

section (a) [amending this section] shall apply to summonses served after the date of the enactment of this Act [Oct. 22, 1986].”

Pub. L. 99-514, title XV, §1561(c), Oct. 22, 1986, 100 Stat. 2761, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

Amendment by section 1703(e)(2)(G) of Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title, as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 714(i) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 911(d)(2)(G) of Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 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 1982 AMENDMENT

Pub. L. 97-248, title III, §311(c)(2), Sept. 3, 1982, 96 Stat. 601, provided that: “The amendments made by subsection (b) [amending this section] shall apply to summonses served after December 31, 1982.”

Pub. L. 97-248, title III, §331(e), Sept. 3, 1982, 96 Stat. 621, provided that: “The amendments made by this section [amending this section] shall apply to summonses served after December 31, 1982.”

Pub. L. 97-248, title III, §332(b), Sept. 3, 1982, 96 Stat. 622, provided that: “The amendment made by subsection (a) [amending this section] shall apply to summonses served after December 31, 1982.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE

Pub. L. 94-455, title XII, §1205(c), Oct. 4, 1976, 90 Stat. 1703, as amended by Pub. L. 94-528, §2(b), Oct. 17, 1976, 90 Stat. 2483, provided that: “The amendments made by this section [enacting this section and section 7610 of this title] shall apply with respect to any summonses issued after February 28, 1977.”

### § 7610. Fees and costs for witnesses

#### (a) In general

The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

(1) fees and mileage to persons who are summoned to appear before the Secretary, and

(2) reimbursement for such costs that are reasonably necessary which have been directly

incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summonses.

#### (b) Exceptions

No payment may be made under paragraph (2) of subsection (a) if—

(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

#### (c) Summons to which section applies

This section applies with respect to any summonses authorized under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.

(Added Pub. L. 94-455, title XII, §1205(a), Oct. 4, 1976, 90 Stat. 1699; amended Pub. L. 95-599, title V, §505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

#### AMENDMENTS

1988—Subsec. (c). Pub. L. 100-647, §1017(c)(12), made technical correction to language of Pub. L. 99-514, §1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, §1017(c)(9), substituted “6421(g)(2)” for “6421(f)(2)”.

1986—Subsec. (c). Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted “6427(j)(2)” for “6427(i)(2)”.

1984—Subsec. (c). Pub. L. 98-369 substituted “6427(i)(2)” for “6427(h)(2)”.

1983—Subsec. (c). Pub. L. 97-424 struck out “6424(d)(2),” after “6421(f)(2),”.

1980—Subsec. (c). Pub. L. 96-223 substituted “6427(h)(2)” for “6427(g)(2)”.

1978—Subsec. (c). Pub. L. 95-599 substituted “6427(g)(2)” for “6427(e)(2)”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 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 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective Jan. 1, 1978, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

### § 7611. Restrictions on church tax inquiries and examinations

#### (a) Restrictions on inquiries

##### (1) In general

The Secretary may begin a church tax inquiry only if—

- (A) the reasonable belief requirements of paragraph (2), and
- (B) the notice requirements of paragraph (3), have been met.

##### (2) Reasonable belief requirements

The requirements of this paragraph are met with respect to any church tax inquiry if an appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

- (A) may not be exempt, by reason of its status as a church, from tax under section 501(a), or
- (B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

##### (3) Inquiry notice requirements

###### (A) In general

The requirements of this paragraph are met with respect to any church tax inquiry if, before beginning such inquiry, the Secretary provides written notice to the church of the beginning of such inquiry.

###### (B) Contents of inquiry notice

The notice required by this paragraph shall include—

- (i) an explanation of—
  - (I) the concerns which gave rise to such inquiry, and
  - (II) the general subject matter of such inquiry, and
- (ii) a general explanation of the applicable—
  - (I) administrative and constitutional provisions with respect to such inquiry (including the right to a conference with the Secretary before any examination of church records), and
  - (II) provisions of this title which authorize such inquiry or which may be otherwise involved in such inquiry.

#### (b) Restrictions on examinations

##### (1) In general

The Secretary may begin a church tax examination only if the requirements of paragraph (2) have been met and such examination may be made only—

- (A) in the case of church records, to the extent necessary to determine the liability for,

and the amount of, any tax imposed by this title, and

- (B) in the case of religious activities, to the extent necessary to determine whether an organization claiming to be a church is a church for any period.

##### (2) Notice of examination; opportunity for conference

The requirements of this paragraph are met with respect to any church tax examination if—

- (A) at least 15 days before the beginning of such examination, the Secretary provides the notice described in paragraph (3) to both the church and the appropriate regional counsel of the Internal Revenue Service, and
- (B) the church has a reasonable time to participate in a conference described in paragraph (3)(A)(iii), but only if the church requests such a conference before the beginning of the examination.

##### (3) Contents of examination notice, et cetera

###### (A) In general

The notice described in this paragraph is a written notice which includes—

- (i) a copy of the church tax inquiry notice provided to the church under subsection (a),
- (ii) a description of the church records and activities which the Secretary seeks to examine,
- (iii) an offer to have a conference between the church and the Secretary in order to discuss, and attempt to resolve, concerns relating to such examination, and
- (iv) a copy of all documents which were collected or prepared by the Internal Revenue Service for use in such examination and the disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552).

###### (B) Earliest day examination notice may be provided

The examination notice described in subparagraph (A) shall not be provided to the church before the 15th day after the date on which the church tax inquiry notice was provided to the church under subsection (a).

##### (C) Opinion of regional counsel with respect to examination

Any regional counsel of the Internal Revenue Service who receives an examination notice under paragraph (1) may, within 15 days after such notice is provided, submit to the regional commissioner for the region an advisory objection to the examination.

##### (4) Examination of records and activities not specified in notice

Within the course of a church tax examination which (at the time the examination begins) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the examination notice to the extent such examination meets the requirement of subparagraph (A) or (B) of paragraph (1) (whichever applies).