

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 sub-

section (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 re-

spect 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),

(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, 32, or 6428 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 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),

(O) an omission of any increase required under section 36(f) with respect to the recapture of a credit allowed under section 36, and

(P) 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).

A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.

(h) Cross references

(1) For assessment as if a mathematical error on the return, in the case of erroneous claims for income tax prepayment credits, see section 6201(a)(3).

(2) For assessments without regard to restrictions imposed by this section in the case of—

(A) Recovery of foreign income taxes, see section 905(c).

(B) Recovery of foreign estate tax, see section 2016.

(3) For provisions relating to application of this subchapter in the case of certain partnership items, etc., see section 6230(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 771; Pub. L. 89-44, title VIII, §809(d)(4)(B), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title I, §101(f)(3), (j)(42), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93-406, title II, §1016(a)(11), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XII, §§1204(c)(6), 1206(a)-(c)(1), title XIII, §1307(d)(2)(F)(iii), title XVI, §1605(b)(6), title XIX, §§1906(a)(15), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1703, 1704, 1728, 1755, 1825, 1834; Pub. L. 95-227, §4(d)(1), (2), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95-600, title V, §504(b)(2), Nov. 6, 1978, 92 Stat. 2881; Pub. L. 96-223, title I, §101(f)(1)(D), (E), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96-589, §6(b)(1), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 96-596, §2(a)(4)(C), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 97-248, title IV, §402(c)(2), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98-369, title III, §305(b)(4), title IV, §474(r)(34), July 18, 1984, 98 Stat. 784, 845; Pub. L. 99-514, title XVIII, §1875(d)(2)(B)(i), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100-203, title X, §§10712(c)(1), 10713(b)(2)(D), Dec. 22, 1987, 101 Stat. 1330-467, 1330-470; Pub. L. 100-418, title I, §1941(b)(2)(B)(iv), (v), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1015(r)(3), title VI, §6243(a), Nov. 10, 1988, 102 Stat. 3573, 3749; Pub. L. 101-239, title VII, §7811(k)(1), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 104-168, title XIII, §1311(c)(3), July 30, 1996, 110 Stat. 1478; Pub. L. 104-188, title I, §1615(c), Aug. 20, 1996, 110 Stat. 1853; Pub. L. 104-193, title IV, §451(c), Aug. 22, 1996, 110 Stat. 2277; Pub. L. 105-34, title I, §101(d)(2), title II, §201(b), title X, §1085(a)(3), Aug. 5, 1997, 111 Stat. 799, 803, 956; Pub. L. 105-206, title III, §§3463(b), 3464(a), title VI, §6010(p)(3), July 22, 1998, 112 Stat. 767, 817; Pub. L. 105-277, div. J, title III, §3003(a), (b), Oct. 21, 1998, 112 Stat. 2681-905; 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.)

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

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.

AMENDMENTS

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, §§303(g), 901, temporarily added subpar. (M). See Effective and Termination Dates of 2001 Amendment note below.

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 enjoy 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 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 an Effective Date note under section 36A of this title.

EFFECTIVE AND TERMINATION DATES 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.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 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 before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104-168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1015(r)(3) of Pub. L. 100-647 applicable to notices of deficiencies mailed after Nov. 10, 1988, see section 1015(r)(4) of Pub. L. 100-647, set out as a note under section 6201 of this title.

Section 6243(c) of Pub. L. 100-647 provided that: "The amendments made by this section [amending this section and section 7482 of this title] shall apply to orders entered after the date of the enactment of this Act [Nov. 10, 1988]."

Amendment by Pub. L. 100-418 applicable to crude oil removed from premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(1) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective as if included in the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, see section 1875(d)(2)(C) of Pub. L. 99-514, set out as a note under section 6230 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 305(b)(4) of Pub. L. 98-369 applicable to taxable events occurring after Dec. 31, 1984, see section 305(c) of Pub. L. 98-369, set out as an Effective Date note under section 4962 of this title.

Amendment by section 474(r)(34) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 applicable to tentative refund claims filed on and after Nov. 6, 1978, see section 504(c) of Pub. L. 95-600, set out as a note under section 6411 of this title.

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(6) of Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

Section 1206(d) of Pub. L. 94-455, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and sections 6201 and 6212 of this title] shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) filed after December 31, 1976."

Amendment by section 1307(d)(2)(F)(iii) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94-455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(6) of Pub. L. 94-455, see section 1608(d) of Pub. L. 94-455, set out as a note under section 856 of this title.

Amendment by section 1906(a)(15), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 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 Reve-