

(c) Cross references

(1) For requirement of additional security notwithstanding this section, see section 7482(c)(3).

(2) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91-172, title IX, §960(h)(3), Dec. 30, 1969, 83 Stat. 735; Pub. L. 97-248, title IV, §402(c)(16), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97-258, §3(f)(15), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105-34, title XII, §§1222(b)(4), 1241(a), Aug. 5, 1997, 111 Stat. 1019, 1029.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, §1222(b)(4)(B), amended heading generally. Prior to amendment, heading read as follows: “Bond in case of appeal of decision under section 6226 or section 6228(a)”.

Pub. L. 105-34, §1222(b)(4)(A), substituted “, 6228(a), 6247, or 6252” for “or 6228(a)”.

Pub. L. 105-34, §1241(a), inserted “penalties,” after “any interest,” and substituted “aggregate liability of the parties to the action” for “aggregate of such deficiencies”.

1982—Subsecs. (b), (c). Pub. L. 97-248 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(2). Pub. L. 97-258 substituted “section 9303 of title 31, United States Code” for “6 U.S.C. 15”. Notwithstanding the directory language that amendment be made to subsec. (b)(2), the amendment was executed to subsec. (c)(2) to reflect the probable intent of Congress and the intervening redesignation of subsec. (b) as (c) by Pub. L. 97-248.

1969—Subsec. (a). Pub. L. 91-172 substituted “notice of appeal” for “petition for review” and “appeal bond” for “review bond”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(4) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Section 1241(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].”

EFFECTIVE DATE OF 1982 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

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

§ 7486. Refund, credit, or abatement of amounts disallowed

In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Tax Court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

(Aug. 16, 1954, ch. 736, 68A Stat. 891.)

§ 7487. Cross references

(1) Nonreviewability.—For nonreviewability of Tax Court decisions in small claims cases, see section 7463(b).

(2) Transcripts.—For authority of the Tax Court to fix fees for transcript of records, see section 7474.

(Aug. 16, 1954, ch. 736, 68A Stat. 892; Pub. L. 91-172, title IX, §960(i)(1), Dec. 30, 1969, 83 Stat. 735.)

AMENDMENTS

1969—Pub. L. 91-172 inserted reference to section 7463(b) for nonreviewability of Tax Court decisions in small claims cases.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

Subchapter E—Burden of Proof

Sec.
7491. Burden of proof.

§ 7491. Burden of proof**(a) Burden shifts where taxpayer produces credible evidence****(1) General rule**

If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

(2) Limitations

Paragraph (1) shall apply with respect to an issue only if—

(A) the taxpayer has complied with the requirements under this title to substantiate any item;

(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and

(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).

(3) Coordination

Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

(b) Use of statistical information on unrelated taxpayers

In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary

solely through the use of statistical information on unrelated taxpayers.

(c) Penalties

Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.

(Added Pub. L. 105-206, title III, §3001(a), July 22, 1998, 112 Stat. 726; amended Pub. L. 105-277, div. J, title IV, §4002(b), Oct. 21, 1998, 112 Stat. 2681-906.)

PRIOR PROVISIONS

A prior section 7491, act Aug. 16, 1954, ch. 736, 68A Stat. 893, placed the burden of proof in establishing the applicability of an exemption upon the defendant in the case of marihuana offenses, prior to repeal by Pub. L. 91-513, title III, §§1101(b)(5)(A), 1103, 1105(a), Oct. 27, 1970, 84 Stat. 1292, 1294, 1295, effective on first day of seventh calendar month that begins after Oct. 26, 1970, with prosecutions commenced prior to such date not to be affected or abated by reason thereof.

A prior section 7492, act Aug. 16, 1954, ch. 736, 68A Stat. 893, related to the enforceability of cotton futures contracts, prior to repeal by Pub. L. 94-455, title XIX, §1952(n)(4)(A), (o), Oct. 4, 1976, 90 Stat. 1846, effective on the 90th day after Oct. 4, 1976.

A prior section 7493, act Aug. 16, 1954, ch. 736, 68A Stat. 893, provided that no person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 of this title withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39 of this title or of any regulation made pursuant to such chapter, but that such person called by such officer who testifies in the case be exempt from prosecution for any offense to which his testimony relates, prior to repeal by Pub. L. 91-452, title II, §§232, 260, Oct. 15, 1970, 84 Stat. 930, 931, effective on 60th day following Oct. 15, 1970, and not to affect any immunity to which any individual was entitled under by reason of any testimony given before 60th day following Oct. 15, 1970. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-277 inserted concluding provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, to which such amendment relates, see section 4002(k) of Pub. L. 105-277, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 105-206, title III, §3001(c), July 22, 1998, 112 Stat. 727, provided that:

“(1) **IN GENERAL.**—The amendments made by this section [enacting this subchapter] shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act [July 22, 1998].

“(2) **TAXABLE PERIODS OR EVENTS AFTER DATE OF ENACTMENT.**—In any case in which there is no examination, such amendments shall apply to court proceedings arising in connection with taxable periods or events beginning or occurring after such date of enactment.”

CHAPTER 77—MISCELLANEOUS PROVISIONS

Sec.
7501. Liability for taxes withheld or collected.

Sec.
7502. Timely mailing treated as timely filing and paying.
7503. Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
7504. Fractional parts of a dollar.
7505. Sale of personal property acquired by the United States.
7506. Administration of real estate acquired by the United States.
7507. Exemption of insolvent banks from tax.
7508. Time for performing certain acts postponed by reason of service in combat zone or contingency operation.
7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.
7509. Expenditures incurred by the United States Postal Service.
7510. Exemption from tax of domestic goods purchased for the United States.
[7511. Repealed.]
7512. Separate accounting for certain collected taxes, etc.
7513. Reproduction of returns and other documents.
7514. Authority to prescribe or modify seals.
7515. Special statistical studies and compilations and other services on request.¹
7516. Supplying training and training aids on request.
7517. Furnishing on request of statement explaining estate or gift valuation.
7518. Tax incentives relating to merchant marine capital construction funds.
7519. Required payments for entities electing not to have required taxable year.
7520. Valuation tables.
7521. Procedures involving taxpayer interviews.
7522. Content of tax due, deficiency, and other notices.
7523. Graphic presentation of major categories of Federal outlays and income.
7524. Annual notice of tax delinquency.
7525. Confidentiality privileges relating to taxpayer communications.
7526. Low-income taxpayer clinics.
7527. Advance payment of credit for health insurance costs of eligible individuals.
7528. Internal Revenue Service user fees.

AMENDMENTS

2003—Pub. L. 108-121, title I, §104(b)(3), Nov. 11, 2003, 117 Stat. 1338, inserted “or contingency operation” after “combat zone” in item 7508.

Pub. L. 108-89, title II, §202(b)(1), Oct. 1, 2003, 117 Stat. 1133, added item 7528.

2002—Pub. L. 107-210, div. A, title II, §202(d)(1), Aug. 6, 2002, 116 Stat. 963, added item 7527.

Pub. L. 107-134, title I, §112(e)(1), Jan. 23, 2002, 115 Stat. 2435, substituted “Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions” for “Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster” in item 7508A.

1998—Pub. L. 105-206, title III, §§3411(b), 3601(b), July 22, 1998, 112 Stat. 751, 776, added items 7525 and 7526.

1997—Pub. L. 105-34, title IX, §911(b), Aug. 5, 1997, 111 Stat. 878, added item 7508A.

1996—Pub. L. 104-168, title XII, §1204(b), July 30, 1996, 110 Stat. 1471, added item 7524.

1990—Pub. L. 101-508, title XI, §§11622(b), 11704(a)(31), Nov. 5, 1990, 104 Stat. 1388-505, 1388-519, substituted “7522. Content of tax due, deficiency, and other notices.” for “7521. Content of tax due, deficiency, and other notices.” and added item 7523.

¹Section repealed by Pub. L. 94-455 without corresponding amendment of analysis.