

AMENDMENTS

1976—Pub. L. 94-455, title X, §1042(d)(2)(F), Oct. 4, 1976, 90 Stat. 1639, struck out in item relating to part IV “relating to qualification of certain retirement plans” after “Declaratory judgments”.

1974—Pub. L. 93-406, title II, §1041(c), Sept. 2, 1974, 88 Stat. 951, inserted item relating to part IV.

PART I—ORGANIZATION AND JURISDICTION

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AMENDMENTS

2008—Pub. L. 110-458 repealed amendment made by section 856 of Pub. L. 109-280. See 2006 Amendment note below.

2006—Pub. L. 109-280, title VIII, §856(b), Aug. 17, 2006, 120 Stat. 1019, added item 7443B. Pub. L. 110-458, title I, §108(d), Dec. 23, 2008, 122 Stat. 5110, repealed Pub. L. 109-280, §856, and provided that the Internal Revenue Code of 1986 shall be applied and administered as if such section had not been enacted.

Pub. L. 109-280, title VIII, §854(c)(2), Aug. 17, 2006, 120 Stat. 1018, which directed amendment of item 7448 by inserting “and special trial judges” after “judges”, could not be executed because “judges” did not appear subsequent to amendment by Pub. L. 94-455. See 1976 Amendment note below.

1986—Pub. L. 99-514, title XV, §1556(b)(3), Oct. 22, 1986, 100 Stat. 2755, added item 7443A.

1976—Pub. L. 94-455, title XIX, §1906(b)(10), Oct. 4, 1976, 90 Stat. 1834, substituted “Annuities of surviving spouses and dependent children” for “Annuities to widows and dependent children of judges” in item 7448.

1961—Pub. L. 87-370, §2, Oct. 4, 1961, 75 Stat. 801, added item 7448.

§ 7441. Status

There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Pub. L. 91-172, title IX, §951, Dec. 30, 1969, 83 Stat. 730.)

AMENDMENTS

1969—Pub. L. 91-172 substituted provisions establishing Tax Court as a Constitutional court, and enumerating the members that comprise its bench, for provisions continuing the Board of Tax Appeals, known as the Tax Court, as an independent agency in the Executive Branch of Government and enumerating the members that comprise its bench.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §962(a), Dec. 30, 1969, 83 Stat. 736, provided that: “The amendments made by sections 951, 953, 954(c) and (e), 955, 956, 958, and 960(c), (d), (e), (g), and (j) [amending this section and sections 7443, 7447, 7448, 7456, 7471, and 7701 of this title] shall take effect on the date of enactment of this Act [Dec. 30, 1969].”

¹ So in original. Does not conform to section catchline.

REPORT ON INVENTORY OF CASES IN TAX COURT

Pub. L. 99-514, title XV, §1552(c), Oct. 22, 1986, 100 Stat. 2753, provided that: “The Secretary of the Treasury or his delegate and the Tax Court shall each prepare a report for 1987 and for each 2-calendar year period thereafter on the inventory of cases in the Tax Court and the measures to close cases more efficiently. Such reports shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

CONTINUATION OF STATUS

Pub. L. 91-172, title IX, §961, Dec. 30, 1969, 83 Stat. 735, provided that: “The United States Tax Court established under the amendment made by section 951 [amending this section] is a continuation of the Tax Court of the United States as it existed prior to the date of enactment of this Act [Dec. 30, 1969], the judges of the Tax Court of the United States immediately prior to the date of enactment of this Act [Dec. 30, 1969] shall become the judges of the United States Tax Court upon the enactment of this Act, and no loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Tax Court of the United States before the date of enactment of this Act [Dec. 30, 1969] shall result from the enactment of this Act.”

§ 7442. Jurisdiction

The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

(Aug. 16, 1954, ch. 736, 68A Stat. 879.)

REFERENCES IN TEXT

Chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, referred to in text, were comprised of sections 1 to 482, 500 to 706, 800 to 939, and 1000 to 1031 of former Title 26, Internal Revenue Code. Chapters 1 and 2 of the Internal Revenue Code of 1939 were repealed by section 7851(a)(1)(A) of this title, and chapters 3 and 4 of the Internal Revenue Code of 1939 were repealed by section 7851(a)(2)(A) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See also section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

The Revenue Act of 1926, referred to in text, is act Feb. 26, 1926, ch. 27, 44 Stat. 9. For complete classification of this Act to the Code, see Tables.

§ 7443. Membership

(a) Number

The Tax Court shall be composed of 19 members.

(b) Appointment

Judges of the Tax Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(c) Salary

(1) Each judge shall receive salary at the same rate and in the same installments as judges of the district courts of the United States.

(2) For rate of salary and frequency of installment see section 135, title 28, United States Code, and section 5505, title 5, United States Code.

(d) Expenses for travel and subsistence

Judges of the Tax Court shall receive necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, subject to the same limitations in amount as are now or may hereafter be applicable to the United States Court of International Trade.

(e) Term of office

The term of office of any judge of the Tax Court shall expire 15 years after he takes office.

(f) Removal from office

Judges of the Tax Court may be removed by the President, after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.

(g) Disbarment of removed judges

A judge of the Tax Court removed from office in accordance with subsection (f) shall not be permitted at any time to practice before the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Mar. 2, 1955, ch. 9, §1(h), 69 Stat. 10; Pub. L. 88-426, title IV, §403(i), Aug. 14, 1964, 78 Stat. 434; Pub. L. 91-172, title IX, §§952, 953, Dec. 30, 1969, 83 Stat. 730; Pub. L. 96-417, title VI, §601(10), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 96-439, §1(a), (b), Oct. 13, 1980, 94 Stat. 1878.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-439, §1(a), increased number of judges from 16 to 19.

Subsec. (b). Pub. L. 96-439, §1(b), struck out age limitation that no one could be appointed a member of the Tax Court unless appointed before attaining age 65.

Subsec. (d). Pub. L. 96-417 substituted “Court of International Trade” for “Customs Court”.

1969—Subsec. (b). Pub. L. 91-172, §952(a), provided that an individual may not be appointed a judge of the Tax Court after reaching age 65.

Subsec. (c). Pub. L. 91-172, §953, substituted provisions fixing salary of Tax Court judges at the same rate and same installments as District Court judges, for provisions that each judge of the Tax Court receive a salary of \$30,000 per annum, to be paid in monthly installments.

Subsec. (e). Pub. L. 91-172, §952(b), substituted provisions that a term in office of any Tax Court judge would expire 15 years after he takes office, for provisions that a term in office of any Tax Court judge would expire 12 years after the expiration of the term for which his predecessor was appointed, and any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed would be appointed only for the unexpired term of his predecessor.

1964—Subsec. (c). Pub. L. 88-426 increased salary of judges from \$22,500 to \$30,000.

1955—Subsec. (c). Act Mar. 2, 1955, increased salary of judges from \$15,000 to \$22,500.

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-439, §1(c), Oct. 13, 1980, 94 Stat. 1878, provided that: “The amendments made by this section [amending this section] shall take effect on February 1, 1981.”

Amendment by Pub. L. 96-417 effective, except as otherwise provided, Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, as amended, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §962(b), (c), Dec. 30, 1969, 83 Stat. 736, provided that:

“(b) The amendment made by section 952(a) [amending this section] shall apply to judges appointed after the date of enactment of this Act [Dec. 30, 1969].

“(c) The amendment made by section 952(b) [amending this section] shall take effect on the date of enactment of this Act [Dec. 30, 1969], except that—

“(1) the term of office being served by a judge of the Tax Court on that date shall expire on the date it would have expired under the law in effect on the date preceding the date of enactment of this Act [Dec. 30, 1969]; and

“(2) a judge of the Tax Court on the date of enactment of this Act [Dec. 30, 1969] may be reappointed in the same manner as a judge of the Tax Court hereafter appointed.”

Amendment by section 953 of Pub. L. 91-172 to take effect on Dec. 30, 1969, see section 962(a) of Pub. L. 91-172, set out as a note under section 7441 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426, title V, Aug. 14, 1964, 78 Stat. 435.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Mar. 2, 1955, effective Mar. 1, 1955, see section 5 of act Mar. 2, 1955, set out as a note under section 31 of Title 2, The Congress.

SALARY INCREASES

1987—Salaries of judges increased to \$89,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1977—Salaries of judges increased to \$54,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

1969—Salaries of judges increased to \$40,000 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

CERTIFICATION BY JUDGE OF TRAVEL EXPENSES

Provisions authorizing the travel expenses of the judges of the United States Tax Court to be paid upon the written certificate of the judge were contained in the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, Pub. L. 109-115, div. A, title VI, Nov. 30, 2005, 119 Stat. 2490, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108-447, div. H, title IV, Dec. 8, 2004, 118 Stat. 3264.

Pub. L. 108-199, div. F, title IV, Jan. 23, 2004, 118 Stat. 340.

Pub. L. 108-7, div. J, title IV, Feb. 20, 2003, 117 Stat. 460.

Pub. L. 107-67, title IV, Nov. 12, 2001, 115 Stat. 543.

Pub. L. 106-554, §1(a)(3) [title IV], Dec. 21, 2000, 114 Stat. 2763, 2763A-150.

Pub. L. 106-58, title IV, Sept. 29, 1999, 113 Stat. 463.

Pub. L. 105-277, div. A, §101(h) [title IV], Oct. 21, 1998, 112 Stat. 2681-480, 2681-510.

Pub. L. 105-61, title IV, Oct. 10, 1997, 111 Stat. 1304.

Pub. L. 104-208, div. A, title I, §101(f) [title IV], Sept. 30, 1996, 110 Stat. 3009-314, 3009-344.

Pub. L. 104-52, title IV, Nov. 19, 1995, 109 Stat. 491.

Pub. L. 103-329, title IV, Sept. 30, 1994, 108 Stat. 2408.

Pub. L. 103-123, title IV, Oct. 28, 1993, 107 Stat. 1251.

Pub. L. 102-393, title IV, Oct. 6, 1992, 106 Stat. 1757.

Pub. L. 102-141, title IV, Oct. 28, 1991, 105 Stat. 862.

Pub. L. 101-509, title IV, Nov. 5, 1990, 104 Stat. 1422.

Pub. L. 101-136, title IV, Nov. 3, 1989, 103 Stat. 811.

Pub. L. 100-440, title IV, Sept. 22, 1988, 102 Stat. 1746.

Pub. L. 100-202, §101(m) [title IV], Dec. 22, 1987, 101 Stat. 1329-390, 1329-414.

Pub. L. 99-500, §101(m) [title IV], Oct. 18, 1986, 100 Stat. 1783-308, 1783-323, and Pub. L. 99-591, §101(m) [title IV], Oct. 30, 1986, 100 Stat. 3341-308, 3341-323.

Pub. L. 99-190, title I, §101(h) [H.R. 3036, title IV], Dec. 19, 1985, 99 Stat. 1291.

Pub. L. 98-473, title I, §101(j) [H.R. 5798, title IV], Oct. 12, 1984, 98 Stat. 1963.

Pub. L. 98-151, §101(f) [H.R. 4139, title IV], Nov. 14, 1983, 97 Stat. 973.

Pub. L. 97-377, title I, §101(a) [incorporating H.R. 4121, title IV, for FY 1982], Dec. 21, 1982, 96 Stat. 1830.

Pub. L. 97-92, §101(a) [H.R. 4121, title IV], Dec. 15, 1981, 95 Stat. 1183.

Pub. L. 96-536, §101(a) [incorporating Pub. L. 96-74, title IV], Dec. 16, 1980, 94 Stat. 3166.

Pub. L. 96-74, title IV, Sept. 29, 1979, 93 Stat. 572.

Pub. L. 95-429, title IV, Oct. 10, 1978, 92 Stat. 1013.

Pub. L. 95-81, title IV, July 31, 1977, 91 Stat. 352.

Pub. L. 94-363, title IV, July 14, 1976, 90 Stat. 975.

Pub. L. 94-91, title IV, Aug. 9, 1975, 89 Stat. 456.

Pub. L. 93-381, title IV, Aug. 21, 1974, 88 Stat. 629.

Pub. L. 93-143, title IV, Oct. 30, 1973, 87 Stat. 522.

Pub. L. 92-351, title IV, July 13, 1972, 86 Stat. 485.

Pub. L. 92-49, title IV, July 9, 1971, 85 Stat. 120.

Pub. L. 91-422, title IV, Sept. 26, 1970, 84 Stat. 878.

Pub. L. 91-74, title IV, Sept. 29, 1969, 83 Stat. 123.

Pub. L. 90-350, title IV, June 19, 1968, 82 Stat. 196.

Pub. L. 90-47, title IV, July 7, 1967, 81 Stat. 118.

Pub. L. 89-474, title IV, June 29, 1966, 80 Stat. 228.

Pub. L. 89-57, title IV, June 30, 1965, 79 Stat. 203.

Pub. L. 88-392, title IV, Aug. 1, 1964, 78 Stat. 375.

Pub. L. 88-39, title IV, June 13, 1963, 77 Stat. 65.

Pub. L. 87-575, title V, Aug. 6, 1962, 76 Stat. 317.

Pub. L. 87-159, title III, Aug. 21, 1961, 75 Stat. 398.

Pub. L. 86-561, title III, June 30, 1960, 74 Stat. 288.

Pub. L. 86-39, title III, June 11, 1959, 73 Stat. 70.

Pub. L. 85-354, title III, Mar. 28, 1958, 72 Stat. 66.

Pub. L. 85-37, title III, May 27, 1957, 71 Stat. 41.

Apr. 2, 1956, ch. 161, title III, 70 Stat. 98.

June 1, 1955, ch. 113, title III, 69 Stat. 78.

EXECUTIVE ORDER NO. 12064

Ex. Ord. No. 12064, June 5, 1978, 43 F.R. 24661, which established the United States Tax Court Nominating Commission and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12305, May 5, 1981, 46 F.R. 25421, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

§ 7443A. Special trial judges

(a) Appointment

The chief judge may, from time to time, appoint special trial judges who shall proceed under such rules and regulations as may be promulgated by the Tax Court.

(b) Proceedings which may be assigned to special trial judges

The chief judge may assign—

- (1) any declaratory judgment proceeding,
- (2) any proceeding under section 7463,
- (3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds \$50,000,
- (4) any proceeding under section 6320 or 6330,
- (5) any proceeding under section 7436(c),
- (6) any proceeding under section 7623(b)(4), and
- (7) any other proceeding which the chief judge may designate,

to be heard by the special trial judges of the court.

(c) Authority to make court decision

The court may authorize a special trial judge to make the decision of the court with respect to any proceeding described in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b), subject to such conditions and review as the court may provide.

(d) Salary

Each special trial judge shall receive salary—

(1) at a rate equal to 90 percent of the rate for judges of the Tax Court, and

(2) in the same installments as such judges.

(e) Expenses for travel and subsistence

Subsection (d) of section 7443 shall apply to special trial judges subject to such rules and regulations as may be promulgated by the Tax Court.

(Added Pub. L. 99-514, title XV, §1556(a), Oct. 22, 1986, 100 Stat. 2754; amended Pub. L. 105-206, title III, §§3103(b)(1), 3401(c), July 22, 1998, 112 Stat. 731, 749; Pub. L. 105-277, div. J, title IV, §4002(e), Oct. 21, 1998, 112 Stat. 2681-907; Pub. L. 109-280, title VIII, §857(a), (b), Aug. 17, 2006, 120 Stat. 1020; Pub. L. 109-432, div. A, title IV, §406(a)(2), Dec. 20, 2006, 120 Stat. 2959.)

AMENDMENTS

2006—Subsec. (b)(5). Pub. L. 109-280, §857(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 109-432, §406(a)(2)(A), added par. (6). Former par. (6) redesignated (7).

Pub. L. 109-280, §857(a), redesignated par. (5) as (6).

Subsec. (b)(7). Pub. L. 109-432, §406(a)(2)(A), redesignated par. (6) as (7).

Subsec. (c). Pub. L. 109-432, §406(a)(2)(B), substituted “(5), or (6)” for “or (5)”.

Pub. L. 109-280, §857(b), substituted “(4), or (5)” for “or (4)”.

1998—Subsec. (b)(3). Pub. L. 105-206, §3103(b)(1), substituted “\$50,000” for “\$10,000”.

Subsec. (b)(4), (5). Pub. L. 105-206, §3401(c)(1), as amended by Pub. L. 105-277, §4002(e)(1), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 105-206, §3401(c)(2), as amended by Pub. L. 105-277, §4002(e)(2), substituted “(3), or (4)” for “or (3)”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to information provided on or after Dec. 20, 2006, see section 406(d) of Pub. L. 109-432, set out as a note under section 62 of this title.

Pub. L. 109-280, title VIII, §857(c), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendments made by this section [amending this section] shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 1998 AMENDMENTS

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.

Amendment by section 3103 of Pub. L. 105-206 applicable to proceedings commenced after July 22, 1998, see section 3103(c) of Pub. L. 105-206, set out as a note under section 7436 of this title.

Amendment by section 3401 of Pub. L. 105-206 applicable to collection actions initiated after the date which