

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

Pub. L. 99-514, title XV, §1558(c), Oct. 22, 1986, 100 Stat. 2758, 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

Pub. L. 91-172, title IX, §962(f), Dec. 30, 1969, 83 Stat. 736, 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.

(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.

Pub. L. 105-34, title XII, §1241(b), Aug. 5, 1997, 111 Stat. 1029, 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.