

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."

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#### 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 third 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 third 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.)

AMENDMENTS

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 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 2011 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. <sup>1</sup>
A.	In general .....	6201
B.	Deficiency procedures in the case of income, estate, gift, and certain excise taxes .....	6211
C.	Tax treatment of partnership items .....	6221
D.	Treatment of electing large partnerships .....	6240

#### AMENDMENTS

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.

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 pursuant 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.

<sup>1</sup> Section numbers editorially supplied.