation debt”.

Pub. L. 111-291, §801(a)(3)(C), substituted “is not a covered unemployment compensation debt” for “due to fraud”.

Subsec. (f)(4). Pub. L. 111-291, §801(a)(2), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (f)(4)(A). Pub. L. 111-291, §801(a)(4)(A), inserted “or the person’s failure to report earnings” after “due to fraud” and struck out “for not more than 10 years” after “remains uncollected”.

Subsec. (f)(4)(B). Pub. L. 111-291, §801(a)(4)(B), struck out “due to fraud” after “to be liable” and “for not more than 10 years” after “remain uncollected”.

Subsec. (f)(5) to (8). Pub. L. 111-291, §801(a)(2), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out par. (8). Prior to amendment, text of par. (8) read as follows: “This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.”

2008—Subsec. (a). Pub. L. 110-328, §3(d)(1), substituted “(c), (d), (e), and (f)” for “(c), (d), and (e).”.

Subsec. (d)(2). Pub. L. 110-328, §3(d)(2), substituted “and before such overpayment is reduced pursuant to subsections (e) and (f)” for “and before such overpayment is reduced pursuant to subsection (e)”.

Subsec. (e)(3). Pub. L. 110-328, §3(d)(3), inserted “or subsection (f)” after “paragraph (1)” in concluding provisions.

Subsec. (f). Pub. L. 110-328, §3(a), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110-328, §3(a), (d)(4), redesignated subsec. (f) as (g) and substituted “(c), (d), (e), or (f)” for “(c), (d), or (e)”. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 110-328, §3(a), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 110-328, §3(a), (d)(5), redesignated subsec. (h) as (i) and substituted “subsection (c), (e), or (f)” for “subsection (c) or (e)”. Former subsec. (i) redesignated (j).

Subsecs. (j) to (l). Pub. L. 110-328, §3(a), redesignated subsecs. (i) to (k) as (j) to (l), respectively.

2006—Subsec. (c). Pub. L. 109-171 substituted “of such Act.” for “the Social Security Act.” in first sentence and “The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law.” for “A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.” in third sentence.

1998—Subsec. (a). Pub. L. 105-206, §3711(c)(1), substituted “(c), (d), and (e)” for “(c) and (d)”.

Subsec. (d)(2). Pub. L. 105-206, §3711(c)(2), substituted “and before such overpayment is reduced pursuant to subsection (e) and before such overpayment” for “and before such overpayment”.

Subsec. (e). Pub. L. 105-206, §3711(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-206, §3711(a), (c)(3), redesignated subsec. (e) as (f) and substituted “(c), (d), or (e)” for “(c) or (d)” and “Federal agency or State” for “Federal agency”. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105-206, §3711(a), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105-206, §3711(a), (c)(4), redesignated subsec. (g) as (h) and substituted “subsection (c) or (e)” for “subsection (c)”. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 105-206, §3711(a), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105-206, §3711(a), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 105-206, §3505(a), added subsec. (j).

Subsec. (k). Pub. L. 105-206, §3711(a), redesignated subsec. (j) as (k).

1997—Subsecs. (a), (e) to (j). Pub. L. 105-33 repealed Pub. L. 104-193, §110(l)(7). See 1996 Amendment notes below.

1996—Subsec. (a). Pub. L. 104-193, §110(l)(7)(A), which directed substitution of “(c), (d), and (e)” for “(c) and (d)”, was repealed by Pub. L. 105-33.

Subsec. (e). Pub. L. 104-193, §110(l)(7)(C), which directed amendment by adding subsec. (e), reading as follows: “COLLECTION OF OVERPAYMENTS UNDER TITLE IV—A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).”, was repealed by Pub. L. 105-33.

Subsec. (f). Pub. L. 104-193, §110(l)(7)(B), which directed amendment by redesignating subsec. (e) as (f), was repealed by Pub. L. 105-33.

Pub. L. 104-134 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “For purposes of this section, the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).”

Subsecs. (g) to (j). Pub. L. 104-193, §110(l)(7)(B), which directed amendment by redesignating subsecs. (f) to (i) as (g) to (j), respectively, was repealed by Pub. L. 105-33.

1994—Subsecs. (d)(3)(C), (e). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” wherever appearing.

1990—Subsec. (d)(1). Pub. L. 101-508, §5129(c)(1)(A), struck out “any OASDI overpayment and” after “(other than)”.

Subsec. (d)(3). Pub. L. 101-508, §5129(c)(1)(B), added par. (3) and struck out former par. (3) which read as follows: “For purposes of this subsection the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act.”

Subsec. (e). Pub. L. 101-508, §5129(c)(2), inserted before period at end “or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act”.

1988—Subsec. (i). Pub. L. 100-647 added subsec. (i).

1984—Subsec. (a). Pub. L. 98-369, §2653(b)(2), substituted “subsections (c) and (d)” for “subsection (c)”.

Subsec. (c). Pub. L. 98-378, §21(e)(1), substituted “collecting such support” for “to which such support has been assigned” and inserted provision that a reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.

Subsecs. (d) to (f). Pub. L. 98-369, §2653(b)(1), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 98-378, §21(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 98-369, §2653(b)(1), added subsec. (g).

Subsec. (h). Pub. L. 98-378, §21(e)(2), redesignated former subsec. (g) as (h).

1981—Subsec. (a). Pub. L. 97-35, §2331(c)(1), inserted reference to subsec. (c) of this section.

Subsec. (c). Pub. L. 97-35, §2331(c)(2), added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to credits or refunds made after Dec. 31, 2016, see section 201(d) of Pub. L. 114-113, set out as a note under section 6071 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title V, §503(b), Dec. 17, 2010, 124 Stat. 3308, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in section 801 of the Claims Resolution Act of 2010 [Pub. L. 111-291].”

Pub. L. 111-291, title VIII, §801(b), Dec. 8, 2010, 124 Stat. 3157, provided that: “The amendments made by this section [amending this section] shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of the enactment of this Act [Dec. 8, 2010].”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-328 applicable to refunds payable under section 6402 of this title on or after Sept. 30, 2008, see section 3(e) of Pub. L. 110-328, set out as a note under section 3304 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective Oct. 1, 2009, and applicable to payments under parts A and D of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare, for calendar quarters beginning on or after such date, subject to certain State options, see section 7301(e) of Pub. L. 109-171, set out as a note under section 608 of Title 42.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3505(b), July 22, 1998, 112 Stat. 771, provided that: “The amendment made by this section [amending this section] shall apply to disallowances after the 180th day after the date of the enactment of this Act [July 22, 1998].”

Amendment by section 3711 of Pub. L. 105-206 applicable to refunds payable under this section after Dec. 31,

1999, see section 3711(d) of Pub. L. 105-206, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105-33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5129(d), Nov. 5, 1990, 104 Stat. 1388-289, provided that: “The amendments made by this section [amending this section, section 3720A of Title 31, Money and Finance, and section 404 of Title 42, The Public Health and Welfare]—

“(1) shall take effect January 1, 1991, and

“(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) [enacting section 3720A of Title 31 and amending this section and sections 6103 and 7213 of this title] do not apply.”

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-378 applicable with respect to refunds payable under this section after Dec. 31, 1985, see section 21(g) of Pub. L. 98-378, set out as a note under section 6103 of this title.

Pub. L. 98-369, div. B, title VI, §2653(c), July 18, 1984, 98 Stat. 1156, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-203, title IX, §9402(a), Dec. 22, 1987, 101 Stat. 1330-376; Pub. L. 100-485, title VII, §701(a), Oct. 13, 1988, 102 Stat. 2425; Pub. L. 102-164, title IV, §401(a), Nov. 15, 1991, 105 Stat. 1061, provided that: “The amendments made by this section [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985.”

[Pub. L. 102-164, title IV, §401(b), Nov. 15, 1991, 105 Stat. 1061, provided that: “The amendment made by this section [amending section 2653(c) of Pub. L. 98-369, set out above] shall take effect on October 1, 1991.”]

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97-35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS

Pub. L. 104-191, title III, §371, Aug. 21, 1996, 110 Stat. 2072, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax

made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

“(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

“(1) encourages organ and tissue donation;

“(2) includes a detachable organ and tissue donor card; and

“(3) urges recipients to—

“(A) sign the organ and tissue donor card;

“(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

“(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.”

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

Pub. L. 100-203, title IX, §9402(b), Dec. 22, 1987, 101 Stat. 1330-376, provided that:

“(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

“(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

“(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.”

STUDY BY GENERAL ACCOUNTING OFFICE OF OPERATION AND EFFECTIVENESS OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98-369

Pub. L. 100-203, title IX, §9402(c), Dec. 22, 1987, 101 Stat. 1330-376, required the Comptroller General of the United States, in consultation with the Secretary of the Treasury, to conduct a study of the operation and effectiveness of amendments by section 2653 of Pub. L. 98-369 on voluntary compliance with the income tax laws and, by Apr. 1, 1989, submit a report and recommendations to Congress.

§ 6403. Overpayment of installment

In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402. (Aug. 16, 1954, ch. 736, 68A Stat. 791.)

§ 6404. Abatements

(a) General rule

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) is excessive in amount, or

(2) is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) is erroneously or illegally assessed.

(b) No claim for abatement of income, estate, and gift taxes

No claim for abatement shall be filed by a taxpayer in respect of any assessment of any tax imposed under subtitle A or B.

(c) Small tax balances

The Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

(d) Assessments attributable to certain mathematical errors by Internal Revenue Service

In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(g)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.

(e) Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service

(1) In general

In the case of any assessment of interest on—

(A) any deficiency attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial or managerial act, or

(B) any payment of any tax described in section 6212(a) to the extent that any unreasonable error or delay in such payment is attributable to such an officer or employee being erroneous or dilatory in performing a ministerial or managerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

(2) Interest abated with respect to erroneous refund check

The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

(B) such erroneous refund exceeds \$50,000.

(f) Abatement of any penalty or addition to tax attributable to erroneous written advice by the Internal Revenue Service

(1) In general

The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) Limitations

Paragraph (1) shall apply only if—

(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

(g) Suspension of interest and certain penalties where Secretary fails to contact taxpayer

(1) Suspension

(A) In general

In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 36-month period beginning on the later of—

- (i) the date on which the return is filed; or
- (ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

(B) Separate application

This paragraph shall be applied separately with respect to each item or adjustment.

If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.

(2) Exceptions

Paragraph (1) shall not apply to—

- (A) any penalty imposed by section 6651;
- (B) any interest, penalty, addition to tax, or additional amount in a case involving fraud;
- (C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return;
- (D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement;

(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction with respect to which the requirement of section 6664(d)(2)(A)¹ is not met and any listed transaction (as defined in 6707A(c)); or

(F) any criminal penalty.

(3) Suspension period

For purposes of this subsection, the term "suspension period" means the period—

(A) beginning on the day after the close of the 36-month period under paragraph (1); and

(B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.

(h) Judicial review of request for abatement of interest

(1) In general

The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(ii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought—

(A) at any time after the earlier of—

- (i) the date of the mailing of the Secretary's final determination not to abate such interest, or
- (ii) the date which is 180 days after the date of the filing with the Secretary (in such form as the Secretary may prescribe) of a claim for abatement under this section, and

(B) not later than the date which is 180 days after the date described in subparagraph (A)(i).

(2) Special rules

(A) Date of mailing

Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

(B) Relief

Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

(C) Review

An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(i) Cross reference

For authority to suspend running of interest, etc. by reason of Presidentially declared disaster or terrorist or military action, see section 7508A.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94-455, title XII, §1212(a), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1712, 1834; Pub. L. 96-589, §6(b)(2), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 99-514, title XV, §1563(a), Oct. 22, 1986, 100 Stat. 2762; Pub. L. 100-647, title I,

¹ See References in Text note below.

§ 1015(n), title VI, § 6229(a), Nov. 10, 1988, 102 Stat. 3572, 3733; Pub. L. 104-168, title III, §§ 301(a), (b), 302(a), title VII, § 701(c)(3), July 30, 1996, 110 Stat. 1457, 1464; Pub. L. 105-206, title III, §§ 3305(a), 3309(a), July 22, 1998, 112 Stat. 743, 745; Pub. L. 105-277, div. J, title IV, § 4003(e)(2), Oct. 21, 1998, 112 Stat. 2681-909; Pub. L. 107-134, title I, § 112(d)(1), Jan. 23, 2002, 115 Stat. 2434; Pub. L. 108-357, title VIII, § 903(a)-(c), Oct. 22, 2004, 118 Stat. 1652; Pub. L. 109-135, title III, § 303(b)(1), Dec. 21, 2005, 119 Stat. 2609; Pub. L. 110-28, title VIII, § 8242(a), May 25, 2007, 121 Stat. 200; Pub. L. 113-295, div. A, title II, § 221(a)(111), Dec. 19, 2014, 128 Stat. 4054; Pub. L. 114-113, div. Q, title IV, § 421(a), Dec. 18, 2015, 129 Stat. 3123.)

REFERENCES IN TEXT

Section 6664(d)(2)(A), referred to in subsec. (g)(2)(E), was redesignated as section 6664(d)(3)(A) by Pub. L. 111-152, title I, § 1409(c)(2)(A), Mar. 30, 2010, 124 Stat. 1069.

AMENDMENTS

2015—Subsec. (h). Pub. L. 114-113, § 421(a)(1), substituted “Judicial review” for “Review of denial” in heading.

Subsec. (h)(1). Pub. L. 114-113, § 421(a)(2), substituted “if such action is brought—” and subpars. (A) and (B) for “if such action is brought within 180 days after the date of the mailing of the Secretary’s final determination not to abate such interest.”

2014—Subsec. (f)(3). Pub. L. 113-295 struck out par. (3). Text read as follows: “Within 180 days after the date of the enactment of this subsection, the Secretary shall prescribe such initial regulations as may be necessary to carry out this subsection.”

2007—Subsec. (g)(1)(A), (3)(A). Pub. L. 110-28 substituted “36-month period” for “18-month period”.

2005—Subsec. (g)(1). Pub. L. 109-135 inserted at end “If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.”

2004—Subsec. (g)(1)(A). Pub. L. 108-357, § 903(a), substituted “18-month period” for “1-year period (18-month period in the case of taxable years beginning before January 1, 2004)” in introductory provisions.

Subsec. (g)(2)(D). Pub. L. 108-357, § 903(b), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (g)(2)(E). Pub. L. 108-357, § 903(c), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 108-357, § 903(b), redesignated subpar. (D) as (E).

Subsec. (g)(2)(F). Pub. L. 108-357, § 903(c), redesignated subpar. (E) as (F).

Subsec. (g)(3)(A). Pub. L. 108-357, § 903(a), substituted “18-month period” for “1-year period (18-month period in the case of taxable years beginning before January 1, 2004)”.

2002—Subsecs. (h), (i). Pub. L. 107-134 added subsec. (i), redesignated former subsec. (i) as (h), and struck out former subsec. (h), which had authorized abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas and defined the term “Presidentially declared disaster area” for purposes of this provision.

1998—Subsec. (g). Pub. L. 105-206, § 3305(a), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105-206, § 3309(a), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 105-206, § 3305(a), redesignated subsec. (g) as (h).

Subsec. (h)(2). Pub. L. 105-277 inserted “Robert T. Stafford” before “Disaster”.

Subsec. (i). Pub. L. 105-206, § 3309(a), redesignated subsec. (h) as (i).

1996—Subsec. (e). Pub. L. 104-168, § 301(b), substituted “Abatement of interest attributable to unreasonable errors” for “Assessments of interest attributable to errors” in heading.

Subsec. (e)(1)(A), (B). Pub. L. 104-168, § 301(a), inserted “unreasonable” before “error” and substituted “in performing a ministerial or managerial act” for “in performing a ministerial act”.

Subsec. (g). Pub. L. 104-168, § 302(a), added subsec. (g).

Subsec. (g)(1). Pub. L. 104-168, § 701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

1988—Subsec. (e)(1)(B). Pub. L. 100-647, § 1015(n), inserted “error or” before “delay” and “erroneous or” before “dilatatory”.

Subsec. (f). Pub. L. 100-647, § 6229(a), added subsec. (f).

1986—Subsec. (e). Pub. L. 99-514 added subsec. (e).

1980—Subsec. (d). Pub. L. 96-589 substituted “section 6213(g)(2)(A)” for “section 6213(f)(2)(A)”.

1976—Subsecs. (a), (c). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” whenever appearing.

Subsec. (d). Pub. L. 94-455, § 1212(a), added subsec. (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 421(b), Dec. 18, 2015, 129 Stat. 3123, provided that: “The amendments made by this section [amending this section] shall apply to claims for abatement of interest filed with the Secretary of the Treasury after the date of the enactment of this Act [Dec. 18, 2015].”

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 2007 AMENDMENT

Pub. L. 110-28, title VIII, § 8242(b), May 25, 2007, 121 Stat. 200, provided that: “The amendments made by this section [amending this section] shall apply to notices provided by the Secretary of the Treasury, or his delegate, after the date which is 6 months after the date of the enactment of this Act [May 25, 2007].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title III, § 303(b)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by this subsection [amending this section] shall apply to documents provided on or after the date of the enactment of this Act [Dec. 21, 2005].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 903(d), Oct. 22, 2004, 118 Stat. 1652, as amended by Pub. L. 109-135, title III, § 303(a)(1), Dec. 21, 2005, 119 Stat. 2608; Pub. L. 109-432, div. A, title IV, § 426(b)(1), Dec. 20, 2006, 120 Stat. 2975, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2003.

“(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

“(A) IN GENERAL.—The amendments made by subsection (c) [amending this section] shall apply with respect to interest accruing after October 3, 2004.

“(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

“(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

“(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

“(I) the taxpayer is participating in a settlement initiative described in Internal Revenue

Service Announcement 2005-80 with respect to such transaction, or

“(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

Subclause (I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary’s delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

“(iii) TAXPAYERS ACTING IN GOOD FAITH.—The Secretary of the Treasury or the Secretary’s delegate may except from the application of clause (i) any transaction in which the taxpayer has acted reasonably and in good faith.

“(iv) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of December 14, 2005—

“(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

“(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.”

[Pub. L. 109-432, div. A, title IV, §426(b)(2), Dec. 20, 2006, 120 Stat. 2975, provided that: “The amendment made by this subsection [amending section 903(d) of Pub. L. 108-357, set out above] shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 [Pub. L. 108-357] to which it relates.”]

[Pub. L. 109-135, title III, §303(a)(2), Dec. 21, 2005, 119 Stat. 2609, provided that: “The amendment made by this subsection [amending section 903(d) of Pub. L. 108-357, set out above] shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 [Pub. L. 108-357] to which it relates.”]

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to disasters and terrorist 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 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(l) of Pub. L. 105-277, set out as a note under section 86 of this title.

Pub. L. 105-206, title III, §3305(b), July 22, 1998, 112 Stat. 743, provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [July 22, 1998].”

Pub. L. 105-206, title III, §3309(b), (c), July 22, 1998, 112 Stat. 745, provided that:

“(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

“(c) EMERGENCY DESIGNATION.—

“(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act [2 U.S.C. 902(e)], Congress designates the provisions of this section as an emergency requirement.

“(2) The amendments made by subsections (a) and (b) of this section [amending this section] shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.”

[For message of the President dated July 22, 1998, designating the provisions of section 3309(a), (b) of Pub. L. 105-206 as an emergency requirement pursuant to sec-

tion 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 on July 22, 1998, see Cong. Rec., vol. 144, p. H6160, Daily Issue.]

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §301(c), July 30, 1996, 110 Stat. 1457, provided that: “The amendments made by this section [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title III, §302(b), July 30, 1996, 110 Stat. 1458, provided that: “The amendment made by this section [amending this section] shall apply to requests for abatement after the date of the enactment of this Act [July 30, 1996].”

Pub. L. 104-168, title VII, §701(d), July 30, 1996, 110 Stat. 1464, provided that: “The amendments made by this section [amending this section and sections 6656 and 7430 of this title] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(n) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title VI, §6229(b), Nov. 10, 1988, 102 Stat. 3733, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to advice requested on or after January 1, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1563(b), Oct. 22, 1986, 100 Stat. 2762, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

“(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective on Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1212(b), Oct. 4, 1976, 90 Stat. 1712, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to returns filed for taxable years ending after the date of enactment of this Act [Oct. 4, 1976].”

§ 6405. Reports of refunds and credits

(a) By Treasury to Joint Committee

No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to public charities, private foundations, operators’ trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44, in excess of \$2,000,000 (\$5,000,000 in the case of a C corporation) shall be

made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation.

(b) Tentative adjustments

Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of \$2,000,000 (\$5,000,000 in the case of a C corporation), there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary shall determine the correct amount of the tax.

(c) Refunds attributable to certain disaster losses

If any refund or credit of income taxes is attributable to the taxpayer's election under section 165(i) to deduct a disaster loss for the taxable year immediately preceding the taxable year in which the disaster occurred, the Secretary is authorized in his discretion to make the refund or credit, to the extent attributable to such election, without regard to the provisions of subsection (a) of this section. If such refund or credit is made without regard to subsection (a), there shall thereafter be submitted to such Joint Committee a report containing the matter specified in subsection (a) as soon as the Secretary shall determine the correct amount of the tax for the taxable year for which the refund or credit is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 92-418, §2(b), Aug. 29, 1972, 86 Stat. 657; Pub. L. 92-512, title II, §203(a), Oct. 20, 1972, 86 Stat. 944; Pub. L. 94-455, title XII, §1210(a), (b), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1711, 1834; Pub. L. 95-227, §4(d)(3), Feb. 10, 1978, 92 Stat. 23; Pub. L. 98-369, div. A, title VII, §711(c)(3), July 18, 1984, 98 Stat. 946; Pub. L. 99-514, title XVIII, §1879(e), Oct. 22, 1986, 100 Stat. 2906; Pub. L. 101-508, title XI, §§11801(c)(21)(A), 11834(a), Nov. 5, 1990, 104 Stat. 1388-528, 1388-560; Pub. L. 106-554, §1(a)(7) [title III, §305(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634; Pub. L. 113-295, div. A, title III, §301(a), Dec. 19, 2014, 128 Stat. 4055.)

AMENDMENTS

2014—Subsecs. (a), (b). Pub. L. 113-295 inserted “(\$5,000,000 in the case of a C corporation)” after “\$2,000,000”.

2000—Subsecs. (a), (b). Pub. L. 106-554 substituted “\$2,000,000” for “\$1,000,000”.

1990—Subsecs. (a), (b). Pub. L. 101-508, §11834(a) substituted “\$1,000,000” for “\$200,000”.

Subsec. (d). Pub. L. 101-508, §11801(c)(21)(A), struck out subsec. (d) which read as follows: “For purposes of this section, a refund or credit made under subchapter E of chapter 64 (relating to Federal collection of qualified State individual income taxes) for a taxable year shall be treated as a portion of a refund or credit of the income tax for that taxable year.”

1986—Subsecs. (b) to (e). Pub. L. 99-514 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck

out former subsec. (b) which read as follows: “A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.”

1984—Subsec. (d). Pub. L. 98-369 substituted “section 165(i)” for “section 165(h)”.

1978—Subsec. (a). Pub. L. 95-227 inserted provisions relating to applicability to public charities, operators’ trust funds, or real estate investment trusts, and references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94-455, §1210(a), inserted reference to any tax imposed with respect to private foundations and pensions under chapters 42 and 43, substituted \$200,000 for \$100,000 and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §§1210(b), 1906(b)(13)(A), substituted “\$200,000” for “\$100,000” and struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1972—Subsec. (d). Pub. L. 92-418 added subsec. (d).

Subsec. (e). Pub. L. 92-512 added subsec. (e).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title III, §301(b), Dec. 19, 2014, 128 Stat. 4055, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 19, 2014], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §305(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-634, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 21, 2000], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of the enactment under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11834(b), Nov. 5, 1990, 104 Stat. 1388-560, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of enactment under section 6405 of the Internal Revenue Code of 1986.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1210(d)(1), Oct. 4, 1976, 90 Stat. 1711, as amended by Pub. L. 99-514, §2, Oct. 22,

1986, 100 Stat. 2095, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of enactment of this Act [Oct. 4, 1976], except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of enactment of this Act [Oct. 4, 1976] under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].”

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-418, §2(c), Aug. 29, 1972, 86 Stat. 657, provided in part that: “The amendment made by subsection (b) [amending this section] shall apply with respect to refunds or credits made after July 1, 1972.”

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(21)(A) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K 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.

§ 6406. Prohibition of administrative review of decisions

In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or non-allowance by the Secretary of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 6407. Date of allowance of refund or credit

The date on which the Secretary first authorizes the scheduling of an overassessment in respect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 793; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 6408. State escheat laws not to apply

No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law.

(Added Pub. L. 100-203, title X, §10621(a), Dec. 22, 1987, 101 Stat. 1330-452.)

EFFECTIVE DATE

Pub. L. 100-203, title X, §10621(c), Dec. 22, 1987, 101 Stat. 1330-452, provided that: “The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987].”

§ 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs

Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, 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.

(Added Pub. L. 111-312, title VII, §728(a), Dec. 17, 2010, 124 Stat. 3317; amended Pub. L. 112-240, title I, §103(d), Jan. 2, 2013, 126 Stat. 2320.)

AMENDMENTS

2013—Pub. L. 112-240 amended section generally. Prior to amendment, section related to refunds disregarded in the administration of Federal programs and federally assisted programs and provided that the provisions were inapplicable to any amount received after Dec. 31, 2012.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to amounts received after Dec. 31, 2012, see section 103(e)(2) of Pub. L. 112-240, set out as a note under section 24 of this title.

EFFECTIVE DATE

Pub. L. 111-312, title VII, §728(c), Dec. 17, 2010, 124 Stat. 3317, provided that: “The amendments made by this section [enacting this section] shall apply to amounts received after December 31, 2009.”

Subchapter B—Rules of Special Application

Sec.	
6411.	Tentative carryback and refund adjustments.
6412.	Floor stocks refunds.
6413.	Special rules applicable to certain employment taxes.
6414.	Income tax withheld.
6415.	Credits or refunds to persons who collected certain taxes.
6416.	Certain taxes on sales and services.

- Sec.
[6417, 6418. Repealed.]
6419. Excise tax on wagering.
6420. Gasoline used on farms.
6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes.
6422. Cross references.
6423. Conditions to allowance in the case of alcohol and tobacco taxes.
[6424. Repealed.]
6425. Adjustment of overpayment of estimated income tax by corporation.
6426. Credit for alcohol fuel, biodiesel, and alternative fuel mixtures.
6427. Fuels not used for taxable purposes.
[6428, 6429. Repealed.]
6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.
[6431. Repealed.]
6432. COBRA premium assistance.

AMENDMENTS

2017—Pub. L. 115-97, title I, §13404(b), Dec. 22, 2017, 131 Stat. 2138, struck out item 6431 “Credit for qualified bonds allowed to issuer”.

2014—Pub. L. 113-295, div. A, title II, §221(a)(112)(A), (113), Dec. 19, 2014, 128 Stat. 4054, struck out item 6428 “2008 recovery rebates for individuals” and item 6429 “Advance payment of portion of increased child credit for 2003”.

2009—Pub. L. 111-5, div. B, title I, §1531(c)(7), title III, §3001(a)(12)(C), Feb. 17, 2009, 123 Stat. 360, 463, added items 6431 and 6432.

2008—Pub. L. 110-185, title I, §101(f)(3), Feb. 13, 2008, 122 Stat. 617, substituted “2008 recovery rebates for individuals” for “Acceleration of 10 percent income tax rate bracket benefit for 2001” in item 6428.

2005—Pub. L. 109-59, title XI, §1113(b)(3)(B), Aug. 10, 2005, 119 Stat. 1948, substituted “alcohol fuel, biodiesel, and alternative fuel” for “alcohol fuel and biodiesel” in item 6426.

Pub. L. 109-58, title XIII, §1362(b)(3)(B), Aug. 8, 2005, 119 Stat. 1059, added item 6430.

2004—Pub. L. 108-357, title III, §301(c)(14), Oct. 22, 2004, 118 Stat. 1463, added item 6426.

2003—Pub. L. 108-27, title I, §101(b)(2), May 28, 2003, 117 Stat. 754, added item 6429.

2001—Pub. L. 107-16, title I, §101(b)(2), June 7, 2001, 115 Stat. 43, added item 6428.

1990—Pub. L. 101-508, title XI, §11801(b)(15), (c)(22)(B)(ii), Nov. 5, 1990, 104 Stat. 1388-522, 1388-528, struck out item 6418 “Sugar” and item 6428 “1981 rate reduction tax credit”.

1988—Pub. L. 100-418, title I, §1941(b)(3)(E), Aug. 23, 1988, 102 Stat. 1324, struck out items 6429 “Credit and refund of chapter 45 taxes paid by royalty owners” and 6430 “Credit or refund of windfall profit taxes to certain trust beneficiaries”.

1986—Pub. L. 99-514, title XVII, §1703(c)(2)(E), Oct. 22, 1986, 100 Stat. 2777, substituted “, used by local transit systems, or sold for certain exempt purposes” for “or by local transit systems” in item 6421.

1983—Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 97-448, title I, §106(a)(4)(D), Jan. 12, 1983, 96 Stat. 2390, added item 6430.

Pub. L. 97-424, title V, §515(b)(14), Jan. 6, 1983, 96 Stat. 2182, struck out item 6424 “Lubricating oil used for certain nontaxable purposes”.

1982—Pub. L. 97-248, title II, §280(c)(2)(H), Sept. 3, 1982, 96 Stat. 565, struck out item 6426 “Refund of aircraft use tax where plane transports for hire in foreign air commerce”.

Pub. L. 97-248, title III, §§307(a)(13), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, item 6413 is amended by substituting “taxes under subtitle C” for “em-

ployment taxes”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97-34, title I, §101(b)(2)(A), Aug. 13, 1981, 95 Stat. 183, substituted “1981 rate reduction tax credit” for “Refund of 1974 individual income taxes” in item 6428.

1980—Pub. L. 96-499, title XI, §1131(a)(2), Dec. 5, 1980, 94 Stat. 2693, added item 6429.

1978—Pub. L. 95-618, title II, §233(b)(2)(B), Nov. 9, 1978, 92 Stat. 3191, substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles” in item 6424.

Pub. L. 95-600, title V, §504(b)(1)(B), Nov. 6, 1978, 92 Stat. 2881, inserted “and refund” after “carryback” in item 6411.

1976—Pub. L. 94-455, title XIX, §1906(b)(7), Oct. 4, 1976, 90 Stat. 1834, struck out item 6417 “Coconut and palm oil”.

1975—Pub. L. 94-12, title I, §101(c), Mar. 29, 1975, 89 Stat. 28, added item 6428.

1970—Pub. L. 91-258, title II, §§206(d)(4), 207(d)(12), May 21, 1970, 84 Stat. 246, 249, added items 6426 and 6427.
1968—Pub. L. 90-364, title I, §103(e)(9), June 28, 1968, 82 Stat. 264, added item 6425.

1958—Pub. L. 85-323, §2, Feb. 11, 1958, 72 Stat. 10, added item 6423.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(4), 70 Stat. 397, added item 6421 and renumbered former item 6421 as 6422.

Act Apr. 2, 1956, ch. 160, §4(c), 70 Stat. 91, added item 6420 and renumbered former item 6420 as 6421.

§6411. Tentative carryback and refund adjustments

(a) Application for adjustment

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, or by a capital loss carryback provided in subsection (a)(1) or (c) of section 1212, from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a business credit carryback or a net capital loss carryback from a subsequent taxable year, in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused business credit;

(2) The amount of the tax previously determined for the prior taxable year affected by such carryback, the tax previously determined being ascertained in accordance with the method prescribed in section 1314(a);

(3) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in

the manner provided by law to the items on the basis of which such tax was determined;

(4) The unpaid amount of such tax, not including any amount required to be shown under paragraph (5);

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

(6) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

Except for purposes of applying section 6611(f)(4)(B), an application under this subsection shall not constitute a claim for credit or refund.

(b) Allowance of adjustments

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which such carryback results, whichever is the later, the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused business credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused business credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(d) Tentative refund of tax under claim of right adjustment

(1) Application

A taxpayer may file an application for a tentative refund of any amount treated as an

overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

(A) be verified in the same manner as an application under subsection (a),

(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

(C) set forth in such detail and with such supporting data such regulations prescribe—

(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

(iii) the amount determined under section 1341(a)(5)(B),

(iv) the amount of the overpayment determined under section 1341(b)(1); and

(v) such other information as the Secretary may require.

(2) Allowance of adjustments

Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

(A) review the application,

(B) determine the amount of the overpayment, and

(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b).

(3) Consolidated returns

The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.

(Aug. 16, 1954, ch. 736, 68A Stat. 794; Pub. L. 89-721, §2(a)-(e), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90-225, §2(b), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title V, §512(d), Dec. 30, 1969, 83 Stat. 639; Pub. L. 92-178, title VI, §601(e)(1), Dec. 10, 1971, 85 Stat. 560; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2107(g)(1), Oct. 4, 1976, 90 Stat. 1834, 1904; Pub. L. 95-30, title II, §202(d)(5)(A), May 23, 1977, 91 Stat. 150; Pub. L. 95-600, title V, §504(a), (b)(1)(A), Nov. 6, 1978, 92 Stat. 2880, 2881; Pub. L. 96-222, title I, §§103(a)(6)(G)(xiii), 105(a)(2), Apr. 1, 1980, 94 Stat. 211, 218; Pub. L. 97-34, title II, §221(b)(2)(B), title III, §331(d)(2)(B), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 98-369, div. A, title IV, §474(r)(37), title VII, §714(n)(2)(B), July 18, 1984, 98 Stat. 846, 964; Pub. L. 99-514, title II, §231(d)(3)(H), title XVIII, §1847(b)(10), Oct. 22, 1986, 100 Stat. 2180, 2857; Pub. L. 100-647, title I, §1002(h)(2), Nov. 10, 1988, 102 Stat. 3370; Pub. L. 106-554, §1(a)(7) [title III, §318(d)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645; Pub. L. 109-135, title IV, §409(a)(1), Dec. 21, 2005, 119 Stat. 2635.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-135 substituted “6611(f)(4)(B)” for “6611(f)(3)(B)” in concluding provisions.

2000—Subsec. (a). Pub. L. 106-554 substituted “sub-section (a)(1) or (c) of section 1212” for “section 1212(a)(1)” in introductory provisions.

1988—Subsec. (c). Pub. L. 100-647 struck out “unused research credit,” after “net capital loss.”

1986—Subsec. (a). Pub. L. 99-514, § 231(d)(3)(H), in introductory provisions, struck out “by a research credit carryback provided in section 30(g)(2)” after “carryback provided in section 39,” “unused research credit,” after “net capital loss,” “a research credit carryback or” after “with respect to any portion of”, and “(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)” after “such subsequent taxable year”, and in par. (1), struck out “unused research credit,” after “net capital loss.”

Pub. L. 99-514, § 1847(b)(10), substituted “unused research credit, or unused business credit” for “or unused business credit”.

Subsec. (b). Pub. L. 99-514, § 231(d)(3)(H)(iv), struck out “unused research credit,” after “net capital loss,” in two places.

1984—Subsec. (a). Pub. L. 98-369, § 474(r)(37)(A), amended provisions preceding par. (1) generally. Prior to amendment, such provisions read as follows: “A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), by a new employee credit carryback provided in section 53(b), by a research credit carryback provided in section 44F(g)(2) by an employee stock ownership credit carryback provided by section 44G(b)(2), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit, from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback, a work incentive program carryback, a new employee credit carryback, a research credit carryback, or employee stock ownership credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback (or, in the case of a work incentive program carryback, to an investment credit carryback, or, in the case of a new employee credit carryback, to an investment credit carryback or a work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback) from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—”.

Pub. L. 98-369, § 714(n)(2)(B), in provisions following par. (6), substituted “Except for purposes of applying section 6611(f)(3)(B), an application” for “An application”.

Subsec. (a)(1). Pub. L. 98-369, § 474(r)(37)(A), substituted “unused research credit, or unused business credit” for “unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit”.

Subsecs. (b), (c). Pub. L. 98-369, § 474(r)(37)(B), substituted “unused research credit, or unused business

credit” for “unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit” wherever appearing.

1981—Subsec. (a). Pub. L. 97-34, § 331(d)(2)(B), inserted in introductory provisions “by an employee stock ownership credit carryback provided by section 44G(b)(2)” after “section 44F(g)(2),” and substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”, “a research credit carryback, or employee stock ownership credit carryback” for “or a research credit carryback”, and “new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback)” for “new employee credit carryback)” and in par. (1) substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, § 221(b)(2)(B), inserted in introductory provision “by a research credit carryback provided in section 44F(g)(2),” after “section 53(b),” and substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”, “a new employee credit carryback, or a research credit carryback” for “or a new employee credit carryback”, and “work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or new employee credit carryback)” for “work incentive program carryback)” and in par. (1) substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

Subsec. (b). Pub. L. 97-34, § 331(d)(2)(B)(i), substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, § 221(b)(2)(B)(i), substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

Subsec. (c). Pub. L. 97-34, § 331(d)(2)(B)(i), substituted “unused research credit, or unused employee stock ownership credit” for “or unused research credit”.

Pub. L. 97-34, § 221(b)(2)(B)(i), substituted “unused new employee credit, or unused research credit” for “or unused new employee credit”.

1980—Subsec. (a). Pub. L. 96-222, § 103(a)(6)(G)(xiii), substituted “section 53(b)” for “section 53(c)”.

Subsec. (d)(2). Pub. L. 96-222, § 105(a)(2), substituted “the date of the overpayment (determined under section 1341(b)(1))” for “the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs”.

1978—Pub. L. 95-600, § 504(b)(1)(A), inserted “and refund” after “carryback” in section catchline.

Subsec. (d). Pub. L. 95-600, § 504(a), added subsec. (d).

1977—Subsec. (a). Pub. L. 95-30, § 202(d)(5)(A)(i) to (iv), inserted references to unused new employee credits and to new employee credit carrybacks in provisions preceding par. (1) and in par. (1).

Subsecs. (b), (c). Pub. L. 95-30, § 202(d)(5)(A)(i), inserted references to unused new employee credits.

1976—Subsec. (a). Pub. L. 94-455, §§ 1906(b)(13)(A), 2107(g)(1), struck out “or his delegate” after “Secretary” and inserted “(or, in the case of a work incentive program carryback, to an investment credit carryback)” after “capital loss carryback” in second sentence.

Subsecs. (b), (c). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1971—Pub. L. 92-178, § 601(e)(1)(A), substituted “unused investment credit, or unused work incentive program credit” for “or unused investment credit” wherever appearing in subsecs. (a), (a)(1), (b), and (c).

Subsec. (a). Pub. L. 92-178, § 601(e)(1)(B) and (C), inserted “by a work incentive program carryback provided in section 50A(b),” after “section 46(b),” in first

sentence, and “or a work incentive program carryback” after “investment credit carryback” in second sentence, respectively.

1969—Subsec. (a). Pub. L. 91-172, §512(d)(1), (2), provided quick refund procedure, presently available in case of net operating loss carrybacks, to be made available in the case of the 3-year capital loss carryback, and substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit” in par. (1).

Subsec. (b). Pub. L. 91-172, §512(d)(2), substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit” wherever such term appears.

Subsec. (c). Pub. L. 91-172, §512(d)(2), substituted “net operating loss, net capital loss, or unused investment credit” for “net operating loss or unused investment credit”.

1967—Subsec. (a). Pub. L. 90-225 inserted “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)” after “within a period of 12 months from the end of such taxable year”.

1966—Subsec. (a). Pub. L. 89-721, §2(a)–(c), provided in introductory text for a tentative carryback adjustment based on an investment credit carryback as provided for in section 46(b) of this title and inserted “or unused investment credit” after “the taxable year of the net operating loss”, inserted in par. (1) “or unused investment” after “net operating loss”, and struck out in par. (5) “of such loss” and inserted in lieu thereof “from which the carryback is made”.

Subsec. (b). Pub. L. 89-721, §2(d), inserted “or unused investment credit” after “net operating loss” in two places.

Subsec. (c). Pub. L. 89-721, §2(d), (e), inserted “or unused investment credit” after “net operating loss” and “or credit” after “such loss”.

EFFECTIVE DATE OF 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 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title III, §318(d)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 504 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34, amending section 1212 of this title].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 231(d)(3)(H) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(10) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(37) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983,

and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 714(n)(2)(B) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Notwithstanding section 715 of Pub. L. 98-369, amendment by section 714(n)(2)(B) of Pub. L. 98-369 applicable only to applications filed after July 18, 1984, see section 1875(d)(3) of Pub. L. 99-514, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(B) of Pub. L. 97-34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97-34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(B) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title V, §504(c), Nov. 6, 1978, 92 Stat. 2881, provided that: “The amendments made by this section [amending this section and sections 6213 and 6501 of this title] shall apply to tentative refund claims filed on and after the date of the enactment of this Act [Nov. 6, 1978].”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-721, §2(g), Nov. 2, 1966, 80 Stat. 1150, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section and section 6501 of this title] shall apply with respect to taxable years ending after December 31, 1961, but only in the case of applications filed after the date of the enactment of this Act [Nov. 2, 1966]. The period of 12 months referred to in the second sentence of section 6411(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this section) for filing an application for a tentative

carryback adjustment of tax attributable to the carryback of any unused investment credit shall not expire before the close of December 31, 1966.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6412. Floor stocks refunds

(a) In general

(1) Tires and taxable fuel

Where before October 1, 2022, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, 2022, if claim for such credit or refund is filed with the Secretary on or before March 31, 2023, based upon a request submitted to the manufacturer, producer, or importer before January 1, 2023, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, 2023, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to taxable fuel in retail stocks held at the place where intended to be sold at retail, nor with respect to taxable fuel held for sale by a producer or importer of taxable fuel.

(2) Definitions

For purposes of this section—

(A) The term “dealer” includes a wholesaler, jobber, distributor, or retailer.

(B) An article shall be considered as “held by a dealer” if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(b) Limitation on eligibility for credit or refund

No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed under this section.

(c) Other laws applicable

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4071 and 4081 shall, insofar as applicable

and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 795; Mar. 30, 1955, ch. 18, §3(b)(4), 69 Stat. 15; Mar. 29, 1956, ch. 115, §3(b)(4), 70 Stat. 67; May 29, 1956, ch. 342, §19, 70 Stat. 221; June 29, 1956, ch. 462, title II, §208(a), 70 Stat. 392; Pub. L. 85-12, §3(b)(4), Mar. 29, 1957, 71 Stat. 10; Pub. L. 85-475, §3(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, §162(a), Sept. 2, 1958, 72 Stat. 1306; Pub. L. 86-75, §3(b)(3), June 30, 1959, 73 Stat. 158; Pub. L. 86-342, title II, §201(c)(4), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86-564, title II, §202(b)(3), June 30, 1960, 74 Stat. 291; Pub. L. 86-592, §2, July 6, 1960, 74 Stat. 330; Pub. L. 87-15, §2(b), Mar. 31, 1961, 75 Stat. 40; Pub. L. 87-61, title II, §206 (c), (d), June 29, 1961, 75 Stat. 127; Pub. L. 87-72, §3(b)(3), June 30, 1961, 75 Stat. 193; Pub. L. 87-456, title III, §302(d), May 24, 1962, 76 Stat. 77; Pub. L. 87-508, §3(b)(3), June 28, 1962, 76 Stat. 114; Pub. L. 87-535, §18(b), July 13, 1962, 76 Stat. 166; Pub. L. 88-52, §3(b)(1)(C), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(b)(1)(C), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title II, §209(a), (d), June 21, 1965, 79 Stat. 141, 144; Pub. L. 89-368, title II, §201(b), Mar. 15, 1966, 80 Stat. 66; Pub. L. 90-285, §1(a)(2), Apr. 12, 1968, 82 Stat. 92; Pub. L. 90-364, title I, §105(a)(2), June 28, 1968, 82 Stat. 265; Pub. L. 91-172, title VII, §702(a)(2), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91-605, title III, §303(b), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 91-614, title II, §201(a)(2), Dec. 31, 1970, 84 Stat. 1843; Pub. L. 92-178, title IV, §401(g)(5), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94-280, title III, §303(b), May 5, 1976, 90 Stat. 457; Pub. L. 94-455, title XIX, §1906(a)(22), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1834; Pub. L. 95-599, title V, §502(c), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95-618, title II, §231(f)(1), Nov. 9, 1978, 92 Stat. 3189; Pub. L. 97-424, title V, §516(a)(5), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 98-369, div. A, title VII, §735(c)(12), July 18, 1984, 98 Stat. 983; Pub. L. 100-17, title V, §502(d)(1), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101-508, title XI, §11211(f)(1), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(c)(1), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §13242(d)(16), Aug. 10, 1993, 107 Stat. 524; Pub. L. 105-178, title IX, §9002(a)(2)(A), June 9, 1998, 112 Stat. 499; Pub. L. 109-59, title XI, §11101(a)(3), Aug. 10, 2005, 119 Stat. 1944; Pub. L. 112-30, title I, §142(c), Sept. 16, 2011, 125 Stat. 356; Pub. L. 112-102, title IV, §402(c), Mar. 30, 2012, 126 Stat. 282; Pub. L. 112-140, title IV, §402(b), June 29, 2012, 126 Stat. 402; Pub. L. 112-141, div. D, title I, §40102(c), July 6, 2012, 126 Stat. 845; Pub. L. 114-94, div. C, title XXXI, §31102(c), Dec. 4, 2015, 129 Stat. 1727.)

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-94 substituted “October 1, 2022” for “October 1, 2016” in two places and “March 31, 2023” for “March 31, 2017” in two places and substituted “January 1, 2023” for “January 1, 2017”.

2012—Subsec. (a)(1). Pub. L. 112-141 substituted in two places “October 1, 2016” for “July 1, 2012” and “March 31, 2017” for “December 31, 2012” and substituted “January 1, 2017” for “October 1, 2012”.

Pub. L. 112-140, §1(c), 402(b), temporarily substituted in two places “July 7, 2012” for “July 1, 2012” and “January 6, 2013” for “December 31, 2012” and temporarily

substituted “October 7, 2012” for “October 1, 2012”. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 substituted in two places “July 1, 2012” for “April 1, 2012” and “December 31, 2012” for “September 30, 2012” and substituted “October 1, 2012” for “July 1, 2012”.

2011—Subsec. (a)(1). Pub. L. 112-30 substituted in two places “April 1, 2012” for “October 1, 2011” and “September 30, 2012” for “March 31, 2012” and substituted “July 1, 2012” for “January 1, 2012”.

2005—Subsec. (a)(1). Pub. L. 109-59 substituted “2011” for “2005” and “2012” for “2006” wherever appearing.

1998—Subsec. (a)(1). Pub. L. 105-178 substituted “2005” for “1999” and “2006” for “2000” wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103-66 substituted “taxable fuel” for “gasoline” wherever appearing in heading and text.

1991—Subsec. (a)(1). Pub. L. 102-240 substituted “1999” for “1995” and “2000” for “1996” wherever appearing.

1990—Subsec. (a)(1). Pub. L. 101-508 substituted “1995” for “1993” and “1996” for “1994” wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100-17 substituted “1993” for “1988” and “1994” for “1989” wherever appearing.

1984—Subsec. (a)(1). Pub. L. 98-369, § 735(c)(12)(A), (B), substituted “Tires and gasoline” for “Trucks, tires, tubes, tread rubber, and gasoline” in heading, and in text substituted “Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,” for “Where before October 1, 1988, any article subject to the tax imposed by section 4061(a)(1), 4071(a)(1), (3) or (4), or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use),” and struck out provision that no credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).

Subsec. (a)(2)(A). Pub. L. 98-369, § 735(c)(12)(C), substituted “The term ‘dealer’ includes a wholesaler, jobber, distributor, or retailer” for “The term ‘dealer’ includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use”.

Subsec. (c). Pub. L. 98-369, § 735(c)(12)(D), substituted “4071” for “4061, 4071”.

1983—Subsec. (a)(1). Pub. L. 97-424, § 516(a)(5), substituted “1989” for “1985” and “1988” for “1984” wherever appearing.

1978—Subsec. (a)(1). Pub. L. 95-618 struck out “and buses” after “Trucks” in heading.

Pub. L. 95-599 substituted “1984” for “1979” and “1985” for “1980” wherever appearing.

1976—Subsec. (a)(1). Pub. L. 94-455, § 1906(a)(22), (b)(13)(A), redesignated par. (2) as (1) and struck out “or his delegate” after “Secretary”. Prior par. (1) had been repealed by Pub. L. 92-178, title IV, § 401(g)(5), Dec. 10, 1971, 85 Stat. 533.

Subsec. (a)(2). Pub. L. 94-455, § 1906(a)(22), redesignated par. (4) as (2). Former par. (2) redesignated (1).

Pub. L. 94-280 substituted “1979” for “1977” in two places and “1980” for “1978” in three places, respectively.

Subsec. (a)(4). Pub. L. 94-455, § 1906(a)(22), redesignated par. (4) as (2).

1971—Subsec. (a)(1). Pub. L. 92-178 struck out par. (1) which related to general rule for floor stocks refunds on passenger automobiles, etc.

1970—Subsec. (a)(1). Pub. L. 91-614 substituted “January 1 of 1973, 1974, 1978, 1979, 1980, 1981, or 1982” for “January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974”.

Subsec. (a)(2). Pub. L. 91-605 substituted in two places “1977” for “1972” and “March 31, 1978” for “February 10,

1973”, and substituted “January 1, 1978” for “January 1, 1973”.

1969—Subsec. (a)(1). Pub. L. 91-172 struck out reference to Jan. 1, 1970, and inserted reference to Jan. 1, 1974.

1968—Subsec. (a)(1). Pub. L. 90-364 substituted “January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973,” for “May 1, 1968, or January 1, 1969,”.

Pub. L. 90-285 substituted “May 1, 1968” for “April 1, 1968”.

1966—Subsec. (a)(1). Pub. L. 89-368 substituted “January 1, 1966, April 1, 1968, or January 1, 1969,” for “January 1, 1966, 1967, 1968, or 1969,”.

1965—Subsec. (a)(1). Pub. L. 89-44, § 209(a), made floor stock refunds available with respect to passenger cars in dealers’ inventories on the various reduction dates for the passenger car tax and required claims for credit or refund to be filed on or before the 10th day of the 8th calendar month beginning after the date of the tax reduction.

Subsec. (e). Pub. L. 89-44, § 209(d), repealed subsec. (e) which related to cross reference.

1964—Subsec. (a)(1). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964” in two places, “October 1, 1965” for “October 1, 1964”, and “November 10, 1965” for “November 10, 1964” in two places.

1963—Subsec. (a)(1). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963”, in two places, “October 1, 1964” for “October 1, 1963”, and “November 10, 1964” for “November 10, 1963” in two places.

1962—Subsec. (a)(1). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962” in two places, “October 1, 1963” for “October 1, 1962”, and “November 10, 1963” for “November 10, 1962” in two places.

Subsec. (d). Pub. L. 87-456 repealed subsec. (d) which related to floor stock refunds with respect to any sugar or articles composed in chief value of sugar.

Pub. L. 87-535 substituted “June 30, 1967” for “December 31, 1962” after “paid and which, on”, and “September 30, 1967” for “March 31, 1963” after “delegate on or before”.

1961—Subsec. (a)(1). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961” in two places, “October 1, 1962” for “October 1, 1961”, and “November 10, 1962” for “November 10, 1961” in two places.

Subsec. (a)(2). Pub. L. 87-61, § 206(c), inserted tubes in heading, authorized credit or refund for articles subject to the tax imposed by section 4071(a)(3), prohibited credit or refund with respect to inner tubes for bicycle tires, and substituted “October 1, 1972” for “July 1, 1972” in two places, “February 10, 1973” for “November 10, 1972” in two places, and “January 1, 1973” for “October 1, 1972”.

Subsec. (a)(3). Pub. L. 87-61, § 206(d), repealed par. (3) which related to 1961 floor stocks refund on gasoline.

Subsec. (d). Pub. L. 87-15 substituted “December 31, 1962” for “September 30, 1961” after “paid and which, on”, and “March 31, 1963” for “September 30, 1961” after “delegate on or before”.

1960—Subsec. (a)(1). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960” in two places, “October 1, 1961” for “October 1, 1960”, and “November 10, 1961” for “November 10, 1960” in two places.

Subsec. (d). Pub. L. 86-592 substituted “September 30, 1961” for “June 30, 1961” after “and which, on”.

1959—Subsec. (a)(1). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959” in two places, “October 1, 1960” for “October 1, 1959” and “November 10, 1960” for “November 10, 1959” in two places.

Subsec. (a)(3), (4). Pub. L. 86-342 added par. (3) and redesignated former par. (3) as (4).

1958—Subsec. (a)(1). Pub. L. 85-475 substituted “July 1, 1959” for “July 1, 1958” in two places, “October 1, 1959” for “October 1, 1958”, and “November 10, 1959” for “November 10, 1958” in two places.

Subsec. (d). Pub. L. 85-859 required filing of claims for refund on or before Sept. 30, 1961.

1957—Subsec. (a)(1). Pub. L. 85-12, substituted “July 1, 1958” for “April 1, 1957” in two places, “October 1, 1958” for “July 1, 1957”, and “November 10, 1958” for “August 10, 1957” in two places.

1956—Subsec. (a). Act June 29, 1956, in par. (1), substituted “April 1, 1957” for “April 1, 1956” in two places, “section 4061(a)(2)” for “section 4061 (a) or (b)”, and inserted provisions requiring claims for refund to be made on or before August 10, 1957, inserted provisions relating to trucks and buses, tires, tread rubber, and gasoline as par. (2), defined “dealer” in the case of tread rubber subject to tax under section 4071(a)(4) of this title in par. (3), and struck out pars. (4) and (5). Former par. (4), which related to reimbursement of dealers, was covered generally by pars. (1) and (2). Former par. (5) was covered by subsec. (b).

Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956” in two places, and “July 1, 1957” for “July 1, 1956”.

Subsec. (b). Act June 29, 1956, redesignated par. (5) of subsec. (a) as subsec. (b) and substituted “manufacturer, producer, or importer” for “person”, and struck out provisions that required claims for credit or refund to be filed before July 1, 1956. Former subsec. (b) was covered by par. (2) of subsec. (a).

Act Mar. 29, 1956, substituted “April 1, 1957” for “April 1, 1956” in three places, and “July 1, 1957” for “July 1, 1956”.

Subsec. (c). Act June 29, 1956, included taxes imposed by section 4071 of this title.

Subsec. (d). Act May 29, 1956, substituted “1961” for “1957”.

1955—Subsecs. (a), (b). Act Mar. 30, 1955, substituted “April 1, 1956” for “April 1, 1955” and “July 1, 1956” for “July 1, 1955” wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by 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.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by 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.

Amendment by 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.

Amendment by 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

Amendment by 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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 applicable with respect to articles sold after Nov. 9, 1978, see section 231(g) of Pub. L. 95-618, set out as a note under section 4222 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92-178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS

Pub. L. 90-364, title I, §105(c), June 28, 1968, 82 Stat. 266, provided that: “The amendments made by this section [amending this section and sections 4061 and 4251 of this title] shall take effect as of April 30, 1968.”

Pub. L. 90-285, §1(b), Apr. 12, 1968, 82 Stat. 92, provided that: “The amendments made by subsection (a) [amending this section and sections 4061 and 4251 of this title] shall take effect as of March 31, 1968.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-535 effective Jan. 1, 1962, see section 19(a) of Pub. L. 87-535, July 13, 1962, 76 Stat. 167.

Amendment by Pub. L. 87-456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456, title V, May 24, 1962, 76 Stat. 78.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective June 29, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, Sept. 2, 1958, 72 Stat. 1275.

EFFECTIVE DATE OF 1956 AMENDMENTS

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

Amendment by act May 29, 1956, effective as of Jan. 1, 1956, see section 22 of act May 29, 1956, ch. 342, 70 Stat. 221.

FLOOR STOCK REFUNDS

Pub. L. 89-44, title II, §209(b), June 21, 1965, 79 Stat. 142, provided that where any article subject to taxes under section 4111, 4121, 4141, 4151, 4161, 4191 or 4451 of this title before June 21, 1965, or subject to taxes under section 4061(b), 4091(l), or 4131 of this title before Jan. 1, 1966, had been sold by the manufacturer, importer or producer and on such date held by the dealer and not used, there was to be credited or refunded to the manufacturer, importer or producer an amount equal to the difference between the tax paid by him on his sale of the article and the amount of tax made applicable to the article on such date where certain conditions were satisfactorily met.

EXTENSION OF TIME FOR FILING CLAIMS FOR FLOOR STOCKS REFUNDS

Pub. L. 91-642, §1, Dec. 31, 1970, 84 Stat. 1880, provided that if a claim for credit or refund was filed by a manufacturer, importer or producer on or before the 90th day after Dec. 31, 1970, such filing was deemed to have satisfied the requirements of section 209(b)(1)(A) of Pub. L. 89-44 for filing on or before Feb. 10, 1966, or Aug. 10, 1966.

REFUNDS RESPECTING CONSUMER PURCHASES

Pub. L. 89-44, title II, §209(c), June 21, 1965, 79 Stat. 143, provided that if after May 14, 1965, but before June

21, 1965, a new automotive item subject to the tax imposed by section 4061(a)(2) of this title, or a new self-contained air-conditioning unit subject to the tax imposed by section 4111 of this title, had been sold to an ultimate purchaser, there was to be credited or refunded to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the tax made applicable to the article on such date if certain conditions were met.

§ 6413. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Overpayments of certain employment taxes

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is

paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(c) Special refunds

(1) In general

If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a)), or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term "wages" as used in this paragraph shall, for purposes of this paragraph, include "compensation" as defined in section 3231(e).

(2) Applicability in case of Federal and State employees, employees of certain foreign affiliates, and governmental employees in Guam, American Samoa, and the District of Columbia

(A) Federal employees

In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer; and the term "wages" includes for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) State employees

For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the fore-

going; the term “tax” or “tax imposed by section 3101(a)” includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee’s remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) Employees of certain foreign affiliates

For purposes of paragraph (1) of this subsection, the term “wages” includes such remuneration for services covered by an agreement made pursuant to section 3121(l) as would be wages if such services constituted employment; the term “employer” includes any American employer which has entered into an agreement pursuant to section 3121(l); the term “tax” or “tax imposed by section 3101(a),” includes, in the case of services covered by an agreement entered into pursuant to section 3121(l), an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee’s remuneration as a result of the agreement entered into pursuant to section 3121(l) has been paid to the Secretary.

(D) Governmental employees in Guam

In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section 3125(b) shall, for purposes of this subsection, be deemed a separate employer.

(E) Governmental employees in American Samoa

In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section 3125(c) shall, for purposes of this subsection, be deemed a separate employer.

(F) Governmental employees in the District of Columbia

In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125(d) shall, for purposes of this subsection, be deemed a separate employer.

(G) Employees of States and political subdivisions

In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.

(d) Refund or credit of Federal unemployment tax

Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

(Aug. 16, 1954, ch. 736, 68A Stat. 797; Sept. 1, 1954, ch. 1206, title II, §202(a)(1), (b)(1)–(3), 68 Stat. 1089, 1090; Pub. L. 85–840, title IV, §402(d), Aug. 28, 1958, 72 Stat. 1043; Pub. L. 86–778, title I, §103(r)(2)–(4), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89–97, title III, §§317(e), (f), 320(b)(5), (6), July 30, 1965, 79 Stat. 389, 390, 393, 394; Pub. L. 90–248, title I, §108(b)(5), (6), title V, §502(a), Jan. 2, 1968, 81 Stat. 835, 934; Pub. L. 92–5, title II, §203(b)(5), (6), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, §203(b)(5), (6), July 1, 1972, 86 Stat. 419, 420; Pub. L. 92–603, title I, §144(c), Oct. 30, 1972, 86 Stat. 1370; Pub. L. 93–66, title II, §203(b)(5), (6), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, §5(b)(5), (6), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–445, title V, §502, Oct. 16, 1974, 88 Stat. 1360; Pub. L. 94–455, title XIX, §1906(a)(23)(A), (B)(i), (ii), (C), (D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1827, 1834; Pub. L. 97–248, title III, §§302(c), 307(a)(10)–(12), 308(a), Sept. 3, 1982, 96 Stat. 586, 589–591; Pub. L. 98–21, title III, §321(e)(4), Apr. 20, 1983, 97 Stat. 120; Pub. L. 98–67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–272, title XIII, §13205(a)(2)(E), Apr. 7, 1986, 100 Stat. 315; Pub. L. 101–508, title XI, §11331(d)(1), Nov. 5, 1990, 104 Stat. 1388–468; Pub. L. 103–66, title XIII, §13207(d)(1)–(3), Aug. 10, 1993, 107 Stat. 468.)

REFERENCES IN TEXT

Section 230 of the Social Security Act, referred to in subsec. (c)(1), (2)(A), is classified to section 430 of Title 42, The Public Health and Welfare.

Section 218 of the Social Security Act, referred to in subsec. (c)(2)(B), is classified to section 418 of Title 42.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, §13207(d)(1), substituted “section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))” for “section 3101 or section 3201”.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, §13207(d)(2), substituted “section 3101(a)” for “section 3101” wherever appearing.

Subsec. (c)(3). Pub. L. 103–66, §13207(d)(3), struck out heading and text of par. (3). Text read as follows: “In applying this subsection with respect to—

“(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

“(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be sub-

stituted for ‘contribution and benefit base (as determined under section 230 of the Social Security Act)’ each place it appears.”

1990—Subsec. (c)(3). Pub. L. 101-508 substituted heading for one which read: “Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act” and amended text generally. Prior to amendment, text read as follows: “In the case of any individual who, during any calendar year, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.”

1986—Subsec. (a)(5). Pub. L. 99-272, § 13205(a)(2)(E)(i), added par. (5).

Subsec. (c)(2)(D) to (F). Pub. L. 99-272, § 13205(a)(2)(E)(ii)(I), substituted “3125(b)”, “3125(c)”, and “3125(d)” for “3125(a)”, “3125(b)”, and “3125(c)”, respectively, in subpars. (D), (E), and (F), respectively.

Subsec. (c)(2)(G). Pub. L. 99-272, § 13205(a)(2)(E)(ii)(II), added subpar. (G).

1983—Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Subsec. (c)(2). Pub. L. 98-21, § 321(e)(4)(B), substituted “foreign affiliates” for “foreign corporations” in heading.

Subsec. (c)(2)(C). Pub. L. 98-21, § 321(e)(4)(A), substituted “foreign affiliates” for “foreign corporations” in heading and, in text, substituted “American employer” for “domestic corporation”.

1982—Catchline and subsecs. (a)(1), (b), (c)(1). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the section catchline is amended by substituting “taxes under subtitle C” for “employment taxes”; subsec. (a)(1) is amended by substituting “3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,” for “or 3402 is paid with respect to any payment of remuneration,”; subsec. (b) is amended by striking out “of certain employment taxes” from heading, and by substituting “3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount”; and subsec. (c)(1) is amended by substituting “section 31(c)” for “section 31(b)”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (a)(1). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(4). Pub. L. 94-455, § 1906(a)(23)(A), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them”.

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(1). Pub. L. 94-455, § 1906(a)(23)(B)(i), struck out “or his delegate” after “Secretary” and substituted general provision for entitlement to credit or refund of employment taxes deducted from an employee receiving wages from more than one employer during a calendar year and in excess of employment taxes with respect to amount of wages received in the calendar year equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to such calendar year for prior specific provisions for such credit or refund of employment taxes deducted in excess of prescribed amount for base limits and applicable periods set forth below:

<i>Amount</i>	<i>After Calendar Year</i>	<i>Prior to Calendar Year</i>
\$3,600	1950	1955

<i>Amount</i>	<i>After Calendar Year</i>	<i>Prior to Calendar Year</i>
\$4,200	1954	1959
\$4,800	1958	1966
\$6,600	1965	1968
\$7,800	1967	1972
\$9,000	1971	1973
\$10,800	1972	1974
\$13,200	1973	1975

and amount equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to calendar year after calendar year 1974, and thereafter.

Subsec. (c)(2)(A). Pub. L. 94-455, § 1906(a)(23)(B)(ii), substituted “the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year” for “the amount, not to exceed \$3,600 for the calendar year 1951, 1952, 1953, or 1954, \$4,200 for the calendar year 1955, 1956, 1957, or 1958, \$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, \$6,600 for the calendar year 1966 or 1967, \$7,800 for the calendar year 1968, 1969, 1970, or 1971, \$9,000 for the calendar year 1972, \$10,800 for the calendar year 1973, \$13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974” before “with respect to which such contribution and benefit base is effective”.

Subsec. (c)(2)(C). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(2)(F). Pub. L. 94-455, § 1906(a)(23)(C), substituted “Mayor of the District of Columbia and each agent designated by him” for “Commissioners of the District of Columbia and each agent designated by them”.

Subsec. (c)(3). Pub. L. 94-455, § 1906(a)(23)(D), struck out “after 1967” after “calendar year”.

1974—Subsec. (c)(1). Pub. L. 93-445 inserted “or section 3201, or by both such sections” after “section 3101” and inserted provision that for purposes of subsec. (c)(1) the term “wages” include compensation as defined in section 3231(e).

1973—Subsec. (c)(1). Pub. L. 93-233, § 5(b)(5), substituted “\$13,200” for “\$12,600” whenever appearing.

Pub. L. 93-66, § 203(b)(5), substituted “\$12,600” for “\$12,000” wherever appearing.

Subsec. (c)(2)(A). Pub. L. 93-233, § 5(b)(6), substituted “\$13,200” for “\$12,600”.

Pub. L. 93-66, § 203(b)(6), substituted “\$12,600” for “\$12,000”.

1972—Subsec. (c)(1). Pub. L. 92-336, § 203(b)(5), inserted “and prior to the calendar year 1973” after “after the calendar year 1971”, inserted provisions of cls. (F) to (H), and provisions relating to wages received after 1971 and before 1973, after 1972 and before 1974, after 1973 and before 1975, and the calendar year after 1974.

Subsec. (c)(2)(A). Pub. L. 92-336, § 203(b)(6), as amended by Pub. L. 92-603, § 144(c), eff. July 1, 1972, inserted provisions relating to amounts to be included within the term “wages” for the calendar years 1972, 1973, 1974, or any calendar year after 1974.

1971—Subsec. (c)(1). Pub. L. 92-5, § 203(b)(5), inserted “and prior to the calendar year 1972” after “after the calendar year 1967”, “or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed \$9,000,” after “exceed \$7,800,” and inserted before the period at end of subpar. (1) “and before 1972, or which exceeds the tax with respect to the first \$9,000 of such wages received in such calendar year after 1971”.

Subsec. (c)(2)(A). Pub. L. 92-5, § 203(b)(6), substituted “\$7,800 for the calendar year 1968, 1969, 1970, or 1971, or \$9,000 for any calendar year after 1971” for “or \$7,800 for any calendar year after 1967”.

1968—Subsec. (c)(1). Pub. L. 90-248, § 108(b)(5), inserted “and prior to the calendar year 1968” after “the calendar year 1965”, “or (D) during any calendar year after the calendar year 1967, the wages received by him dur-

ing such year exceed \$7,800," after "exceed \$6,600," and "and before 1968, or which exceeds the tax with respect to the first \$7,800 of such wages received in such calendar year after 1967".

Subsec. (c)(2)(A). Pub. L. 90-248, §108(b)(6), substituted "\$6,600 for the calendar year 1966 or 1967, or \$7,800 for any calendar year after 1967" for "or \$6,600 for any calendar year after 1965".

Subsec. (c)(3). Pub. L. 90-248, §502(a), added par. (3).
1965—Subsec. (a)(4). Pub. L. 89-97, §317(e), added par. (4).

Subsec. (c)(1). Pub. L. 89-97, §320(b)(5), inserted "and prior to the calendar year 1966" after "the calendar year 1958", "or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed \$6,600" after "exceed \$4,800," and "and before 1966, or which exceeds the tax with respect to the first \$6,600 of such wages received in such calendar year after 1965" before the period at end of par.

Subsec. (c)(2)(A). Pub. L. 89-97, §320(b)(6), substituted "\$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or \$6,600 for any calendar year after 1965" for "or \$4,800 for any calendar year after 1958".

Subsec. (c)(2)(F). Pub. L. 89-97, §317(f)(1), added subpar. (F) and inserted reference to the District of Columbia in heading.

1960—Subsec. (a)(3). Pub. L. 86-778, §103(r)(2), added par. (3).

Subsec. (c)(2). Pub. L. 86-778, §103(r) (3), (4), inserted governmental employees in Guam and American Samoa in heading, and added subpars. (D) and (E).

1958—Subsec. (c)(1). Pub. L. 85-840, §402(d)(1), conformed the special-refund provisions to the increase made by Pub. L. 85-840, in the limitation on wages from \$4,200 to \$4,800 for calendar years after 1958.

Subsec. (c)(2)(A). Pub. L. 85-840, §402(d)(2), substituted "\$4,200 for the calendar year 1955, 1956, 1957, or 1958, or \$4,800 for any calendar year after 1958" for "\$4,200 for any calendar year after 1954".

1954—Subsec. (c)(1). Act Sept. 1, 1954, §202(a)(1), conformed the special-refund provisions to the increase made by said act Sept. 1, 1954, in the limitation on wages from \$3,600 to \$4,200 for calendar years after 1954.

Subsec. (c)(2). Act Sept. 1, 1954, §202(b)(1), inserted "and employees of certain foreign corporations" in heading.

Subsec. (c)(2)(A). Act Sept. 1, 1954, §202(b)(2), substituted "\$3,600 for the calendar year 1951, 1952, 1953, or 1954, or \$4,200 for any calendar year after 1954" for "\$3,600".

Subsec. (c)(2)(C). Act Sept. 1, 1954, §202(b)(3), added subpar. (C).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to 1994 and later calendar years, see section 13207(e) of Pub. L. 103-66, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to 1991 and later calendar years, see section 11331(e) of Pub. L. 101-508, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99-272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to agreements entered into after Apr. 20, 1983, except that at election of any American employer such amendment shall also apply to any agreement entered into on or before Apr. 20, 1983, see section 321(f) of Pub. L. 98-21, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(23)(A), (C), (D), (b)(13)(A) of Pub. L. 94-455 effective on first day of first

month which begins more than ninety days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(a)(23)(B)(iii), Oct. 4, 1976, 90 Stat. 1826, provided that: "The amendments made by clauses (i) and (ii) [amending this section] shall apply with respect to remuneration paid after December 31, 1976."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, and applicable only with respect to compensation paid for services rendered on or after that date, see section 604 of Pub. L. 93-445, set out as a note under section 3221 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-336, as amended by Pub. L. 92-603, §144(c), applicable only with respect to remuneration paid after Dec. 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to remuneration paid after Dec. 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 108(b)(5), (6) of Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 317(e), (f) of Pub. L. 89-97 applicable with respect to services performed after the quarter ending September 30, 1965, and after the quarter in which the Secretary of the Treasury receives a certification from the Commissioners [now Mayor] of the District of Columbia expressing their desire to have the insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees coming under the provisions of such amendments, see section 317(g) of Pub. L. 89-97, set out as a note under section 410 of Title 42.

Amendment by section 320(b)(5), (6) of Pub. L. 89-97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and em-

employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of Title 42.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 202(d) of act Sept. 1, 1954, set out as a note under section 1401 of this title.

§ 6414. Income tax withheld

In the case of an overpayment of tax imposed by chapter 24, or by chapter 3 or 4, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 111-147, title V, § 501(c)(1), Mar. 18, 2010, 124 Stat. 106.)

AMENDMENTS

2010—Pub. L. 111-147 inserted “or 4” after “chapter 3”.

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.

§ 6415. Credits or refunds to persons who collected certain taxes

(a) Allowance of credits or refunds

Credit or refund of any overpayment of tax imposed by section 4251, 4261, or 4271 may be allowed to the person who collected the tax and paid it to the Secretary if such person establishes, under such regulations as the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund.

(b) Credit on returns

Any person entitled to a refund of tax imposed by section 4251, 4261, or 4271 paid, or collected and paid, to the Secretary by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) Refund of overcollections

In case any person required under section 4251, 4261, or 4271 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) Refund of taxable payment

Any person making a refund of any payment on which tax imposed by section 4251, 4261, or

4271 has been collected may repay therewith the amount of tax collected on such payment.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 85-475, § 4(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, § 163(d)(1), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89-44, title VI, § 601(b), June 21, 1965, 79 Stat. 153; Pub. L. 91-258, title II, § 205(b)(2), May 21, 1970, 84 Stat. 241; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1970—Pub. L. 91-258 inserted reference to section 4271 in four places.

1965—Subsec. (a). Pub. L. 89-44, § 601(b)(1), (2), substituted “section 4251 or 4261” for “sections 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286” and struck out last sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of section 4231.

Subsecs. (b) to (d). Pub. L. 89-44, § 601(b)(1), substituted “section 4251 or 4261” for “section 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286” wherever appearing.

1958—Subsec. (a). Pub. L. 85-859 provided that in the case of any payment outside the United States in respect of which tax is imposed under par. (1), (2), or (3) of section 4231 of this title, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

Subsecs. (a) to (d). Pub. L. 85-475 struck out references to section 4271.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Pub. L. 85-859, § 1(c), Sept. 2, 1958, 72 Stat. 1275, provided in part that: “Except as otherwise provided, the amendments and repeals made by title I of this Act [enacting sections 4057, 4143, 4221 to 4225, and 4294 of this title, amending chapter 34, this section, and sections 4001, 4003, 4031, 4041, 4053, 4111, 4121, 4141, 4142, 4192, 4216 to 4218, 4231 to 4233, 4263, 4291, 4501, 4601, 6011, 6412, 6416, 6420, 6421, 6501, and 6805 of this title, and repealing section 4112 of this title and former sections 4143, 4152, 4220 to 4225, and 4316 of this title] shall take effect on the first day of the first calendar quarter which begins more than 60 days after the date on which this Act is enacted [Sept. 2, 1958].”

Pub. L. 85-475, § 4(c), June 30, 1958, 72 Stat. 261, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) Except as provided in paragraph (2), the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only with respect to amounts paid on or after August 1, 1958.

“(2) In the case of transportation with respect to which the second sentence of section 4281 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies, the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only if the transportation begins on or after August 1, 1958.”

§ 6416. Certain taxes on sales and services**(a) Condition to allowance****(1) General rule**

No credit or refund of any overpayment of tax imposed by chapter 31 (relating to retail excise taxes), or chapter 32 (manufacturers taxes), shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b)(2) of this section—

(i) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or

(ii) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(2) Exceptions

This subsection shall not apply to—

(A) the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and

(B) an overpayment of tax under paragraph (1), (3)(A), (4), (5), or (6) of subsection (b) of this section.

(3) Special rule

For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term “ultimate purchaser” (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.

(4) Registered ultimate vendor or credit card issuer to administer credits and refunds of gasoline tax**(A) In general**

For purposes of this subsection, except as provided in subparagraph (B), if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101.

(B) Credit card issuer

For purposes of this subsection, if the purchase of gasoline 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, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

(i) is registered under section 4101,

(ii) has established, under regulations prescribed by the Secretary, that such person—

(I) has not collected the amount of the tax from the person who purchased such article, or

(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

(iii) has so established that such person—

(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

(III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.

If 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 credit or payment.

(C) Timing of claims

The procedure and timing of any claim under subparagraph (A) or (B) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor or credit card issuer has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor or credit card issuer are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).

(b) Special cases in which tax payments considered overpayments

Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) Price readjustments**(A) In general**

Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to

the purchaser shall be deemed to be an overpayment.

(B) Further manufacture

Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(C) Adjustment of tire price

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) Specified uses and resales

The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

- (A) exported;
- (B) used or sold for use as supplies for vessels or aircraft;
- (C) sold to a State or local government for the exclusive use of a State or local government;
- (D) sold to a nonprofit educational organization for its exclusive use;
- (E) sold to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood;
- (F) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or
- (G) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C), (D), and (E) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), (D), and (E) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4121. Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met. In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply. In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.

(3) Tax-paid articles used for further manufacture, etc.

If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent

manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

(A) in the case of any article other than any fuel taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

- (i) another article taxable under chapter 32, or
- (ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

(4) Tires

If—

(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

- (i) an automobile bus chassis or an automobile bus body,
- (ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, or
- (iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.

(5) Return of certain installment accounts

If—

(A) tax was paid under section 4216(d)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216(d)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

(6) Truck chassis, bodies, and semitrailers used for further manufacture

If—

(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Refund to exporter or shipper

Under regulations prescribed by the Secretary the amount of any tax imposed by chapter 31, or chapter 32 erroneously or illegally collected in respect of any article exported to a foreign country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

(d) Credit on returns

Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return. The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).

(e) Accounting procedures for like articles

Under regulations prescribed by the Secretary, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

- (1) on a first-in-first-out basis,
- (2) on a last-in-first-out basis, or
- (3) in accordance with any other consistent method approved by the Secretary.

(f) Meaning of terms

For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Aug. 11, 1955, ch. 793, § 2, 69 Stat. 676; Aug. 11, 1955, ch. 805, §§ 1(h), (i), 2(b), 69 Stat. 690; Apr. 2, 1956, ch. 160, § 2(b)(1), 70 Stat. 90; June 29, 1956, ch. 462, title II, § 208(b), 70 Stat. 393; Pub. L. 85-475, § 4(b)(5), (6), June 30, 1958, 72 Stat. 260; Pub. L. 85-859, title I, § 163(a), (c), Sept. 2, 1958, 72 Stat. 1306, 1311; Pub. L. 86-342, title II, § 201(d)(1), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86-418, § 3, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86-781, § 2, Sept. 14, 1960, 74 Stat. 1018; Pub. L. 87-61, title II, § 205(c), (d), June 29, 1961, 75 Stat. 126; Pub. L. 87-508, § 5(c)(3), June 28, 1962, 76 Stat. 119; Pub. L. 89-44, title II, § 207(c), title VI, § 601(c), title VIII, § 801(d)(2), June 21, 1965, 79 Stat. 140, 153, 158; Pub. L. 91-258, title II, §§ 205(b)(3), (4), 207(d)(4)-(7), May 21, 1970, 84 Stat. 242, 248, 249; Pub. L. 91-614, title III, § 302(a), (b), Dec. 31, 1970, 84 Stat. 1845; Pub. L. 92-178, title

IV, § 401(a)(3)(C), (g)(6), Dec. 10, 1971, 85 Stat. 531, 534; Pub. L. 94-455, title XIX, §§ 1904(b)(1), (2), 1906(a)(24)(A), (B)(i), (b)(13)(A), title XXI, § 2108(a), Oct. 4, 1976, 90 Stat. 1815, 1827, 1834, 1904; Pub. L. 95-227, § 2(b)(4), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95-618, title II, §§ 201(c)(3), 232(b), 233(c)(3), Nov. 9, 1978, 92 Stat. 3184, 3189, 3192; Pub. L. 96-222, title I, § 108(c)(2)(A), (B), (3), (4), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96-596, § 4(c)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96-598, § 1(a), (b), Dec. 24, 1980, 94 Stat. 3485, 3486; Pub. L. 97-424, title V, §§ 511(g)(2)(A), 512(b)(2)(C), (D), 515(b)(4), Jan. 6, 1983, 96 Stat. 2173, 2177, 2181; Pub. L. 98-369, div. A, title VII, §§ 734(b), (j), 735(c)(13), July 18, 1984, 98 Stat. 978, 980, 984; Pub. L. 99-499, title V, § 521(d)(5), Oct. 17, 1986, 100 Stat. 1780; Pub. L. 100-203, title IX, § 9201(b)(2), title X, § 10502(d)(6)-(8), Dec. 22, 1987, 101 Stat. 1330-330, 1330-444; Pub. L. 100-647, title II, § 2001(d)(1)(B), title VI, § 6102(a), Nov. 10, 1988, 102 Stat. 3594, 3710; Pub. L. 101-508, title XI, § 11212(d)(2), Nov. 5, 1990, 104 Stat. 1388-432; Pub. L. 103-66, title XIII, § 13242(d)(17)-(19), Aug. 10, 1993, 107 Stat. 524; Pub. L. 104-188, title I, § 1702(b)(3), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105-34, title IX, § 905(a), title X, § 1032(e)(6), title XIV, § 1436(b), Aug. 5, 1997, 111 Stat. 874, 935, 1053; Pub. L. 105-206, title VI, § 6023(23), July 22, 1998, 112 Stat. 826; Pub. L. 108-357, title VIII, §§ 853(d)(2)(G)-(I), 865(a), Oct. 22, 2004, 118 Stat. 1613, 1621; ; Pub. L. 109-59, title XI, § 11163(b), Aug. 10, 2005, 119 Stat. 1973; Pub. L. 109-280, title XII, § 1207(e), Aug. 17, 2006, 120 Stat. 1071; Pub. L. 110-172, § 11(d)(1), Dec. 29, 2007, 121 Stat. 2489; Pub. L. 111-152, title I, § 1405(b)(2), Mar. 30, 2010, 124 Stat. 1065.)

CODIFICATION

Section 1207(e) of Pub. L. 109-280, which directed the amendment of section 6416 without specifying the act to be amended, was executed to this section, which is section 6416 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-152 inserted at end of concluding provisions “In the case of the tax imposed by section 4191, subparagraphs (B), (C), (D), and (E) shall not apply.”

2007—Subsec. (a)(4)(C). Pub. L. 110-172 substituted “ultimate vendor or credit card issuer has certified” for “ultimate vendor” and all that follows through “has certified” and substituted “all ultimate purchasers of the vendor or credit card issuer are certified” for “all ultimate purchasers of the vendor” and all that follows through “are certified”. See 2005 Amendment note below.

2006—Subsec. (b)(2). Pub. L. 109-280, § 1207(e)(1)(B), (C), in concluding provisions, substituted “Subparagraphs (C), (D), and (E)” for “Subparagraphs (C) and (D)” and “(B), (C), (D), and (E)” for “(B), (C), and (D)” and inserted at end “In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.” See Codification note above.

Subsec. (b)(2)(E) to (G). Pub. L. 109-280, § 1207(e)(1)(A), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively. See Codification note above.

Subsec. (b)(4)(B)(iii). Pub. L. 109-280, § 1207(e)(2), added cl. (iii). See Codification note above.

2005—Subsec. (a)(4). Pub. L. 109-59, § 11163(b)(1)(E), inserted “or credit card issuer” after “vendor” in heading.

Subsec. (a)(4)(A). Pub. L. 109-59, § 11163(b)(1)(A), inserted “except as provided in subparagraph (B),” after “For purposes of this subsection,”.

Subsec. (a)(4)(B). Pub. L. 109-59, § 11163(b)(1)(B), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(4)(C). Pub. L. 109-59, § 11163(b)(1)(D), which directed the insertion of “or credit card issuer” after “vendor”, was executed by inserting “or credit card issuer” after “vendor” both places it appeared, to reflect the probable intent of Congress.

Pub. L. 109-59, § 11163(b)(1)(B), (C), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)”.

Subsec. (b)(2). Pub. L. 109-59, § 11163(b)(2), inserted at end “Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.”

2004—Subsec. (a)(4). Pub. L. 108-357, § 865(a), amended heading and text of par. (4) generally, substituting provisions relating to administration of credits and refunds of gasoline tax by a registered ultimate vendor for provisions relating to administration of credits and refunds of gasoline tax by wholesale distributors.

Subsec. (b)(2). Pub. L. 108-357, § 853(d)(2)(G), struck out “4091 or” before “4121” in concluding provisions.

Subsec. (b)(3). Pub. L. 108-357, § 853(d)(2)(H), struck out “or 4091” after “4081” in subpars. (A) and (B).

Subsec. (d). Pub. L. 108-357, § 853(d)(2)(I), struck out “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)” before period at end.

1998—Subsec. (b)(5). Pub. L. 105-206 substituted “section 4216(d)(1)” for “section 4216(e)(1)” in subpar. (A) and concluding provisions.

1997—Subsec. (a)(4)(B). Pub. L. 105-34, § 905(a), inserted at end “Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.”

Subsec. (b)(2). Pub. L. 105-34, § 1032(e)(6), inserted “or kerosene” after “diesel fuel” in concluding provisions.

Subsec. (d). Pub. L. 105-34, § 1436(b), inserted before period at end “or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)”.

1996—Subsec. (b)(1)(A). Pub. L. 104-188 substituted “chapter 31 or 32” for “chapter 32 or by section 4051”.

1993—Subsec. (a)(4)(A). Pub. L. 103-66, § 13242(d)(17)(A), substituted “gasoline” for “product” in two places.

Subsec. (a)(4)(B). Pub. L. 103-66, § 13242(d)(17)(B), substituted “section 4093(b)(2)” for “section 4092(b)(2)” and “any gasoline taxable under section 4081” for “aviation fuel” therein” for “any product taxable under section 4081” for “a taxable fuel” therein”.

Subsec. (b)(2). Pub. L. 103-66, § 13242(d)(18), inserted “any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and” after “This paragraph shall not apply in the case of” in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 103-66, § 13242(d)(19)(A), substituted “any fuel taxable under section 4081 or 4091” for “gasoline taxable under section 4081 and other than any fuel taxable under section 4091”.

Subsec. (b)(3)(B). Pub. L. 103-66, § 13242(d)(19)(B), substituted “any fuel taxable under section 4081 or 4091, such fuel” for “gasoline taxable under section 4081 or any fuel taxable under section 4091, such gasoline or fuel”.

1990—Subsec. (d). Pub. L. 101-508 inserted at end “The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).”

1988—Subsec. (a)(4). Pub. L. 100-647, § 6102(a), added par. (4).

Subsec. (b)(2). Pub. L. 100-647, § 2001(d)(1)(B), substituted “(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)” for “(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)”.

1987—Subsec. (b)(2). Pub. L. 100-203, § 10502(d)(6), struck out “(other than coal taxable under section 4121)” after “of any article” in introductory provisions and inserted at end “This paragraph shall not apply in the case of any tax paid under section 4091 or 4121.”

Pub. L. 100-203, § 9201(b)(2), inserted at end “In the case of the tax imposed by section 4131, subparagraphs

(B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe.”

Subsec. (b)(3)(A). Pub. L. 100-203, § 10502(d)(7), inserted “and other than any fuel taxable under section 4091” after “section 4081”.

Subsec. (b)(3)(B). Pub. L. 100-203, § 10502(d)(8), substituted “or any fuel taxable under section 4091, such gasoline or fuel” for “, such gasoline”.

1986—Subsec. (b)(2). Pub. L. 99-499 inserted “or under paragraph (1)(A) or (2)(A) of section 4041(d)” after “section 4041(a)”.

1984—Subsec. (a)(1)(C). Pub. L. 98-369, § 734(b)(2)(B)(iii), struck out “, (b)(3)(C), or (D), or (b)(4)” before “of this section”.

Subsec. (a)(2)(B). Pub. L. 98-369, §§ 734(b)(1)(B), (2)(B)(iv), 735(c)(13)(D), substituted “(4), (5), or (6) of subsection (b)” for “or (B), or (5) of subsection (b)”.

Subsec. (a)(3). Pub. L. 98-369, § 734(b)(2)(B)(v), in amending par. (3) generally, struck out the subpar. (A) designation before “in any case”, substituted a period for “; and” after “determination”, and struck out subpar. (B) which provided that in applying paragraph (1) to any overpayment under paragraph (2)(F), (3)(C), or (4) of subsection (b), the term “ultimate vendor” means the ultimate vendor of the other article.

Subsec. (b)(1)(A). Pub. L. 98-369, § 734(j), inserted “or by section 4051” after “by chapter 32”.

Subsec. (b)(1)(C). Pub. L. 98-369, § 735(c)(13)(A), substituted “subsection (a) or (b) of section 4071” for “section 4071(a)(1) or (2) or section 4071(b)”.

Subsec. (b)(2). Pub. L. 98-369, § 735(c)(13)(B), inserted a period after “section 4064” at end of flush sentence following subpar. (F).

Subsec. (b)(2)(A). Pub. L. 98-369, § 735(c)(13)(F), struck out “(except in any case to which subsection (g) applies)” after “exported”.

Subsec. (b)(2)(E). Pub. L. 98-369, § 735(c)(13)(B), added subpar. (E).

Pub. L. 98-369, § 734(b)(2)(B)(i), struck out former subpar. (E) which related to tires or inner tubes resold for use or tread rubber on recapped or retreaded tires resold for use.

Subsec. (b)(2)(F). Pub. L. 98-369, § 735(c)(13)(B), added subsec. (F) and struck out former subsec. (F) which related to any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a)).

Subsec. (b)(2)(G) to (M). Pub. L. 98-369, § 735(c)(13)(B), struck out subpars. (G) through (M) which related to tread rubber, gasoline, articles used with automobile buses, boxes or containers, light-duty trucks, tires and inner tubes, recapped tires, and tires sold for use in connection with qualified buses.

Subsec. (b)(3). Pub. L. 98-369, § 735(c)(13)(C), struck out provision at end that for purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(3)(A). Pub. L. 98-369, § 735(c)(13)(C), substituted “gasoline taxable under section 4081,” for “an article to which subparagraphs (B), (C), (D), or (E) applies.”.

Subsec. (b)(3)(B). Pub. L. 98-369, § 735(c)(13)(C), substituted “gasoline taxable under section 4081,” for “a part or accessory taxable under section 4061(b)”, substituted “gasoline” for “article”, inserted “for nonfuel purposes,”, and substituted a period for a semicolon after “produced by him”.

Subsec. (b)(3)(C). Pub. L. 98-369, § 734(b)(2)(B)(ii), struck out subpar. (C) which related to tires or inner tubes taxable under section 4071(a) of this title.

Subsec. (b)(3)(D) to (F). Pub. L. 98-369, § 735(c)(13)(C), struck out subpar. (D) which related to tread rubber in respect of which tax was paid under section 4071(a)(4)

used in recapping or retreading of a tire, subpar. (E) which related to bicycle tires or inner tubes used for such a tire, and subpar. (F) which dealt with gasoline taxable under section 4081. See subpar. (B) for similar provisions.

Subsec. (b)(4)(A). Pub. L. 98-369, § 734(b)(2)(A), amended par. (4) generally. Prior to amendment par. (4) provided that if (A) a tire or inner tube taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and (B) such other article is (i) an automobile bus chassis or an automobile bus body, or (ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

Subsec. (b)(6). Pub. L. 98-369, § 734(b)(1)(A), added par. (6).

Subsec. (c). Pub. L. 98-369, § 735(c)(13)(E), redesignated subsec. (e) as (c). Former subsec. (c), which related to credit for tax paid on tires or inner tubes, was struck out.

Subsecs. (d) to (f). Pub. L. 98-369, § 735(c)(13)(E), redesignated subsecs. (f), (h), and (i), as subsecs. (d), (e), and (f), respectively. Former subsec. (d) had been previously repealed and former subsec. (e) was redesignated (c).

Subsec. (g). Pub. L. 98-369, § 735(c)(13)(E), struck out subsec. (g) which related to trucks, buses, tractors, etc.

Subsecs. (h), (i). Pub. L. 98-369, § 735(c)(13)(E), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1983—Subsec. (a)(1). Pub. L. 97-424, § 512(b)(2)(D), substituted “chapter 31 (relating to retail excise taxes)” for “chapter 31 (special fuels)”.

Subsec. (b)(2). Pub. L. 97-424, § 511(g)(2)(A), substituted “paragraph (1)(A) or (2)(A) of section 4041(a)” for “section 4041(a)(1) or (b)(1)” in provision before subpar. (A).

Pub. L. 97-424, § 512(b)(2)(C), inserted “or under section 4051” after “section 4041(a)”.

Pub. L. 97-424, § 515(b)(4), struck out subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

1980—Subsec. (a)(1)(C). Pub. L. 96-598, § 1(b)(2)(B), substituted “(b)(3)(C) or (D)” for “(b)(3)(C)”.

Subsec. (b)(1). Pub. L. 96-596 designated existing provision in part as subpar. (A), and in subpar. (A) as so designated, inserted heading “In general” and substituted “Except as provided in subparagraph (B) or (C), if the price” for “If the price”, designated existing provision in part as subpar. (B), and in subpar. (B) as so designated, inserted heading “Further manufacture” and substituted “Subparagraph (A) shall not” for “The preceding sentence shall not”, and added subpar. (C).

Subsec. (b)(2). Pub. L. 96-222, § 108(c)(3), added subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

Subsec. (b)(2)(E). Pub. L. 96-598, § 1(b)(2)(A), inserted “(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),” after “paragraph (3)”.

Subsec. (b)(2)(G). Pub. L. 96-598, § 1(a), inserted provision making a credit or refund of the tread rubber tax available where the tread rubber is destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process, where the tread rubber is used in the recapping or retreading of a tire if the sales price of the tire is later adjusted because of a warranty or guarantee, in which case the overpayment is to be in proportion to the adjustment in the sales price of such tire, and where the tread rubber is used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or

aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use.

Subsec. (b)(3)(A). Pub. L. 96-598, § 1(b)(2)(C), inserted “(D),” after “(C),”.

Pub. L. 96-222, § 108(c)(4), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(C). Pub. L. 96-222, § 108(c)(2)(A), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(D). Pub. L. 96-598, § 1(b)(1), added subpar. (D).

Subsec. (b)(4)(A). Pub. L. 96-598, § 1(b)(2)(D), substituted “section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,” for “section 4071”.

Subsec. (b)(4)(B). Pub. L. 96-222, § 108(c)(2)(B), inserted reference to automobile bus chassis or an automobile bus body.

1978—Subsec. (b)(2). Pub. L. 95-618 substituted in subpar. (I) “in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus” for “in the case of a bus chassis or body taxable under section 4061(a), sold to any person for use as described in section 4063(a)(6) or 4221(e)(5)” and added subpars. (L) and (M) and provision following subpar. (M).

Pub. L. 95-227 inserted “(other than coal taxable under section 4121)” after “of any article”.

Subsec. (b)(3). Pub. L. 95-227 inserted “(other than coal taxable under section 4121)” after “of any article”.

1976—Subsec. (a)(1). Pub. L. 94-455, §§ 1904(b)(1)(A), 1906(b)(13)(A), substituted “(special fuels)” for “(retailers taxes)”, and struck out “or his delegate” after “Secretary”.

Subsec. (a)(3). Pub. L. 94-455, § 1906(a)(24)(A), (b)(13)(A), redesignated subpars. (C) and (D) as (A) and (B), and as so redesignated, struck out “or his delegate” after “Secretary”, in subpar. (A). Prior subpars. (A) and (B) had been repealed by Pub. L. 89-44, title VI, § 601(c)(6), June 21, 1965, 79 Stat. 153.

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-455, § 1904(b)(2), substituted “section 4216(e)(2) and (3)” for “section 4216(f)(2) and (3)”.

Subsec. (b)(2)(E). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (F) as (E). A prior subpar. (E) had been repealed by Pub. L. 91-614, title III, § 302(b), Dec. 31, 1970, 84 Stat. 1845.

Subsec. (b)(2)(F). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (K) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (L) as (G), and struck out former subpar. (G) respecting consideration as overpayments, tax payments in case of liquids sold for use as fuel in a diesel-powered highway vehicle or as fuel for propulsion of motor vehicles, motorboats, or airplanes and used in other specified ways or resold.

Subsec. (b)(2)(H). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (M) as (H), and struck out former subpar. (H) respecting consideration as overpayments, tax payments in case of liquids used in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation services along regular routes under prescribed conditions.

Subsec. (b)(2)(I). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (R) as (I), and struck out former subpar. (I) respecting consideration as overpayments, tax payments in case of liquids used or resold for use as fuel in diesel-powered highway vehicles, which were not registered in any State or foreign country or were United States owned but not used on the highway.

Subsec. (b)(2)(J). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (S) as (J), and struck out former subpar. (J) respecting consideration as overpayments, tax payments in case of liquids used or resold, other-

wise than as a fuel for propulsion of highway vehicles, which were registered in any State or foreign country or were United States owned and used on the highway.

Subsec. (b)(2)(K). Pub. L. 94-455, § 1906(a)(24)(B)(i), redesignated subpar. (T), added by Pub. L. 94-455, § 2108(a), as (K). Former subpar. (K) redesignated (F).

Subsec. (b)(2)(L), (M). Pub. L. 94-455, § 1906(a)(2)(B)(i), redesignated subpars. (L) and (M) as (G) and (H), respectively.

Subsec. (b)(2)(R), (S). Pub. L. 94-455, § 1906(a)(2)(B)(i), redesignated subpars. (R) and (S) as (I) and (J), respectively.

Subsec. (b)(2)(T). Pub. L. 94-455, § 1906(a)(2)(B)(i), redesignated subpar. (T), added by Pub. L. 94-455, § 2108(a), as (K).

Subsec. (c). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (e). Pub. L. 94-455, § 1904(b)(1)(B), struck out “subchapter E of” before “chapter 31”.

Subsecs. (g), (h). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (b)(2)(R). Pub. L. 92-178, § 401(a)(3)(C)(i), inserted reference to section 4063(a)(6).

Subsec. (b)(2)(S). Pub. L. 92-178, § 401(a)(3)(C)(ii), added subpar. (S).

Subsec. (g). Pub. L. 92-178, § 401(g)(6), substituted “Trucks, buses, tractors, etc.” for “Automobiles, etc.” in heading.

1970—Subsec. (a)(2)(A). Pub. L. 91-258, § 205(b)(3), substituted “section 4041 (relating to tax on special fuels)” for “section 4041(a)(2) or (b)(2) (use of diesel and special motor fuels)”.

Subsec. (b)(2)(E). Pub. L. 91-614, § 302(b), struck out subpar. (E) providing that the tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article is deemed an overpayment if such article was resold by any person to a manufacturer or producer for use by him as provided in subsec. (b)(3)(A), (B), (E) or (F).

Subsec. (b)(2)(G). Pub. L. 91-258, § 207(d)(4), inserted “before July 1, 1970” after “if”.

Subsec. (b)(2)(H). Pub. L. 91-258, § 207(d)(5), inserted “beginning before July 1, 1970,” after “during any calendar quarter”.

Subsec. (b)(2)(I), (J). Pub. L. 91-258, § 207(d)(6), (7), inserted “before July 1, 1970,” after “used or resold for use”.

Subsec. (b)(2)(M). Pub. L. 91-258, § 205(b)(4), substituted “use in the production of special fuels referred to in section 4041” for “use in production of special motor fuels referred to in section 4041(b)”.

Subsec. (b)(3). Pub. L. 91-614, § 302(a)(1)(A), substituted “and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if” for “to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if”.

Subsec. (b)(3)(A) to (C), (E), (F). Pub. L. 91-614, § 302(a)(1)(B), substituted “the subsequent manufacturer” for “the second manufacturer”.

Subsec. (c). Pub. L. 91-614, § 302(a)(2), struck out provision providing that the credit for tax paid on tires or inner tubes is allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32 of this title.

1965—Subsec. (a)(1). Pub. L. 89-44, § 601(c)(1), struck out “section 4231(4), (5), or (6) (cabarets, etc.),” from material preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 89-44, § 601(c)(2), struck out “admission, or service” after “article” each place it appears.

Subsec. (a)(1)(B). Pub. L. 89-44, § 601(c)(3), struck out (i), (ii), and (iii) which dealt specifically with taxes imposed by sections 4041(a)(1) or (b)(1), 4231(4), (5), or (6) (cabarets, etc.), and chapters 31 and 32, and amended

the subpar. to simply require that the person has repaid the amount of the tax to the ultimate purchaser of the article.

Subsec. (a)(1)(C). Pub. L. 89-44, § 601(c)(4), struck out “or (D)” after “(b)(3)(C)”.

Subsec. (a)(1)(D). Pub. L. 89-44, § 601(c)(5), struck out “(1), (ii), or (iii), as the case may be,” after “subparagraph (B)”.

Subsec. (a)(3)(A), (B). Pub. L. 89-44, § 601(c)(6), struck out subpars. (A) and (B).

Subsec. (a)(3)(C). Pub. L. 89-44, § 601(c)(6), struck out “(ii)” after “paragraph (1)(B)”.

Subsec. (a)(3)(D). Pub. L. 89-44, § 601(c)(6), struck out “or (D)” after “paragraph (2)(F), (3)(C)”.

Subsec. (b)(1). Pub. L. 89-44, § 601(c)(7), struck out “31 or” after “imposed by chapter” and “(in the case of a tax imposed by chapter 32)” after “or allowance, including”.

Subsec. (b)(2)(F). Pub. L. 89-44, § 601(c)(8), struck out reference to receiving sets resold for use and struck out reference to subparagraph (D) of paragraph (3).

Subsec. (b)(2)(N) to (Q). Pub. L. 89-44, § 601(c)(9), struck out subpars. (N) to (Q).

Subsec. (b)(2)(R). Pub. L. 89-44, § 801(d)(2), added subpar. (R).

Subsec. (b)(3)(A). Pub. L. 89-44, § 601(c)(10), struck out “(D),” after “subparagraph (B), (C),”.

Subsec. (b)(3)(B). Pub. L. 89-44, § 601(c)(10), struck out references to radio and television components taxable under section 4141 and camera lenses taxable under section 4171.

Subsec. (b)(3)(C). Pub. L. 89-44, § 601(c)(10), struck out reference to automobile radios or television receiving sets taxable under section 4141.

Subsec. (b)(3)(D). Pub. L. 89-44, § 601(c)(10), struck out subpar. (D) which related to radio receiving sets or automobile receiving sets.

Subsec. (b)(4). Pub. L. 89-44, § 601(c)(11), struck out all references to automobile radio or television receiving sets taxable under section 4141.

Subsec. (b)(5). Pub. L. 89-44, §§ 207(c), 601(c)(12), substituted “allocable” for “proportionate” and struck out “4053(b)(1) or” before “4216(e)(1)” wherever appearing.

Subsec. (c). Pub. L. 89-44, § 601(c)(13), struck out references to automobile radio or television receiving sets.

Subsec. (d). Pub. L. 89-44, § 601(c)(14), struck out subsec. (d) which related to mechanical pencils taxable as jewelry.

Subsec. (g). Pub. L. 89-44, § 601(c)(15), substituted “section 4061(a)” for “sections 4061(a), 4111, 4121, 4141.”.

1962—Subsec. (b)(2)(H). Pub. L. 87-508 substituted “commuter fare revenue” for “tax-exempt passenger fare revenue” and struck out “(not including the tax imposed by section 4261, relating to the tax on transportation of persons)” after “total passenger fare revenue”.

1961—Subsec. (b)(2)(E). Pub. L. 87-61, § 205(d), inserted reference to subpar. (F) of par. (3).

Subsec. (b)(3)(F). Pub. L. 87-61, § 205(c), added subpar. (F).

1960—Subsec. (b)(1). Pub. L. 86-781 inserted “including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3),)” after “or allowance,”.

Subsec. (b)(2)(E). Pub. L. 86-418, § 3(a), substituted “subparagraph (A), (B), or (E)” for “subparagraph (A) or (B)”.

Subsec. (b)(3)(A). Pub. L. 86-418, § 3(b)(1), substituted “subparagraph (B), (C), (D), or (E)” for “subparagraph (B), (C), or (D)”.

Subsec. (b)(3)(E). Pub. L. 86-418, § 3(b)(2), added subpar. (E).

1959—Subsec. (b)(2)(H). Pub. L. 86-342, § 201(d)(1)(A), (B), substituted “at the rate of 3 cents or 4 cents a gallon” for “at the rate of 3 cents a gallon”, and “1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon” for “1 cent for each gallon”.

Subsec. (b)(2)(I), (J). Pub. L. 86-342, §201(d)(1)(A), (C), substituted “at the rate of 3 cents a gallon” for “at the rate of 3 cents a gallon”, and “at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate” for “at the rate of 1 cent a gallon”.

1958—Subsec. (a) amended generally by Pub. L. 85-859, §163(a), to make section applicable to taxes imposed by pars. (4) and (5) of section 4231, to permit credit or refund of the cabaret tax where the person has repaid the amount of the tax or has filed a written consent to the allowance of the credit or the making of the refund, and to establish special rules for taxes collected under section 4231(6) from a concessionaire, taxes under chapter 31 paid by a supplier, and defining “ultimate purchaser” and “ultimate vendor”.

Subsec. (a). Pub. L. 85-475, §4(b)(5), struck out reference to section 4281.

Subsec. (b)(1). Pub. L. 85-859, §163(a), made price readjustment provisions inapplicable in the case of an article in respect of which tax was computed under section 4223(b)(2), but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

Subsec. (b)(2) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in respect of any articles which were, by any person, exported, resold to a manufacturer or producer for use by him as provided in subpar. (A) or (B) of par. (3), resold for use, in the case of a tire, inner tube, or receiving set, as provided in subpar. (C) or (D) of par. (3) and the other article referred to in such paragraph is by any person exported or sold as provided in such paragraph, and to eliminate provisions which excluded leaf springs, coils, timers, and tire chains in the case of articles taxable under section 4061(b).

Subsec. (b)(3) amended generally by Pub. L. 85-859, §163(a), to consider as overpayments taxes paid in the case of tires or inner tubes taxable under section 4071 and automobile radio or television receiving sets taxable under section 4141 where the articles are resold in certain particular cases, and taxes paid in the case of radio receiving sets or automobile radio receiving sets which are used by the manufacturer or producer as component parts of any other article manufactured or produced by him, and are exported or sold in certain particular cases, and to provide that for purposes of subpars. (A) and (B) an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(4), (5). Pub. L. 85-859, §163(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 85-859, §163(a), authorized a credit with respect to tires, inner tubes, or automobile radio or television receiving sets which are sold on or in connection with, or with the sale of, another article taxable under chapter 32, and permitted the credit only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

Subsec. (f). Pub. L. 85-475, §4(b)(6), struck out reference to section 4281.

Subsecs. (g) to (i). Pub. L. 85-859, §163(c), added subsecs. (g) to (i).

1956—Subsec. (b)(2)(C). Act Apr. 2, 1956, included liquid used on a farm for farming purposes.

Subsec. (b)(2)(J) to (M). Act June 29, 1956, added subpars. (J) to (M).

1955—Subsec. (b)(2)(G). Act Aug. 11, 1955, ch. 805, §2(b), repealed subpar. (G) relating to credit for communication, detection, and navigation receivers when sold to the United States Government.

Subsec. (b)(2)(I). Act Aug. 11, 1955, ch. 793, added subpar. (I).

Subsec. (b)(3)(A). Act Aug. 11, 1955, ch. 805, §1(h), inserted “and other than an automobile part or accessory

taxable under section 4061(b), a refrigerator component taxable under section 4111, a radio or television component taxable under section 4141, or a camera lens taxable under section 4171” after “section 4141”.

Subsec. (b)(3)(B). Act Aug. 11, 1955, ch. 805, §1(i), substituted provisions allowing a credit for automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under sections 4061(b), 4111, 4141, or 4171, respectively, of this title, for provisions allowing a credit for radio and television components purchased and used by a producer in the manufacture of communication, detection, or navigation receivers in commercial, military, or marine installations if such receivers were sold to the United States.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable to sales after Dec. 31, 2012, see section 1405(c) of Pub. L. 111-152, set out as an Effective Date note under section 4191 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-172, §11(d)(2), Dec. 29, 2007, 121 Stat. 2489, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59] to which they relate.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by 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. 109-59 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 2004 AMENDMENT

Amendment by section 853(d)(2)(G)–(I) 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.

Pub. L. 108-357, title VIII, §865(b), Oct. 22, 2004, 118 Stat. 1621, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2005.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §905(b), Aug. 5, 1997, 111 Stat. 874, provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1032(e)(6) of Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

Pub. L. 105-34, title XIV, §1436(c), Aug. 5, 1997, 111 Stat. 1053, provided that: “The amendments made by this section [amending this section and section 4091 of this title] shall apply to fuel acquired by the producer after September 30, 1997.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective July 1, 1991, see section 11212(f)(1) of Pub. L. 101-508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2001(d)(1)(B) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Superfund Revenue Act of 1986, Pub. L. 99-499, title V, to which it relates, see section 2001(e) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title VI, §6102(b), Nov. 10, 1988, 102 Stat. 3711, provided that: "The amendment made by this section [amending this section] shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9201(b)(2) of Pub. L. 100-203 effective Jan. 1, 1988, see section 9201(d) of Pub. L. 100-203, set out as an Effective Date note under section 4131 of this title.

Amendment by section 10502(d)(6)-(8) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(g)(2)(A) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97-424, set out as a note under section 4041 of this title.

Amendment by section 512(b)(2)(C), (D) of Pub. L. 97-424 effective Apr. 1, 1983, see section 512(b)(3) of Pub. L. 97-424, set out as a note under section 4051 of this title.

Amendment by section 515(b)(4) of Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96-598, set out as a note under section 4071 of this title.

Pub. L. 96-596, §4(c)(2), Dec. 24, 1980, 94 Stat. 3476, provided that: "The amendments made by this subsection [amending this section] shall apply to the adjustments of any tire after December 31, 1982."

Amendment by Pub. L. 96-222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95-618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96-222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(c)(3) of Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

Amendment by section 232(b) of Pub. L. 95-618 applicable to sales on or after day of first calendar month beginning more than 10 days after Nov. 9, 1978, see sec-

tion 232(c) of Pub. L. 95-618, set out as a note under section 4221 of this title.

Amendment by section 233(c)(3) of Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

Amendment by Pub. L. 95-227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L. 95-227, set out as an Effective Date note under section 4121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(1), (2) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94-455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(24)(A), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(a)(24)(B)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: "The repeals made by clause (i) [amending this section] shall apply with respect to the use or resale for use of liquids after December 31, 1976."

Pub. L. 94-455, title XXI, §2108(b), Oct. 4, 1976, 90 Stat. 1904, provided that: "The amendment made by this section [amending this section] shall apply to parts and accessories sold after the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to articles sold on or after day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92-178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1970 AMENDMENTS

Pub. L. 91-614, title III, §302(c), Dec. 31, 1970, 84 Stat. 1845, provided that: "The amendments made by subsections (a) and (b) of this section [amending this section] shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act [Dec. 31, 1970], but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law."

Amendment by Pub. L. 91-258 effective on July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 207(c) of Pub. L. 89-44 effective June 22, 1965, see section 701(a) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

Amendment by section 601(c) of Pub. L. 89-44 to take effect in a manner consistent with effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89-44, set out as a note under section 6103 of this title.

Amendment by section 801(d)(2) applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89-44, set out as a note under section 4216 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: "The amendments made by subsection (c)(3) [amending this section] shall apply only in respect to the use or sale of special fuels made on or after November 16, 1962."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 applicable only in the case of gasoline sold on or after Oct. 1, 1961, see section

208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86-781 applicable with respect to articles sold on or after first day of first calendar quarter beginning more than twenty days after Sept. 14, 1960, see section 3 of Pub. L. 86-781, set out as a note under section 4216 of this title.

Amendment by Pub. L. 86-418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after first day of first month which begins more than 10 days after Apr. 8, 1960, see section 4 of Pub. L. 86-418, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Pub. L. 85-859, title I, §163(b), Sept. 2, 1958, 72 Stat. 1311, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Section 6416(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, shall apply only with respect to articles exported, sold, or resold, as the case may be, on or after the effective date specified in section 1(c) of this Act [set out as a note under section 6415 of this title]."

For effective date of amendment by Pub. L. 85-475, see section 4(c) of Pub. L. 85-475, set out as a note under section 6415 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

Act Apr. 2, 1956, ch. 160, §2(b)(2), 70 Stat. 90, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to liquid sold after December 31, 1955."

EFFECTIVE DATE OF 1955 AMENDMENTS

Act Aug. 11, 1955, ch. 805, §3, 69 Stat. 690, as amended by Oct. 22, 1986, Pub. L. 99-514, §2, 100 Stat. 2095, provided that: "The amendments made by the first section and section 2 of this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]. Notwithstanding the preceding sentence—

"(1) the repeal of section 6416(b)(2)(G) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Aug. 11, 1955], and

"(2) section 6416(b)(3)(B) of the Internal Revenue Code of 1986, as amended by subsection (i) of the first section of this Act [Aug. 11, 1955], shall apply with respect to articles used on or after such first day by the manufacturer or producer as material in the manufacture of, production of, or as a component part of, another article."

Act Aug. 11, 1955, ch. 793, §3, 69 Stat. 676, provided that: "The amendments made by this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first calendar quarter which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]."

OVERPAYMENT OF TAX ON CERTAIN RADIO RECEIVING SETS AND RADIO AND TELEVISION COMPONENTS

Pub. L. 85-859, title I, §163(e), Sept. 2, 1958, 72 Stat. 1312, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If—

"(1) a radio receiving set, an automobile radio receiving set, or a radio or television component was (before any other use) used as a component part of any other article, and

"(2) such other article was (before any other use) by any person exported, or sold to a State or local government for the exclusive use of a State or local government,

then any tax imposed by chapter 32 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provisions of prior revenue law) in respect of such set or component which has been paid shall be deemed to have been an overpayment, by the manufacturer, producer, or importer of such other article, at the time paid. No credit or refund shall be allowed or made under this subsection unless the manufacturer, producer, or importer of such other article establishes to the satisfaction of the Secretary of the Treasury or his delegate that he did not include the amount of the tax in the price of such other article (and has not collected the amount of the tax from the purchaser of such other article), that the amount of the tax has been repaid to the ultimate purchaser of such other article, or that he has obtained the written consent of such ultimate purchaser to the allowance of the credit or the making of the refund. No interest shall be allowed or paid in respect of any such overpayment."

[§ 6417. Repealed. Pub. L. 94-455, title XIX, § 1906(a)(25), Oct. 4, 1976, 90 Stat. 1827]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 801, related to a tax credit or refund to any person who has sold to a State, or a political subdivision thereof, any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under former section 4511, and to a refund to the exporter of the tax paid under former subchapter B of chapter 37.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

[§ 6418. Repealed. Pub. L. 101-508, title XI, § 11801(c)(22)(B)(i), Nov. 5, 1990, 104 Stat. 1388-528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 801; May 29, 1956, ch. 342, §21(b), 70 Stat. 221; May 24, 1962, Pub. L. 87-456, title III, §302(c), 76 Stat. 77; Nov. 8, 1965, Pub. L. 89-331, §9(b), 79 Stat. 1278; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834, authorized refund of taxes paid on sugar used as livestock feed, for distillation or production of alcohol, or in certain cases where sugar was exported.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 6419. Excise tax on wagering

(a) Credit or refund generally

No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or

unless he files with the Secretary written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary, that the provisions of the preceding sentence have been complied with both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) Credit or refund on wagers laid-off by taxpayer

Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary, and no interest shall be allowed with respect to any amount so credited or refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 801; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 6420. Gasoline used on farms

(a) Gasoline

Except as provided in subsection (g), if gasoline is used on a farm for farming purposes, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

- (1) the number of gallons so used, by
- (2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) Time for filing claims; period covered

Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(c) Meaning of terms

For purposes of this section—

(1) Use on a farm for farming purposes

Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situ-

ated in the United States, and (C) for farming purposes.

(2) Farm

The term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) Farming purposes

Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—

- (i) the planting, cultivating, caring for, or cutting of trees, or
- (ii) the preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) Certain farming use other than by owner, etc.

In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.

In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and one or more farms.

(5) Gasoline

The term “gasoline” has the meaning given to such term by section 4083(a).

(d) Exempt sales; other payments or refunds available

No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) Fractional parts of a dollar

Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(g) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsection (a), only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

[(h) Repealed. Pub. L. 103-66, title XIII, § 13241(f)(5), Aug. 10, 1993, 107 Stat. 512]

(i) Cross references

(1) For exemption from tax in case of special fuels used on a farm for farming purposes, see section 4041(f).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(4) For treatment of an Indian tribal government as a State and¹ a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; amended Pub. L. 85-859, title I, §163(d)(2), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89-44, title VIII, §809(a), June 21, 1965, 79 Stat. 165; Pub. L. 91-258, title II, §§205(c)(7), 207(b), May 21, 1970, 84 Stat. 242, 248; Pub. L. 94-455, title XIX, §§1906(a)(26), (b)(6)(A), (13)(A), Oct. 4, 1976, 90 Stat. 1827, 1833, 1834; Pub. L. 95-458, §3(a), (c), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 97-424, title V, §§511(f), 516(b)(4), Jan. 6, 1983, 96 Stat. 2172, 2183; Pub. L. 97-473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99-499, title V, §521(c)(1), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100-17, title V, §502(b)(6), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101-239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §1121(d)(5), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(b)(5), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13241(f)(5), 13242(d)(20), Aug. 10, 1993, 107 Stat. 512, 524; Pub. L. 109-59, title XI, §11121(a), (b), Aug. 10, 2005, 119 Stat. 1951.)

PRIOR PROVISIONS

A prior section 6420 was renumbered section 6422 of this title.

AMENDMENTS

2005—Subsec. (c)(4). Pub. L. 109-59, §11121(b), inserted concluding provisions.

Subsec. (c)(4)(B). Pub. L. 109-59, §11121(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if—

“(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

“(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

1993—Subsec. (c)(5). Pub. L. 103-66, §13242(d)(20), substituted “section 4083(a)” for “section 4082(b)”.

Subsec. (h). Pub. L. 103-66, §13241(f)(5), struck out heading and text of subsec. (h). Text read as follows: “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.”

1991—Subsec. (h). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (h). Pub. L. 101-508 substituted “1995” for “1993”.

1989—Subsec. (e)(2). Pub. L. 101-239 substituted “section 7602(a)” for “section 7602”.

1987—Subsec. (h). Pub. L. 100-17 substituted “1993” for “1988”.

1986—Subsec. (h). Pub. L. 99-499 substituted “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section” for “This section”.

1984—Subsec. (g)(2). Pub. L. 98-369 substituted “section 34” for “section 39”.

1983—Subsec. (c)(4)(B). Pub. L. 97-424, §511(f), substituted provision that, if the person so using the gasoline is an aerial or other applicator of fertilizers or

¹ So in original. Probably should be “(and)”.

other substances and is the ultimate purchaser of the gasoline, and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes, for provision that, if the person so using the gasoline were an aerial applicator who was the ultimate purchaser of the gasoline and the person described in subparagraph (A) waived (at such time and in such form and manner as the Secretary was to prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph would not apply and the aerial applicator would be treated as having used such gasoline on a farm for farming purposes.

Subsec. (h). Pub. L. 97-424, §516(b)(4), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 97-473 purported to add par. (4). See Amendment note below for subsec. (i)(4).

Subsec. (i). Pub. L. 97-424, §516(b)(4), redesignated former subsec. (h) as (i).

Subsec. (i)(4). Pub. L. 97-473 added par. (4). Notwithstanding the directory language that par. (4) be added to subsec. (h), it was added to subsec. (i) to reflect the probable intent of Congress and the intervening redesignation of subsec. (h) as (i) by Pub. L. 97-424.

1978—Subsec. (c)(3)(A). Pub. L. 95-458, §3(c), struck out provision that if the use of gasoline is by any person other than the owner, tenant, or operator of a farm, then in applying subsec. (a) of this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used would be treated as the user or ultimate purchaser of the gasoline or liquid.

Subsec. (c)(4), (5). Pub. L. 95-458, §3(a), added par. (4) and redesignated former par. (4) as (5).

1976—Subsec. (a). Pub. L. 94-455, §1906(a)(26) (C)(ii), (b)(13)(A), substituted “subsection (g)” for “subsection (h)” and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1906(a)(26)(A), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (c)(3)(A). Pub. L. 94-455, §1906(b)(6)(A), among other changes, struck out “and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041),” after “in applying subsection (a) to this subparagraph,” and provision that if the use of gasoline is by any person other than the owner, tenant, or operator of the farm, then, for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used.

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(1). Pub. L. 94-455, §1906(a)(26)(B), substituted “apply in respect” for “apply in in respect”.

Subsecs. (e)(2), (f). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (g). Pub. L. 94-455, §1906(a)(26)(C)(i), (D), redesignated subsec. (h) as (g), struck out in par. (1) “with respect to gasoline used after June 30, 1965,” after “subsection (a)”, and in par. (2) “for gasoline used after June 30, 1965” after “subtitle A”. Former subsec. (g), which provided that this section applies only with respect to gasoline purchased after Dec. 31, 1955, was struck out.

Subsecs. (h), (i). Pub. L. 94-455, §1906(a)(26)(C)(i), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

1970—Subsec. (b)(2)(B). Pub. L. 91-258, §207(b), substituted “a claim for credit or refund of overpayment of income tax” for “an income tax return” after “time prescribed by law for filing”.

Subsec. (i)(1). Pub. L. 91-258, §205(c)(7)(A), (B), substituted “special fuels” for “diesel fuel and special motor fuels” and “section 4041(f)” for “section 4041(d)”, respectively.

1965—Subsec. (a). Pub. L. 89-44, §809(a)(1)(A), substituted “Except as provided in subsection (h), if” for “If”.

Subsec. (b). Pub. L. 89-44, §809(a)(2), designated existing provisions as par. (1) and made it applicable to gasoline used before July 1, 1965, and added par. (2).

Subsec. (d). Pub. L. 89-44, §809(a)(3), substituted “payable” for “paid” in first sentence.

Subsecs. (h), (i). Pub. L. 89-44, §809(a)(1)(B), added subsec. (h) and redesignated former subsec. (h) as (i).

1958—Subsec. (c)(3)(A). Pub. L. 85-859 substituted “section 6416(b)(2)(G)(ii)” for “section 6416(b)(2)(C)(ii)” in two places in cl. (A).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to fuel use or air transportation after Sept. 30, 2005, see section 11121(d) of Pub. L. 109-59, set out as a note under section 4261 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(5) of Pub. L. 103-66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(f) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97-424, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-458, §3(d), Oct. 14, 1978, 92 Stat. 1257, provided that: “The amendments made by this section [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(26), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Pub. L. 94-455, title XIX, §1906(b)(6)(B), Oct. 4, 1976, 90 Stat. 1834, provided that: “The amendments made by subparagraph (A) [amending this section] shall apply with respect to the use of liquids after December 31, 1970.”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, and applicable with respect to taxable years ending after June 30, 1970, respectively, see section 211(a), (b) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §809(f), June 21, 1965, 79 Stat. 168, provided that: “The amendments made by sub-

sections (a) and (b) [amending this section and section 6421 of this title] shall apply with respect to gasoline used on or after July 1, 1965. The amendments made by subsections (c) and (d) [renumbering section 39 as 40, enacting section 39 and amending sections 72, 874, 1314, 1481, 6201, 6211, 6213, and 6401 of this title] shall apply to taxable years beginning on or after July 1, 1965.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, set out as a note under section 6415 of this title.

§ 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes

(a) Nonhighway uses

Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

(b) Intercity, local, or school buses

(1) Allowance

Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

(2) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Exempt purposes

If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4)¹ (5), or (6) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081. The

preceding sentence shall apply notwithstanding paragraphs (2) and (3) of subsection (f). Subsection (a) shall not apply to gasoline to which this subsection applies.

(d) Time for filing claims; period covered

(1) In general

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exception

For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).

(3) Application to sales under subsection (c)

For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose.

(e) Definitions

For purposes of this section—

(1) Gasoline

The term “gasoline” has the meaning given to such term by section 4083(a).

(2) Off-highway business use

(A) In general

The term “off-highway business use” means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Uses in boats

(i) In general

Except as otherwise provided in this subparagraph, the term “off-highway business use” does not include any use in a motorboat.

(ii) Fisheries and whaling

The term “off-highway business use” shall include any use in a vessel employed in the fisheries or in the whaling business.

(C) Uses in mobile machinery

(i) In general

The term “off-highway business use” shall include any use in a vehicle which

¹ So in original. Probably should be followed by a comma.

meets the requirements described in clause (ii).

(ii) Requirements for mobile machinery

The requirements described in this clause are—

- (I) the design-based test, and
- (II) the use-based test.

(iii) Design-based test

For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(iv) Use-based test

For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 7,500 miles during the taxpayer's taxable year. This clause shall be applied without regard to use of the vehicle by any organization which is described in section 501(c) and exempt from tax under section 501(a).

(f) Exempt sales; other payments or refunds available

(1) Gasoline used on farms

This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(2) Gasoline used in aviation

This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in aviation which is not commercial aviation (as defined in section 4083(b)), or

(B) in commercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.

(3) Gasoline used in trains

In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed the rate applicable under section 4041(a)(1)(C)(ii).

(g) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(h) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(i) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsections (a) and (b) only to—

(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under subsection (d)(2).

(3) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(j) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State and² a subdivision of an Indian tribal government as a political subdivision of a State, see section 7871.

(Added June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended July 25, 1956, ch. 725, § 2, 70

² So in original. Probably should be "(and)".

Stat. 644; Pub. L. 85-859, title I, §§163(d)(3), 164(a), Sept. 2, 1958, 72 Stat. 1312; Pub. L. 86-342, title II, §201(d)(2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 87-61, title II, §201(e), June 29, 1961, 75 Stat. 124; Pub. L. 87-508, §5(c)(2), June 28, 1962, 76 Stat. 118; Pub. L. 89-44, title VIII, §809(b), June 21, 1965, 79 Stat. 166; Pub. L. 91-258, title II, §§205(b)(1), (c)(8), 207(b), May 21, 1970, 84 Stat. 241, 242, 248; Pub. L. 91-605, title III, §303(a)(11), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94-280, title III, §303(a)(11), May 5, 1976, 90 Stat. 456; Pub. L. 94-455, title XIX, §1906(a)(27)(A)(i), (B)-(D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1827, 1828, 1834; Pub. L. 95-599, title V, §502(a)(10), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95-618, title II, §§222(a)(1), 233(a)(1), (3)(A), Nov. 9, 1978, 92 Stat. 3186, 3190; Pub. L. 96-222, title I, §108(c)(1), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97-424, title V, §§511(c)(1), (3), 515(b)(7), 516(a)(6), Jan. 6, 1983, 96 Stat. 2170, 2171, 2182, 2183; Pub. L. 97-473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99-499, title V, §521(c)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 99-514, title XVII, §1703(c)(1), (2)(A), (B), (D), Oct. 22, 1986, 100 Stat. 2776, 2777; Pub. L. 100-17, title V, §502(b)(7), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100-203, title X, §10502(d)(9), (10), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 100-647, title I, §1017(c)(6)-(8), (15), title II, §2001(d)(3)(E), (F), Nov. 10, 1988, 102 Stat. 3576, 3577, 3595; Pub. L. 101-239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101-508, title XI, §11211(d)(6), Nov. 5, 1990, 104 Stat. 1388-427; Pub. L. 102-240, title VIII, §8002(b)(6), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103-66, title XIII, §§13163(b), 13241(f)(6), (7), 13242(d)(20), (22)-(24), Aug. 10, 1993, 107 Stat. 454, 512, 524; Pub. L. 104-188, title I, §1609(g)(4)(C), Aug. 20, 1996, 110 Stat. 1843; Pub. L. 105-34, title IX, §902(a), Aug. 5, 1997, 111 Stat. 873; Pub. L. 105-178, title IX, §§9006(b)(1), 9009(b)(3), June 9, 1998, 112 Stat. 506, 507; Pub. L. 105-206, title VI, §§6010(g)(3), 6023(24)(A), (C), July 22, 1998, 112 Stat. 814, 826; Pub. L. 108-357, title II, §241(a)(2)(C), title VIII, §851(d)(1), Oct. 22, 2004, 118 Stat. 1438, 1608; Pub. L. 109-59, title XI, §11151(b)(3), Aug. 10, 2005, 119 Stat. 1968; Pub. L. 109-280, title XII, §1207(b)(3)(B), Aug. 17, 2006, 120 Stat. 1070.)

PRIOR PROVISIONS

A prior section 6421 was renumbered section 6422 of this title.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-280, which directed the substitution of “(5), or (6)” for “or (5)” in section 6421(c), without specifying the act to be amended, was executed by making the substitution in subsec. (c) of this section, which is section 6421 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (f)(2)(A). Pub. L. 109-59, §11151(b)(3)(A), substituted “aviation which is not commercial aviation (as defined in section 4083(b))” for “noncommercial aviation (as defined in section 4041(c)(2))”.

Subsec. (f)(2)(B). Pub. L. 109-59, §11151(b)(3)(B), substituted “commercial aviation” for “aviation which is not noncommercial aviation”.

2004—Subsec. (e)(2)(C). Pub. L. 108-357, §851(d)(1), added subpar. (C).

Subsec. (f)(3)(B). Pub. L. 108-357, §241(a)(2)(C), 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.”

1998—Subsecs. (a), (b)(1). Pub. L. 105-206, §6023(24)(C), substituted “subsection (i)” for “subsection (j)”.

Subsec. (c). Pub. L. 105-206, §6010(g)(3), substituted “(2) and (3)” for “(2)(A) and (3)” and inserted at end “Subsection (a) shall not apply to gasoline to which this subsection applies.”

Subsec. (d)(2). Pub. L. 105-178, §9009(b)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

Subsec. (f)(3)(B)(ii). Pub. L. 105-178, §9006(b)(1)(A), substituted “November 1, 1998” for “October 1, 1999”.

Subsec. (f)(3)(B)(iii). Pub. L. 105-178, §9006(b)(1)(B), substituted “October 31, 1998” for “September 30, 1999”.

Subsecs. (i) to (k). Pub. L. 105-206, §6023(24)(A), redesignated subsecs. (j) and (k) as (i) and (j), respectively. 1997—Subsec. (e)(2)(B)(iii), (iv). Pub. L. 105-34 struck out cls. (iii) and (iv) which read as follows:

“(iii) EXCEPTION FOR DIESEL FUEL.—The term ‘off-highway business use’ shall include the use of diesel fuel in a boat in the active conduct of—

“(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

“(II) except as provided in clause (iv), any other trade or business.

“(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

“(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

“(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999.”

1996—Subsec. (f)(2)(A). Pub. L. 104-188 substituted “4041(c)(2)” for “4041(c)(4)”.

1993—Subsec. (c). Pub. L. 103-66, §13242(d)(22), inserted at end “The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f).”

Subsec. (e)(1). Pub. L. 103-66, §13242(d)(20), substituted “section 4083(a)” for “section 4082(b)”.

Subsec. (e)(2)(B). Pub. L. 103-66, §13163(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘off-highway business use’ does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.”

Subsec. (f)(2)(B). Pub. L. 103-66, §13242(d)(23), inserted before period at end “and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon”.

Subsec. (f)(3). Pub. L. 103-66, §13242(d)(24), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate on gasoline used as a fuel in a train.”

Pub. L. 103-66, §13241(f)(6), inserted “and deficit reduction tax” after “tax” in heading and “and at the deficit reduction rate” after “financing rate” in text.

Subsec. (i). Pub. L. 103-66, §13241(f)(7), struck out heading and text of subsec. (i). Text read as follows:

“Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.”

1991—Subsec. (i). Pub. L. 102-240 substituted “1999” for “1995”.

1990—Subsec. (i). Pub. L. 101-508 substituted “1995” for “1993”.

1989—Subsec. (g)(2). Pub. L. 101-239 substituted “section 7602(a)” for “section 7602”.

1988—Subsec. (a). Pub. L. 100-647, § 2001(d)(3)(F), substituted “paragraph (2) of subsection (f)” for “paragraph (3) of subsection (e)”.

Pub. L. 100-647, § 1017(c)(7), substituted “subsection (j)” for “subsection (i)”.

Subsec. (b)(1). Pub. L. 100-647, § 1017(c)(7), substituted “subsection (j)” for “subsection (i)”.

Subsec. (d)(3). Pub. L. 100-647, § 1017(c)(15), added par. (3).

Subsec. (f)(2). Pub. L. 100-647, § 2001(d)(3)(E), added par. (2) and struck out former par. (2) which read as follows: “This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in non-commercial aviation (as defined in section 4041(c)(4)).”

Subsec. (f)(3). Pub. L. 100-647, § 2001(d)(3)(E), added par. (3).

Subsec. (f)(4). Pub. L. 100-647, § 2001(d)(3)(E), struck out par. (4) which read as follows: “This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business.”

Subsec. (i). Pub. L. 100-647, § 1017(c)(6), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j).

Subsec. (j). Pub. L. 100-647, § 1017(c)(6), (8), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j), and substituted “subsection (d)(2)” for “subsection (c)(2)” in par. (2). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 100-647, § 1017(c)(6), redesignated former subsec. (j) as (k).

1987—Subsec. (e)(2)(C). Pub. L. 100-203, § 10502(d)(9), struck out subpar. (C) which specified section 4221(a)(3) and (d)(3), section 6416(b)(2)(B), and section 4041(g)(1) as provisions exempting from tax, gasoline and special motor fuels used for commercial fishing vessels.

Subsec. (i). Pub. L. 100-17 substituted “1993” for “1988” in the subsec. (h) which was redesignated (i) by section 1703(c) of Pub. L. 99-514.

Subsec. (j). Pub. L. 100-203, § 10502(d)(10), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: “For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.”

1986—Pub. L. 99-514, § 1703(c)(2)(D), substituted “, used by local transit systems, or sold for certain exempt purposes” for “or by local transit systems” in section catchline.

Subsec. (c). Pub. L. 99-514, § 1703(c)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99-514, § 1703(c)(1)(A), (2)(A), redesignated subsec. (c) as (d) and, in par. (1), substituted “not more than claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)” for “and not more than one claim may be filed under subsection (b)”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99-514, § 1703(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(4). Pub. L. 99-499, § 521(c)(2)(B), added par. (4).

Subsec. (f). Pub. L. 99-514, § 1703(c)(1)(A), (2)(B), redesignated subsec. (e) as (f), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) “Exempt sales” which read as follows: “No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount

which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.” Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99-514, § 1703(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99-514, § 1703(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 99-499, § 521(c)(2)(A), substituted “Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section” for “This section”.

Subsec. (i). Pub. L. 99-514, § 1703(c)(1)(A), redesignated subsec. (h), relating to effective date, as (i).

1984—Subsec. (i)(3). Pub. L. 98-369 substituted “section 34” for “section 39”.

1983—Subsec. (a). Pub. L. 97-424, § 511(c)(1), substituted provision that, except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081, for provision that, except as provided in subsection (i), if gasoline were used in a qualified business use, the Secretary would pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax had been paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax had been paid at the rate of 4 cents a gallon.

Subsec. (d)(2). Pub. L. 97-424, § 511(c)(3), substituted “Off-Highway” for “Qualified” in heading, and “off-highway business use” for “qualified business use” wherever appearing in text.

Subsec. (d)(2)(C). Pub. L. 97-424, § 515(b)(7), substituted “and special motor fuels” for “, special motor fuels, and lubricating oil” after “gasoline”.

Subsec. (h). Pub. L. 97-424, § 516(a)(6), substituted “1988” for “1984”.

Subsec. (j)(4). Pub. L. 97-473 added par. (4).

1980—Subsec. (d)(2)(B). Pub. L. 96-222 inserted provisions requiring that the preceding sentence not apply to use in a vessel employed in the fisheries or in the whaling business.

1978—Subsec. (a). Pub. L. 95-618, § 222(a)(1)(A), substituted “Except as provided in subsection (i), if gasoline is used in a qualified business use” for “Except as provided in subsection (i), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a vehicle owned by the United States, is used on the highway”.

Subsec. (b). Pub. L. 95-618, § 233(a)(1), among other changes, provided for the refund or credit of the taxes paid on gasoline but only to the extent such gasoline is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Subsec. (d)(2). Pub. L. 95-618, § 233(a)(3)(A), redesignated par. (3) as (2), and struck out former par. (2) which defined “commuter fare revenue”.

Subsec. (d)(3). Pub. L. 95-618, § 222(a)(1)(B), 233(a)(3)(A), added par. (3) and redesignated former par. (3) as (2).

Subsec. (h). Pub. L. 95-599 substituted “1984” for “1979”.

1976—Subsec. (a). Pub. L. 94-455, § 1906(a)(27)(A)(i), (b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing, and substituted “in the case of gasoline used as a fuel” for “in the case of gasoline used after June 30, 1970, as a fuel”.

Subsec. (b)(1). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, § 1906(a)(27)(B), among other changes, struck out provisions relating to gaso-

line used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (e)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (e)(3). Pub. L. 94-455, §1906(a)(27)(A)(i), struck out "after June 30, 1970," after "used".

Subsecs. (f), (g). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (h). Pub. L. 94-455, §1906(a)(27)(C), struck out "after June 30, 1956, and" after "purchased".

Pub. L. 94-280 substituted "1979" for "1977".

Subsec. (i)(1). Pub. L. 94-455, §1906(a)(27)(D)(i), struck out "with respect to gasoline used after June 30, 1965," after "subsections (a) and (b)".

Subsec. (i)(2). Pub. L. 94-455, §1906(a)(27)(D)(ii), substituted "subsection (c)(2)" for "subsection (c)(3)(B)".

Subsec. (i)(3). Pub. L. 94-455, §1906(a)(27)(D)(iii), struck out "for gasoline used after June 30, 1965" after "subtitle A".

1970—Subsec. (a). Pub. L. 91-258, §205(b)(1)(A), inserted requirement that, except as provided in par. (3) of subsec. (e) of this section, where gasoline is used after June 30, 1970, as a fuel in an aircraft, the Secretary or his delegate pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

Subsec. (c)(3)(A)(ii). Pub. L. 91-258, §207(b), substituted "a claim for credit or refund of overpayment of income tax" for "an income tax return" after "time prescribed by law for filing".

Subsec. (e)(3). Pub. L. 91-258, §205(b)(1)(B), added par. (3).

Subsec. (h). Pub. L. 91-605 substituted "1977" for "1972".

Subsec. (j)(1). Pub. L. 91-258, §205(c)(8), substituted "For rate of tax in case of special fuels used in non-commercial aviation or for nonhighway purposes, see section 4041" for "For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041".

Subsec. (j)(2). Pub. L. 91-258, §205(c)(8), redesignated par. (4) as (2). Former par. (2), which provided "For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J)", was struck out.

Subsec. (j)(3). Pub. L. 91-258, §205(c)(8), redesignated par. (5) as (3). Former par. (3), which provided "For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H)", was struck out.

Subsec. (j)(4), (5). Pub. L. 91-258, §205(c)(8), redesignated pars. (4) and (5) as (2) and (3), respectively.

1965—Subsec. (a). Pub. L. 89-44, §809(b)(1)(A), substituted "Except as provided in subsection (i), if" for "If".

Subsec. (b). Pub. L. 89-44, §809(b)(1)(A), substituted "Except as provided in subsection (i), if" for "If".

Subsec. (c)(1). Pub. L. 89-44, §809(b)(2)(A), struck out "General rule" in heading and inserted in lieu thereof "Gasoline used before July 1, 1965", and substituted "paragraphs (2) and (3)" for "Paragraph (2)" after "Except as provided in".

Subsec. (c)(2). Pub. L. 89-44, §809(b)(2)(B), substituted "Except as provided in paragraph (3), if" for "If".

Subsec. (c)(3). Pub. L. 89-44, §809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89-44, §809(b)(3), substituted "payable" for "paid" in first sentence.

Subsecs. (i), (j). Pub. L. 89-44, §809(b)(1)(B), added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (b)(1)(B), (2). Pub. L. 87-508, §5(c)(2)(A), substituted "commuter fare revenue" for "tax-exempt passenger fare revenue" in two places and struck out "(not including the tax imposed by section 4261, relating to the tax on transportation of persons)" after "total passenger fare revenue" in two places.

Subsec. (d)(2). Pub. L. 87-508, §5(c)(2)(B), substituted definition of "commuter fare revenue" for definition of "tax-exempt passenger fare revenue".

1961—Subsec. (h). Pub. L. 87-61, substituted "October 1, 1972" for "July 1, 1972".

1959—Subsec. (a). Pub. L. 86-342 substituted "1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon" for "1 cent for each gallon of gasoline so used".

Subsec. (b)(1)(A). Pub. L. 86-342 substituted "1 cent at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon" for "1 cent for each gallon of gasoline so used".

1958—Subsec. (c). Pub. L. 85-859, §164(a), permitted, in cases where \$1,000 or more is payable to any person with respect to gasoline used during a calendar quarter, the filing of a claim on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

Subsec. (i)(2), (3). Pub. L. 85-859, §163(d)(3), substituted "section 6416(b)(2)(I) and (J)" for "section 6416(b)(2) (J) and (K)" in cl. (2), and "section 6416(b)(2)(H)" for "section 6416(b)(2)(L)" in cl. (3).

1956—Subsec. (d)(2). Act July 25, 1956, substituted "4263(a)" for "4262(b)".

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by 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. 109-59 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.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 241(a)(2)(C) 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 851(d)(1) 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.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 6023(24)(A), (C) of Pub. L. 105-206 effective July 22, 1998, see section 6023(32) of Pub. L. 105-206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(3) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

Pub. L. 105-178, title IX, §9009(c), June 9, 1998, 112 Stat. 507, provided that: "The amendments made by this section [amending this section and section 6427 of this title] shall take effect on October 1, 1998."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective Jan. 1, 1998, see section 902(c) of Pub. L. 105-34, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104-188, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13163(b) of Pub. L. 103-66 effective Jan. 1, 1994, see section 13163(d) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 1324(f)(6), (7) of Pub. L. 103-66 effective Oct. 1, 1993, see section 1324(g) of Pub. L. 103-66, set out as a note under section 4041 of this title.

Amendment by section 1324(d)(20), (22)–(24) of Pub. L. 103-66 effective Jan. 1, 1994, see section 1324(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(6)–(8), (15) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 2001(d)(3)(E), (F) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Superfund Revenue Act of 1986, Pub. L. 99-499, title V, to which it relates, see section 2001(e) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97-473, see section 204 of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(c)(1), (3) of Pub. L. 97-424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97-424, set out as a note under section 4041 of this title.

Amendment by section 515(b)(7) of Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95-618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96-222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 222(a)(1) of Pub. L. 95-618 applicable with respect to uses after Dec. 31, 1978, see section 222(b) of Pub. L. 95-618, set out as a note under section 4041 of this title.

Amendment by section 233(a)(1), (3)(A) of Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1906(a)(27)(A)(ii), Oct. 4, 1976, 90 Stat. 1827, provided that: “The amendments made by clause (i) [amending this section] shall only apply with respect to gasoline used as a fuel after June 30, 1970.”

Amendment by section 1906(a)(27)(B)–(D), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 205(b)(1), (c)(8) of Pub. L. 91-258 effective July 1, 1970, and amendment by section 207(b) of Pub. L. 91-258 applicable with respect to taxable years ending after June 30, 1970, see section 211(a), (b) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable with respect to gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-508, §5(d), June 28, 1962, 76 Stat. 119, provided in part that: “The amendments made by subsection (c)(2) [amending this section] shall apply only in respect of claims filed with respect to gasoline used on or after November 16, 1962.”

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-61 effective July 1, 1961, see section 208 of Pub. L. 87-61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 163(d)(3) of Pub. L. 85-859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85-859, set out as a note under section 6415 of this title.

Pub. L. 85-859, title I, §164(b), Sept. 2, 1958, 72 Stat. 1312, provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to claims the last day for the filing of which occurs after the effective date specified in section 1(c) of this Act.”

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 25, 1956, applicable to amounts paid on or after first day of first month which begins more than sixty days after July 25, 1956, for transportation commencing on or after such first day, see section 6 of act July 25, 1956, set out as a note under section 4261 of this title.

§ 6422. Cross references

(1) For limitations on credits and refunds, see subchapter B of chapter 66.

(2) For overpayment in case of adjustments to accrued foreign taxes, see section 905(c).

(3) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.

(4) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.

(5) For refund or redemption of stamps, see chapter 69.

(6) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.

(7) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).¹

(8) For restrictions on transfers and assignments of claims against the United States, see section 3727 of title 31, United States Code.

¹ See References in Text note below.

(9) For set-off of claims against amounts due the United States, see section 3728 of title 31, United States Code.

(10) For special provisions relating to alcohol and tobacco taxes, see subtitle E.

(11) for² credit or refund in case of deficiency dividends paid by a regulated investment company or real estate investment trust, see section 860.

(Aug. 16, 1954, ch. 736, 68A Stat. 802, §6420; renumbered §6421, Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; renumbered §6422, June 29, 1956, ch. 462, title II, §208(c), 70 Stat. 394; amended Pub. L. 85-859, title II, §204(4), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 88-36, title II, §201(c), June 4, 1963, 77 Stat. 54; Pub. L. 94-455, title XVI, §1601(f)(1), title XIX, §§1901(b)(36)(B), 1906(a)(28), Oct. 4, 1976, 90 Stat. 1746, 1802, 1828; Pub. L. 95-600, title III, §362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97-248, title IV, §402(c)(4), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97-258, §3(f)(8), (9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101-508, title XI, §11801(c)(17)(A), Nov. 5, 1990, 104 Stat. 1388-527; Pub. L. 105-34, title XI, §1131(c)(3), Aug. 5, 1997, 111 Stat. 980; Pub. L. 114-74, title XI, §1101(f)(2), Nov. 2, 2015, 129 Stat. 637.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in par. (7), is section 9 of act Mar. 8, 1946, ch. 82, 60 Stat. 46, which was repealed by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

2015—Par. (12). Pub. L. 114-74 struck out par. (12) which read as follows: “For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.”

1997—Pars. (5) to (13). Pub. L. 105-34 struck out par. (5) and redesignated pars. (6) to (13) as (5) to (12), respectively. Prior to amendment, par. (5) read as follows: “For abatement or refund of tax on transfers to avoid income tax, see section 1494(b).”

1990—Pub. L. 101-508 struck out par. (6) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (7) to (12), (14), and (15)) by redesignating such pars. as (6) to (13), respectively. Prior to amendment, par. (6) provided a cross reference to section 1481 of this title for overpayment in certain renegotiations of war contracts.

1982—Par. (10). Pub. L. 97-258, §3(f)(8), substituted “section 3727 of title 31, United States Code” for “R.S. 3477 (31 U.S.C. 203)”.

Par. (11). Pub. L. 97-258, §3(f)(9), substituted “section 3728 of title 31, United States Code” for “the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)”.

Par. (15). Pub. L. 97-248 added par. (15).

1978—Par. (14). Pub. L. 95-600 inserted “regulated investment company or” before “real estate investment trust” and substituted “section 860” for “section 859”.

1976—Par. (2). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (3) as (2). Former par. (2), which set forth a cross reference to section 1321 of this title for overpayment arising out of adjustments incident to involuntary liquidation of inventory, was struck out.

Pars. (3) to (8). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (4) to (9) as (3) to (8), respectively.

Par. (9). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(A), redesignated par. (10) as (9) and substituted “(50 U.S.C. App. 1742)” for “(60 Stat. 48; 50 U.S.C. App. 1742)”. Former par. (9) redesignated (8).

Par. (10). Pub. L. 94-455, §1901(b)(36)(B), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Par. (11). Pub. L. 94-455, §§1901(b)(36)(B), 1906(a)(28)(B), redesignated par. (12) as (11) and substituted “(31 U.S.C. 227)” for “(47 Stat. 1516; 31 U.S.C. 227)”. Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 94-455, §1901(b)(36)(B), redesignated pars. (12) and (13) as (11) and (12), respectively.

Par. (14). Pub. L. 94-455, §1601(f)(1), added par. (14).

1963—Pars. (7) to (14). Pub. L. 88-36 redesignated pars. (8) to (14) as (7) to (13), respectively. Former par. (7), which was cross reference provision for abatement or refund in case of tax on silver bullion to section 4894, was struck out.

1958—Pub. L. 85-859 substituted “subtitle E” for “sections 5011, 5044, 5057, 5063, 5705, and 5707” in par. (14).

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)(1) of Pub. L. 94-455, see section 1608(a) of Pub. L. 94-455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(B) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(28) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88-36, title II, June 4, 1963, 77 Stat. 54.

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.

§ 6423. Conditions to allowance in the case of alcohol and tobacco taxes

(a) Conditions

No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of

² So in original. Probably should be capitalized.

any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary)—

(1) that he bore the ultimate burden of the amount claimed; or

(2) that he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) that (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) Filing of claims

No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.

(c) Application of section

This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) any claim for drawback, and

(2) any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed.

(d) Meaning of terms

For purposes of this section—

(1) Alcohol or tobacco tax

The term “alcohol or tobacco tax” means—

(A) any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) in the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) Tax

The term “tax” includes a tax and an excise denominated a “tax”, and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) Ultimate burden

The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a)(1), and the owner referred to in subsection (a)(3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) he has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) no understanding or agreement exists for any such relief or shifting, and

(C) if he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary may require to insure faithful compliance with his agreement.

(Added Pub. L. 85-323, §1, Feb. 11, 1958, 72 Stat. 9; amended Pub. L. 94-455, title XIX, §1906(a)(29), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §1906(a)(29)(A), among other changes, struck out provisions allowing any claimant who has on or before Apr. 30, 1958, filed a claim for any amount to which subsec. (a) applies, may file a superseding claim after Apr. 30, 1958, conforming to the requirements of this section and covering the amount claimed in such prior claim.

Subsec. (c). Pub. L. 94-455, §1906(a)(29)(B), (C), redesignated subsec. (d) as (c) and struck out par. (3) relating to any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957. Former subsec. (c), relating to disallowance of any suit or proceeding which was barred on Apr. 30, 1958, was struck out.

Subsecs. (d), (e). Pub. L. 94-455, §1906(a)(29)(B), (b)(13)(A), redesignated subsec. (e) as (d) and struck out “or his delegate” after “Secretary”. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Pub. L. 85-323, §3, Feb. 11, 1958, 72 Stat. 10, provided that this section shall not apply to any credit or refund allowed or made before May 1, 1958.

[§ 6424. Repealed. Pub. L. 97-424, title V, § 515(b)(5), Jan. 6, 1983, 96 Stat. 2181]

Section, added Pub. L. 89-44, title II, §202(b), June 21, 1965, 79 Stat. 137; amended Pub. L. 91-258, title II, §207(b), May 21, 1970, 84 Stat. 248; Pub. L. 94-455, title XIX, §1906(a)(30), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834; Pub. L. 95-618, title II, §§222(a)(3), 233(b)(1), (2)(A), Nov. 9, 1978, 92 Stat. 3187, 3191; Pub. L. 97-473, title II, §202(b)(13), Jan. 14, 1983, 96 Stat. 2610, had provided for payments by the Secretary of an amount equal to 6 cents for each gallon of lubricating oil used in a qualified business use or in a qualified bus to certain ultimate purchasers of the lubricating oil.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as an Effective Date of 1983 Amendment note under section 34 of this title.

§ 6425. Adjustment of overpayment of estimated income tax by corporation

(a) Application of adjustment

(1) Time for filing

A corporation may, after the close of the taxable year and on or before the 15th day of the fourth month thereafter, and before the day on which it files a return for such taxable

year, file an application for an adjustment of an overpayment by it of estimated income tax for such taxable year. An application under this subsection shall not constitute a claim for credit or refund.

(2) Form of application, etc.

An application under this subsection shall be verified in the manner prescribed by section 6065 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Secretary. The application shall set forth—

(A) the estimated income tax paid by the corporation during the taxable year,

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year,

(C) the amount of the adjustment, and

(D) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) Allowance of adjustment

(1) Limited examination of application

Within a period of 45 days from the date on which an application for an adjustment is filed under subsection (a), the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Secretary may disallow, without further action, any application which he finds contains material omissions or errors which he deems cannot be corrected within such 45 days.

(2) Adjustment credited or refunded

The Secretary, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation and shall refund the remainder to the corporation.

(3) Limitation

No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation on its application as its income tax liability for the taxable year, and (B) \$500.

(4) Effect of adjustment

For purposes of this title (other than section 6655), any adjustment under this section shall be treated as a reduction, in the estimated income tax paid, made on the day the credit is allowed or the refund is paid.

(c) Definitions

For purposes of this section and section 6655(h) (relating to excessive adjustment)—

(1) The term “income tax liability” means the excess of—

(A) the sum of—

(i) the tax imposed by section 11, or subchapter L of chapter 1, whichever is applicable, plus

(ii) the tax imposed by section 59A, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

(2) The amount of an adjustment under this section is equal to the excess of—

(A) the estimated income tax paid by the corporation during the taxable year, over

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year.

(d) Consolidated returns

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(Added Pub. L. 90-364, title I, §103(d)(1), June 28, 1968, 82 Stat. 262; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-499, title V, §516(b)(4)(C), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99-514, title VII, §701(d)(2), Oct. 22, 1986, 100 Stat. 2342; Pub. L. 100-203, title X, §10301(b)(4), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 113-295, div. A, title II, §221(a)(12)(J), Dec. 19, 2014, 128 Stat. 4039; Pub. L. 114-41, title II, §2006(a)(2)(E), July 31, 2015, 129 Stat. 457; Pub. L. 115-97, title I, §§12001(b)(17), 13001(b)(2)(P), 14401(d)(3), Dec. 22, 2017, 131 Stat. 2094, 2097, 2233.)

AMENDMENTS

2017—Subsec. (c)(1)(A). Pub. L. 115-97, §14401(d)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the tax imposed by section 11 or subchapter L of chapter 1, whichever is applicable, over”.

Pub. L. 115-97, §13001(b)(2)(P), struck out “or 1201(a),” after “by section 11”.

Pub. L. 115-97, §12001(b)(17), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The sum of—

“(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

“(ii) the tax imposed by section 55, over”.

2015—Subsec. (a)(1). Pub. L. 114-41 substituted “fourth month” for “third month”.

2014—Subsec. (c)(1)(A). Pub. L. 113-295 inserted “plus” at end of cl. (i), substituted “over” for “plus” at end of cl. (ii), and struck out cl. (iii) which read as follows: “the tax imposed by section 59A, over”.

1987—Subsec. (c). Pub. L. 100-203 substituted “section 6655(h)” for “section 6655(g)”.

1986—Subsec. (c)(1)(A). Pub. L. 99-514 amended subpar. (A) generally, restating existing provisions as cl. (i) and adding cl. (ii).

Pub. L. 99-499 amended subsec. (c)(1)(A), as amended by the Tax Reform Act of 1986 (Pub. L. 99-514), by striking out “plus” at end of cl. (i), substituting “plus” for “over” at end of cl. (ii), and adding cl. (iii).

1976—Subsecs. (a), (b), (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 12001(b)(17) 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.