

(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

(3) Special rules

If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.

(d) Decisions relating to estate tax extended under section 6166

If with respect to a decedent's estate subject to a decision of the Tax Court—

(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

(2) there is treated as an administrative expense under section 2053 either—

(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(Aug. 16, 1954, ch. 736, 68A Stat. 889; Pub. L. 91-172, title IX, §960(h)(1), Dec. 30, 1969, 83 Stat. 734; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title VI, §§6246(a), (b)(2), 6247(a), (b)(2), Nov. 10, 1988, 102 Stat. 3751, 3752; Pub. L. 105-34, title XIV, §§1452(a), 1454(b)(3), Aug. 5, 1997, 111 Stat. 1054, 1057.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, §1454(b)(3), substituted “section 7436(c) or 7463” for “section 7463”.

Subsec. (c). Pub. L. 105-34, §1452(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Notwithstanding subsection (a), if—

“(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

“(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

“(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.”

1988—Subsec. (a). Pub. L. 100-647, §6247(b)(2), substituted “subsections (b), (c), and (d)” for “subsections (b) and (c)”.

Pub. L. 100-647, §6246(b)(2), substituted “subsections (b) and (c)” for “subsection (b)”.

Subsec. (c). Pub. L. 100-647, §6246(a), added subsec. (c).

Subsec. (d). Pub. L. 100-647, §6247(a), added subsec. (d).

1976—Subsecs. (a)(3)(A), (B)(iii). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Pub. L. 91-172 designated existing provisions as subsec. (a), inserted reference to the exception provided for in subsec. (b), substituted “notice of appeal” for “petition for review” in par. (1), and substituted references to dismissal of appeal for references to dismissal of petition for review in par. (2), and added subsec. (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1452(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1454(b)(3) of Pub. L. 105-34 effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105-34, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6246(a), (b)(2) of Pub. L. 100-647 applicable to assessments of deficiencies redetermined by the Tax Court made after Nov. 10, 1988, see section 6246(c) of Pub. L. 100-647, set out as a note under section 6512 of this title.

Amendment by section 6247(a), (b)(2) of Pub. L. 100-647 effective with respect to Tax Court cases for which the decision is not final on Nov. 10, 1988, see section 6247(c) of Pub. L. 100-647, set out as a note under section 6512 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91-172, set out as a note under section 7483 of this title.

§ 7482. Courts of review

(a) Jurisdiction

(1) In general

The United States Courts of Appeals (other than the United States Court of Appeals for the Federal Circuit) shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of Title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of Title 28 of the United States Code.

(2) Interlocutory orders**(A) In general**

When any judge of the Tax Court includes in an interlocutory order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals may, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of such order. Neither the application for nor the granting of an appeal under this paragraph shall stay proceedings in the Tax Court, unless a stay is ordered by a judge of the Tax Court or by the United States Court of Appeals which has jurisdiction of the appeal or a judge of that court.

(B) Order treated as Tax Court decision

For purposes of subsections (b) and (c), an order described in this paragraph shall be treated as a decision of the Tax Court.

(C) Venue for review of subsequent proceedings

If a United States Court of Appeals permits an appeal to be taken from an order described in subparagraph (A), except as provided in subsection (b)(2), any subsequent review of the decision of the Tax Court in the proceeding shall be made by such Court of Appeals.

(3) Certain orders entered under section 6213(a)

An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court.

(b) Venue**(1) In general**

Except as otherwise provided in paragraphs (2) and (3), such decisions may be reviewed by the United States court of appeals for the circuit in which is located—

(A) in the case of a petitioner seeking redetermination of tax liability other than a corporation, the legal residence of the petitioner,

(B) in the case of a corporation seeking redetermination of tax liability, the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any judicial circuit, then the office to which was made the return of the tax in respect of which the liability arises,

(C) in the case of a person seeking a declaratory decision under section 7476, the principal place of business, or principal office or agency of the employer,

(D) in the case of an organization seeking a declaratory decision under section 7428,

the principal office or agency of the organization,

(E) in the case of a petition under section 6226, 6228(a), 6247, or 6252, the principal place of business of the partnership, or

(F) in the case of a petition under section 6234(c)—

(i) the legal residence of the petitioner if the petitioner is not a corporation, and

(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.

If for any reason no subparagraph of the preceding sentence applies, then such decisions may be reviewed by the Court of Appeals for the District of Columbia. For purposes of this paragraph, the legal residence, principal place of business, or principal office or agency referred to herein shall be determined as of the time the petition seeking redetermination of tax liability was filed with the Tax Court or as of the time the petition seeking a declaratory decision under section 7428 or 7476 or the petition under section 6226, 6228(a), or 6234(c), was filed with the Tax Court.

(2) By agreement

Notwithstanding the provisions of paragraph (1), such decisions may be reviewed by any United States Court of Appeals which may be designated by the Secretary and the taxpayer by stipulation in writing.

(3) Declaratory judgment actions relating to status of certain governmental obligations

In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia.

(c) Powers**(1) To affirm, modify, or reverse**

Upon such review, such courts shall have power to affirm or, if the decision of the Tax Court is not in accordance with law, to modify or to reverse the decision of the Tax Court, with or without remanding the case for a rehearing, as justice may require.

(2) To make rules

Rules for review of decisions of the Tax Court shall be those prescribed by the Supreme Court under section 2072 of title 28 of the United States Code.

(3) To require additional security

Nothing in section 7483 shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

(4) To impose penalties

The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless.

(Aug. 16, 1954, ch. 736, 68A Stat. 890; Pub. L. 89-713, §3(c), Nov. 2, 1966, 80 Stat. 1109; Pub. L.

91-172, title IX, §960(h)(2), Dec. 30, 1969, 83 Stat 735; Pub. L. 93-406, title II, §1041(b)(3), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94-455, title X, §1042(d)(2)(A), (B), title XIII, §1306(b)(4), (5), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1638, 1639, 1719, 1834; Pub. L. 95-600, title III, §336(c)(1), Nov. 6, 1978, 92 Stat. 2842; Pub. L. 97-164, title I, §154, Apr. 2, 1982, 96 Stat. 47; Pub. L. 97-248, title IV, §402(c)(15), Sept. 3, 1982, 96 Stat. 668; Pub. L. 98-369, div. A, title I, §131(e)(2)(A), July 18, 1984, 98 Stat. 665; Pub. L. 99-514, title XV, §1558(a), (b), title XVIII, §§1810(g)(2), 1899A(60), Oct. 22, 1986, 100 Stat. 2757, 2758, 2828, 2962; Pub. L. 100-647, title VI, §6243(b), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 101-239, title VII, §7731(b), Dec. 19, 1989, 103 Stat. 2401; Pub. L. 105-34, title XII, §1222(b)(3), 1239(d), Aug. 5, 1997, 111 Stat. 1019, 1028.)

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105-34, §1239(d)(2), substituted “, 6228(a), or 6234(c)” for “or 6228(a)” in concluding provisions.

Subsec. (b)(1)(E). Pub. L. 105-34, §1222(b)(3), substituted “, 6228(a), 6247, or 6252” for “or 6228(a)”.

Subsec. (b)(1)(F). Pub. L. 105-34, §1239(d)(1), added subpar. (F).

1989—Subsec. (c)(4). Pub. L. 101-239 substituted “penalties” for “damages” in heading and amended text generally. Prior to amendment, text read as follows: “The United States Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the Tax Court is affirmed and it appears that the notice of appeal was filed merely for delay.”

1988—Subsec. (a)(3). Pub. L. 100-647 added par. (3).

1986—Subsec. (a). Pub. L. 99-514, §1558(a), (b), inserted par. (1) designation and heading “In general” before existing text and realigned its margin, and added par. (2).

Subsec. (b)(1). Pub. L. 99-514, §1810(g)(2), substituted “section 7428 or 7476” for “section 7428, 7476, or 7477” in last sentence.

Subsec. (b)(1)(E). Pub. L. 99-514, §1899A(60), substituted “partnership.” for “partnership.”

1984—Subsec. (b)(1)(D) to (F). Pub. L. 98-369 struck out subpar. (D) which provided that venue in the case of a person seeking declaratory judgment under section 7477 be the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation, and redesignated subpars. (E) and (F) as (D) and (E), respectively.

1982—Subsec. (a). Pub. L. 97-164 inserted “(other than the United States Court of Appeals for the Federal Circuit)” after “The United States Courts of Appeals”.

Subsec. (b)(1). Pub. L. 97-248 added subpar. (F), and in provisions following subpar. (F) inserted “, or the petition under section 6226 or 6228(a),” after “or 7477”.

1978—Subsec. (b)(1). Pub. L. 95-600, §336(c)(1)(A), substituted “provided in paragraphs (2) and (3)” for “provided in paragraph (2)”.

Subsec. (b)(3). Pub. L. 95-600, §336(c)(1)(B), added par. (3).

1976—Subsec. (b)(1)(D). Pub. L. 94-455, §1042(d)(2)(A), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 94-455, §1306(b)(4), added subpar. (E).

Subsec. (b)(1). Pub. L. 94-455, §§1042(d)(2)(B), 1306(b)(5), in provisions following subpar. (E), substituted “no subparagraph of the preceding sentence applies” for “subparagraph (A), (B), and (C) do not apply” and “section 7428, 7476, or 7477” for “section 7476”.

Subsec. (b)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1974—Subsec. (b)(1). Pub. L. 93-406 added subpar. (C) and, in provisions following subpar. (C), substituted “If for any reason subparagraph (A), (B), and (C) do not

apply” for “If for any reason neither subparagraph (A) nor (B) applies”, and inserted provisions referring to the time the petition seeking a declaratory decision under section 7476 was filed with the Tax Court.

1969—Subsec. (c). Pub. L. 91-172 substituted “section 2072 of title 28” for “section 2074 of title 28” in par. (2) and struck out provision for the applicability of rules adopted under authority of section 1141(c)(2) of the Internal Revenue Act of 1939 until such time as rules prescribed by the Supreme Court under section 2072 of title 28 become effective and, in par. (4), substituted “notice of appeal” for “petition”.

1966—Subsec. (b)(1). Pub. L. 89-713 substituted provisions requiring that appeals from Tax Court decisions be made to the Court of Appeals for the circuit in which the taxpayer resides, in the case of a taxpayer other than a corporation, and, in the case of appeals by corporations, to the Court of Appeals for the circuit in which the corporation has its principal place of business or principal office or agency for provisions prescribing review by the Court of Appeals for the circuit in which was located the office to which was made the return of the tax in respect of which the liability arose, and inserted provision for the time of determining legal residence, place of business, or principal office or agency.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(3) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(d) of Pub. L. 105-34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105-34, set out as a note under section 6225 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to positions taken after Dec. 31, 1989, in proceedings which are pending on, or commenced after such date, see section 7731(d) of Pub. L. 101-239, set out as a note under section 6673 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to orders entered after Nov. 10, 1988, see section 6243(c) of Pub. L. 100-647, set out as a note under section 6213 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1558(c) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section] shall apply to any order of the Tax Court entered after the date of the enactment of this Act [Oct. 22, 1986].”

Amendment by section 1810(g)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98-369, set out as a note under section 367 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the

Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as an Effective Date note under section 6221 of this title.

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95-600, set out as an Effective Date note under section 7478 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1042(d)(2)(A), (B) of Pub. L. 94-455 applicable with respect to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94-455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(4), (5) of Pub. L. 94-455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94-455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93-406, set out as an Effective Date note under section 7476 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91-172, set out as a note under section 7483 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 applicable to all decisions of the Tax Court entered after Nov. 2, 1966, see section 3(d) of Pub. L. 89-713, set out as a note under section 7422 of this title.

§ 7483. Notice of appeal

Review of a decision of the Tax Court shall be obtained by filing a notice of appeal with the clerk of the Tax Court within 90 days after the decision of the Tax Court is entered. If a timely notice of appeal is filed by one party, any other party may take an appeal by filing a notice of appeal within 120 days after the decision of the Tax Court is entered.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91-172, title IX, § 959(a), Dec. 30, 1969, 83 Stat. 734.)

AMENDMENTS

1969—Pub. L. 91-172 substituted references to notice of appeal for references to petition for review, and otherwise generally altered the section as to time for appeal and terminology in order to conform section to the form of the Federal Rules of Appellate Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 962(f) of Pub. L. 91-172, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by sections 959 and 960(h) [amending this section and sections 7481, 7482, and 7485 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 30, 1969]. In the case of any decision of the Tax Court entered before the 30th

day after the date of the enactment of this Act [Dec. 30, 1969], the United States Courts of Appeals shall have jurisdiction to hear an appeal from such decision, if such appeal was filed within the time prescribed by Rule 13(a) of the Federal Rules of Appellate Procedure or by section 7483 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as in effect at the time the decision of the Tax Court was entered.”

§ 7484. Change of incumbent in office

When the incumbent of the office of Secretary changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7485. Bond to stay assessment and collection

(a) Upon notice of appeal

Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the review under section 7483 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Tax Court unless a notice of appeal in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

(1) on or before the time his notice of appeal is filed has filed with the Tax Court a bond in a sum fixed by the Tax Court not exceeding double the amount of the portion of the deficiency in respect of which the notice of appeal is filed, and with surety approved by the Tax Court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

(2) has filed a jeopardy bond under the income or estate tax laws.

If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the Tax Court is paid after the filing of the appeal bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Bond in case of appeal of certain partnership-related decisions

The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226, 6228(a), 6247, or 6252 and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, penalties, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate liability of the parties to the action.