

§ 6206. Special rules applicable to excessive claims under certain sections

Any portion of a refund made under section 6416(a)(4) and any portion of a payment made under section 6420, 6421, or 6427 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 (with respect to refunds under section 6416(a)(4) and payments under sections 6420 and 6421), or 4041 or 4081 (with respect to payments under section 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6416(a)(4), 6420, 6421, or 6427, as the case may be.

(Added Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title II, §208(d)(1), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(2)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(3), May 21, 1970, 84 Stat. 248; Pub. L. 97-424, title V, §515(b)(3)(A), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 100-203, title X, §10502(d)(5), Dec. 22, 1987, 101 Stat. 1330-444; Pub. L. 103-66, title XIII, §13242(d)(14), Aug. 10, 1993, 107 Stat. 524; Pub. L. 108-357, title VIII, §853(d)(2)(F), Oct. 22, 2004, 118 Stat. 1613; Pub. L. 109-59, title XI, §11163(d)(1), Aug. 10, 2005, 119 Stat. 1974.)

PRIOR PROVISIONS

A prior section 6206 was renumbered 6207 of this title.

AMENDMENTS

2005—Pub. L. 109-59 substituted “certain sections” for “sections 6420, 6421, and 6427” in section catchline, in first sentence substituted “Any portion of a refund made under section 6416(a)(4) and any portion” for “Any portion” and “refunds under section 6416(a)(4) and payments under sections 6420” for “payments under sections 6420”, and in second sentence substituted “section 6416(a)(4), 6420” for “section 6420”.

2004—Pub. L. 108-357 substituted “or 4081” for “, 4081, or 4091”.

1993—Pub. L. 103-66 substituted “4041, 4081, or 4091” for “4041 or 4091”.

1987—Pub. L. 100-203 substituted “or 4041 or 4091” for “or 4041”.

1983—Pub. L. 97-424 struck out reference to section 6424 in section catchline, and in text struck out “4091 (with respect to payments under section 6424),” after “6421,” and “6424,” wherever appearing.

1970—Pub. L. 91-258 inserted reference to section 6427 in section catchline, inserted reference to section 6427 in first and second sentences, and substituted “by section 4081 (with respect to payments under sections 6420 and 6421), 4091 (with respect to payments under section 6424), or 4041 (with respect to payments under section 6427)” for “by section 4081 (or, in the case of lubricating oil, by section 4091)”, in first sentence, respectively.

1965—Pub. L. 89-44 struck out “6420 and 6421” wherever appearing in section catchline and text and substituted therefor “6420, 6421, and 6424” and inserted “(or, in the case of lubricating oil, by section 4091)” after “4081” in text.

1956—Act June 29, 1956, inserted reference to excessive claims under section 6421 in section catchline and text.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to aviation-grade kerosene removed, entered, or sold after Dec. 31, 2004, see section 853(e) of Pub. L. 108-357, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 6207. Cross references

(1) For prohibition of suits to restrain assessment of any tax, see section 7421.

(2) For prohibition of assessment of taxes against insolvent banks, see section 7507.

(3) For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.

(4) For assessment with respect to taxes required to be paid by chapter 52, see section 5703.

(5) For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006(c).

(6) For period of limitation upon assessment, see chapter 66.

(Aug. 16, 1954, ch. 736, 68A Stat. 769, §6206; renumbered §6207, Apr. 2, 1956, ch. 160, §4(b)(1), 70 Stat. 90; amended Pub. L. 85-859, title II, §204(2), (3), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94-455, title XIX, §1906(a)(14), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Par. (7). Pub. L. 94-455 struck out par. (7) relating to cross reference for assessment under the provisions of the Tariff Act of 1930.

1958—Par. (4). Pub. L. 85-859, §204(2), substituted “with respect to taxes required to be paid by chapter 52, see section 5703” for “in case of sale or removal of tobacco, snuff, cigars, and cigarettes without the use of the proper stamps, see section 5703(d)”.

Pars. (6) to (9). Pub. L. 85-859, §204(3), redesignated pars. (8) and (9) as (6) and (7), respectively, and struck out former pars. (6) and (7) which contained cross references relating to assessments in case of certain spirits subject to excessive leakage and to assessment of deficiencies in production of distilled spirits.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

Sec.	
6211.	Definition of a deficiency.
6212.	Notice of deficiency.
6213.	Restrictions applicable to deficiencies; petition to Tax Court.
6214.	Determinations by Tax Court.
6215.	Assessment of deficiency found by Tax Court.
6216.	Cross references.

AMENDMENTS

1969—Pub. L. 91-172, title I, §101(j)(62), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in subchapter heading.

§ 6211. Definition of a deficiency

(a) In general

For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 41, 42, 43, and 44 the term “deficiency” means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of—

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) Rules for application of subsection (a)

For purposes of this section—

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, without regard to the credit under section 33, and without regard to any credits resulting from the collection of amounts assessed under section 6851 or 6852 (relating to termination assessments).

(2) The term “rebate” means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) For purposes of subsection (a)—

(A) any excess of the sum of the credits allowable under sections 24(d), 25A by reason of subsection (i)(6) thereof, 32, 34, 35, 36, 36A, 36B, 53(e), 168(k)(4), 6428, and 6431 over the tax imposed by subtitle A (determined without regard to such credits), and

(B) any excess of the sum of such credits as shown by the taxpayer on his return over

the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax.

(c) Coordination with subchapters C and D

In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapters C and D.

(Aug. 16, 1954, ch. 736, 68A Stat. 770; Pub. L. 89-44, title VIII, §809(d)(5)(A), June 21, 1965, 79 Stat. 168; Pub. L. 89-368, title I, §102(b)(4), Mar. 15, 1966, 80 Stat. 64; Pub. L. 91-172, title I, §101(f)(1), (j)(39), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93-406, title II, §1016(a)(9), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94-455, title XII, §1204(c)(4), title XIII, §1307(d)(2)(E), (F)(i), title XVI, §1605(b)(4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1728, 1754, 1834; Pub. L. 96-223, title I, §101(f)(1)(A), (B), (2), (3), Apr. 2, 1980, 94 Stat. 252; Pub. L. 98-369, div. A, title IV, §474(r)(33), July 18, 1984, 98 Stat. 845; Pub. L. 100-203, title X, §10713(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-418, title I, §1941(b)(2)(B)(i), (ii), (C), (D), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §1015(r)(2), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 105-34, title XII, §1231(b), Aug. 5, 1997, 111 Stat. 1023; Pub. L. 105-206, title VI, §6012(f), July 22, 1998, 112 Stat. 819; Pub. L. 106-554, §1(a)(7) [title III, §314(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643; Pub. L. 109-432, div. A, title IV, §402(b)(1), Dec. 20, 2006, 120 Stat. 2954; Pub. L. 110-172, §11(a)(35), Dec. 29, 2007, 121 Stat. 2487; Pub. L. 110-185, title I, §101(b)(1), Feb. 13, 2008, 122 Stat. 615; Pub. L. 110-289, div. C, title I, §3011(b)(2), July 30, 2008, 122 Stat. 2891; Pub. L. 111-5, div. B, title I, §§1001(e)(1), 1004(b)(7), 1201(a)(3)(B), (b)(2), 1531(c)(4), Feb. 17, 2009, 123 Stat. 312, 314, 334, 360; Pub. L. 111-148, title I, §1401(d)(3), as added title X, §§10105(d), 10909(b)(2)(N), (c), Mar. 23, 2010, 124 Stat. 906, 1023; Pub. L. 111-312, title I, §101(b)(1), Dec. 17, 2010, 124 Stat. 3298.)

AMENDMENTS

2010—Subsec. (b)(4)(A). Pub. L. 111-148, §10909(b)(2)(N), (c), as amended by Pub. L. 111-312, temporarily inserted “36C,” before “53(e)”. See Effective and Termination Dates of 2010 Amendment note below.

Pub. L. 111-148, §1401(d)(3), as added by Pub. L. 111-148, §10105(d), inserted “36B,” after “36A.”.

2009—Subsec. (b)(4)(A). Pub. L. 111-5, §1531(c)(4), substituted “6428, and 6431” for “and 6428”.

Pub. L. 111-5, §1201(a)(3)(B), (b)(2), amended subpar. (A) identically, inserting “168(k)(4),” after “53(e),”.

Pub. L. 111-5, §1004(b)(7), inserted “25A by reason of subsection (i)(6) thereof,” after “24(d),”.

Pub. L. 111-5, §1001(e)(1), inserted “36A,” after “36,”.

2008—Subsec. (b)(4)(A). Pub. L. 110-289 substituted “34, 35, 36, 53(e), and 6428” for “34, 35, 53(e), and 6428”.

Pub. L. 110-185 substituted “53(e), and 6428” for “and 53(e)”.

2007—Subsec. (b)(4)(A). Pub. L. 110-172, which directed amendment of subpar. (A) by substituting “34, and 35” for “and 34”, was executed by inserting “35,” after “34,”, to reflect the probable intent of Congress and the amendment of subpar. (A) by section 402(b)(1) of Pub. L. 109-432. See 2006 Amendment note below.

2006—Subsec. (b)(4)(A). Pub. L. 109-432 substituted “34, and 53(e)” for “and 34”.

2000—Subsec. (b)(4)(A). Pub. L. 106-554 substituted “sections 24(d), 32, and 34” for “sections 32 and 34”.