

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 6212, 6323, 6343, 7611, and 7811 of this title, and section 5109 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [July 22, 1998].

“(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

“(3) NATIONAL TAXPAYER ADVOCATE.—Notwithstanding section 7803(c)(1)(B)(iv) of such Code, as added by this section, in appointing the first National Taxpayer Advocate after the date of the enactment of this Act, the Secretary of the Treasury—

“(A) shall not appoint any individual who was an officer or employee of the Internal Revenue Service at any time during the 2-year period ending on the date of appointment; and

“(B) need not consult with the Internal Revenue Service Oversight Board if the Oversight Board has not been appointed.

“(4) CURRENT OFFICERS.—

“(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of such Code, as added by this section, shall begin as of the date of such appointment.

“(B) Clauses (ii), (iii), and (iv) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.”

§ 7804. Other personnel

(a) Appointment and supervision

Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

(b) Posts of duty of employees in field service or traveling

Unless otherwise prescribed by the Secretary—

(1) Designation of post of duty

The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

(2) Detail of personnel from field service

The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

(c) Delinquent Internal Revenue officers and employees

If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the

amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.

(Aug. 16, 1954, ch. 736, 68A Stat. 916; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title I, §1104(a), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Pub. L. 105-206 amended section catchline and text generally, substituting present provisions for provisions which had declared: in subsec. (a), that provisions of Reorganization Plans No. 26 of 1950 and No. 1 of 1952 should apply to all functions vested by this title, or by any act amending this title in any officer, employee, or agency of the Department; and in subsec. (b), that nothing in such Reorganization Plans should be considered to impair existing rights and remedies, that for the purpose of any action to recover tax all statutes, rules, and regulations referring to collector of internal revenue, principal officer for internal revenue district, or Secretary, should be deemed to refer to officer whose acts gave rise to such action, and that venue of any such action should be the same as under existing law.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title I, §1104(c), July 22, 1998, 112 Stat. 710, provided that: “The amendments made by this section [amending this section and section 6344 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

TERMINATION OF EMPLOYMENT FOR MISCONDUCT

Pub. L. 105-206, title I, §1203, July 22, 1998, 112 Stat. 720, as amended by Pub. L. 108-357, title VIII, §881(d), Oct. 22, 2004, 118 Stat. 1627, provided that:

“(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee’s official duties. Such termination shall be a removal for cause on charges of misconduct.

“(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

“(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer’s home, personal belongings, or business assets;

“(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

“(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

“(A) any right under the Constitution of the United States; or

“(B) any civil right established under—

“(i) title VI or VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq., 2000e et seq.];

“(ii) title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

“(iii) the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621 et seq.];

“(iv) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

“(v) section 501 or 504 of the Rehabilitation Act of 1973 [29 U.S.C. 791, 794]; or

“(vi) title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.];

“(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

“(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

“(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

“(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

“(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

“(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

“(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

“(c) DETERMINATION OF COMMISSIONER.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

“(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

“(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

“(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.”

EMPLOYEE TRAINING PROGRAM

Pub. L. 105-206, title I, §1205, July 22, 1998, 112 Stat. 722, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [July 22, 1998], the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

“(b) CONTENTS.—The plan submitted under subsection (a) shall—

“(1) detail a comprehensive employee training program to ensure adequate customer service training;

“(2) detail a schedule for training and the fiscal years during which the training will occur;

“(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

“(4) review the organizational design of customer service;

“(5) provide for the implementation of a performance development system; and

“(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.”

CATALOGING COMPLAINTS

Pub. L. 105-206, title III, §3701, July 22, 1998, 112 Stat. 776, provided that: “In collecting data for the report required under section 1211 of the Taxpayer Bill of Rights 2 (Public Law 104-168) [set out below], the Secretary of the Treasury or the Secretary’s delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.”

USE OF PSEUDONYMS BY INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105-206, title III, §3706, July 22, 1998, 112 Stat. 778, provided that:

“(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

“(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety; and

“(2) such use is approved by the employee’s supervisor before the pseudonym is used.

“(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act [July 22, 1998].”

REPORTS ON MISCONDUCT OF IRS EMPLOYEES

Pub. L. 104-168, title XII, §1211, July 30, 1996, 110 Stat. 1474, provided that: “On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

“(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and

“(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).”

TAXPAYERS’ RIGHTS, COURTESY AND CROSS-CULTURAL RELATIONS TRAINING

Pub. L. 109-115, div. A, title II, §202, Nov. 30, 2005, 119 Stat. 2438, which provided that the Internal Revenue Service was to maintain a training program to ensure that Internal Revenue Service employees were trained in taxpayers’ rights, in dealing courteously with taxpayers, and in cross-cultural relations, was from the Department of the Treasury Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108-447, div. H, title II, §202, Dec. 8, 2004, 118 Stat. 3240.

Pub. L. 108-199, div. F, title II, §202, Jan. 23, 2004, 118 Stat. 318.

Pub. L. 108-7, div. J, title I, §102, Feb. 20, 2003, 117 Stat. 437.

Pub. L. 107-67, title I, §102, Nov. 12, 2001, 115 Stat. 523.
Pub. L. 106-554, §1(a)(3) [title I, §102], Dec. 21, 2000, 114 Stat. 2763, 2763A-132.

Pub. L. 106-58, title I, §102, Sept. 29, 1999, 113 Stat. 437.
Pub. L. 105-277, div. A, §101(h) [title I, §102], Oct. 21, 1998, 112 Stat. 2681-480, 2681-488.

Pub. L. 105-61, title I, §102, Oct. 10, 1997, 111 Stat. 1281.
Pub. L. 104-208, div. A, title I, §101(f) [title I, §102], Sept. 30, 1996, 110 Stat. 3009-314, 3009-323.

Pub. L. 104-52, title I, § 2, Nov. 19, 1995, 109 Stat. 474.
 Pub. L. 103-329, title I, § 2, Sept. 30, 1994, 108 Stat. 2388.
 Pub. L. 103-123, title I, § 2, Oct. 28, 1993, 107 Stat. 1232.
 Pub. L. 102-393, title I, § 2, Oct. 6, 1992, 106 Stat. 1735.

BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105-206, title I, § 1204, July 22, 1998, 112 Stat. 722, provided that:

“(a) **IN GENERAL.**—The Internal Revenue Service shall not use records of tax enforcement results—

“(1) to evaluate employees; or

“(2) to impose or suggest production quotas or goals with respect to such employees.

“(b) **TAXPAYER SERVICE.**—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

“(c) **CERTIFICATION.**—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

“(d) **TECHNICAL AND CONFORMING AMENDMENT.**—[Repealed section 6231 of Pub. L. 100-647, set out below.]

“(e) **EFFECTIVE DATE.**—This section shall apply to evaluations conducted on or after the date of the enactment of this Act [July 22, 1998].”

Pub. L. 100-647, title VI, § 6231, Nov. 10, 1988, 102 Stat. 3734, prohibited Internal Revenue Service use of records of tax enforcement results to evaluate employees or to impose or suggest production quotas or goals, and required quarterly certification that results had not been used in prohibited manner, prior to repeal by Pub. L. 105-206, title I, § 1204(d), July 22, 1998, 112 Stat. 722.

SENSE OF CONGRESS AS TO INCREASED INTERNAL REVENUE SERVICE FUNDING FOR TAXPAYER ASSISTANCE AND ENFORCEMENT

Pub. L. 100-203, title X, § 10622, Dec. 22, 1987, 101 Stat. 1330-452, provided that:

“(a) **FINDINGS.**—The Congress hereby finds that—

“(1) the Internal Revenue Service estimates that the amount of taxes owed for 1986 will exceed the amount of taxes collected for such year by \$100 billion;

“(2) the current taxpayer compliance rate stands at 81.5 percent;

“(3) the tax gap can be significantly reduced by enhancing taxpayer assistance services and enforcement; and

“(4) the Appropriations Committee of the House of Representatives, in its fiscal year 1988 Internal Revenue Service appropriation, took a step in the direction of providing additional funding for taxpayer assistance and enforcement efforts.

“(b) It is the sense of the Congress that:

“(1) The Congress increase outlays for the Internal Revenue Service in fiscal year 1989 and fiscal year 1990 in the areas of taxpayer assistance and enforcement by \$.7 billion in fiscal year 1989 for a revenue total of \$3.2 billion and by \$.8 billion in fiscal year 1990 for a revenue total of \$4.4 billion. The net revenue increase would be \$2.5 billion in fiscal year 1989 and \$3.6 billion in fiscal year 1990, or a net revenue increase over the House Appropriations Committee recommendations of \$.4 billion in fiscal year 1989 and \$1.3 billion in fiscal year 1990.

“(2) The Internal Revenue Service offer improved taxpayer assistance and enforcement efforts by using the aforementioned outlays in areas recommended by, or consistent with the recommendations of, the ‘Dorgan Task Force Report’. Taxpayer assistance efforts would include providing expanded taxpayer education programs, instituting pilot programs of tax-automobiles in rural areas, and upgrading the quality of telephone assistance. Taxpayer enforcement efforts would include raising the audit rate from 1.1 percent toward 2.5 percent, restoring resources to criminal in-

vestigations, and the collection of delinquent accounts.

“(3) The Congress should undertake an experimental multiyear authorization and 2-year appropriation for the Internal Revenue Service consistent with the recommendations in Public Law 100-119, section 201 (Increasing the Statutory Limit on the Public Debt) [2 U.S.C. 621 note].

“(4) Increased funding should be provided for compilation and analysis of statistics of income and research.

The Internal Revenue Service must issue a report on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The report must utilize more current data than has been utilized recently. The report must be issued by April 15, 1989. The Internal Revenue Service must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.”

TAX COUNSELING FOR THE ELDERLY

Pub. L. 95-600, title I, § 163, Nov. 6, 1978, 92 Stat. 2810, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) **TRAINING AND TECHNICAL ASSISTANCE.**—

“(1) **AGREEMENTS.**—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

“(2) **OTHER ASSISTANCE.**—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

“(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers’ work;

“(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

“(C) technical materials and publications to be used by such volunteers.

“(b) **POWERS OF THE SECRETARY.**—In carrying out his responsibilities under this section, the Secretary is authorized—

“(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

“(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

“(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

“(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

“(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

“(c) **EMPLOYMENT OF VOLUNTEERS.**—

“(1) **IN GENERAL.**—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of

title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

“(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1986 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1986.

“(e) DEFINITIONS.—For purposes of this section—

“(1) The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(2) The term ‘elderly individual’ means an individual who has attained the age of 60 years as of the close of his taxable year.

“(3) The term ‘Federal income tax return’ means any return required under chapter 61 of the Internal Revenue Code of 1986 with respect to the tax imposed on an individual under chapter 1 of such Code.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section \$2,500,000 for the fiscal year ending September 30, 1979, and \$3,500,000 for the fiscal year ending September 30, 1980.”

§ 7805. Rules and regulations

(a) Authorization

Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) Retroactivity of regulations

(1) In general

Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

(A) The date on which such regulation is filed with the Federal Register.

(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

(2) Exception for promptly issued regulations

Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

(3) Prevention of abuse

The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

(4) Correction of procedural defects

The Secretary may provide that any regulation may apply retroactively to correct a pro-

cedural defect in the issuance of any prior regulation.

(5) Internal regulations

The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

(6) Congressional authorization

The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

(7) Election to apply retroactively

The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

(8) Application to rulings

The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.

(c) Preparation and distribution of regulations, forms, stamps, and other matters

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) Manner of making elections prescribed by Secretary

Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall prescribe.

(e) Temporary regulations

(1) Issuance

Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) 3-year duration

Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

(f) Review of impact of regulations on small business

(1) Submissions to Small Business Administration

After publication of any proposed or temporary regulation by the Secretary, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of such regulation on small business. Not later than the date 4 weeks after the date of such submission, the Chief Counsel for Advocacy shall submit comments on such regulation to the Secretary.

(2) Consideration of comments

In prescribing any final regulation which supersedes a proposed or temporary regulation which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration—