

Sec.

## AMENDMENTS

2007—Pub. L. 110-28, title VIII, § 8246(a)(2)(J)(ii), May 25, 2007, 121 Stat. 202, substituted “Tax return preparers” for “Income tax return preparers” in item 7427.

2004—Pub. L. 108-357, title VIII, § 881(b)(2), Oct. 22, 2004, 118 Stat. 1626, added item 7433A.

1997—Pub. L. 105-35, § 3(d)(5), Aug. 5, 1997, 111 Stat. 1106, inserted “inspection or” before “disclosure” in item 7431.

Pub. L. 105-34, title XIV, § 1454(b)(4), Aug. 5, 1997, 111 Stat. 1057, added items 7436 and 7437 and struck out former item 7436 “Cross references”.

1996—Pub. L. 104-168, title VI, § 601(b), title XII, § 1203(b), July 30, 1996, 110 Stat. 1462, 1471, added items 7434 and 7435 and redesignated former item 7434 as 7436.

1988—Pub. L. 100-647, title VI, §§ 6237(e)(4), 6239(c), 6240(b), 6241(c), Nov. 10, 1988, 102 Stat. 3743, 3746-3748, inserted “levy or” after “jeopardy” in item 7429, struck out “court” after “Awarding of” in item 7430, added items 7432 and 7433, and redesignated former item 7432 as 7434.

1982—Pub. L. 97-248, title II, § 292(d)(1), title III, § 357(b)(3), Sept. 3, 1982, 96 Stat. 574, 646, added items 7430 and 7431 and redesignated former item 7430 as 7432.

1976—Pub. L. 94-455, title XII, §§ 1203(b)(2)(B), 1204(c)(13), title XIII, § 1306(b)(6), Oct. 4, 1976, 90 Stat. 1690, 1699, 1719, added items 7427 to 7429 and redesignated former item 7427 as 7430.

1966—Pub. L. 89-719, title I, § 110(d)(1), (2), Nov. 2, 1966, 80 Stat. 1145, inserted “and Third Parties” in subchapter heading, substituted “Intervention” for “Civil action to clear title to property” in item 7424, added items 7425 and 7426, and redesignated former item 7425 as 7427.

### § 7421. Prohibition of suits to restrain assessment or collection

#### (a) Tax

Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6225(b), 6246(b), 6330(e)(1), 6331(i), 6672(c), 6694(c), and 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

#### (b) Liability of transferee or fiduciary

No suit shall be maintained in any court for the purpose of restraining the assessment or collection (pursuant to the provisions of chapter 71) of—

(1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any internal revenue tax, or

(2) the amount of the liability of a fiduciary under section 3713(b) of title 31, United States Code<sup>1</sup> in respect of any such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 876; Pub. L. 89-719, title I, § 110(c), Nov. 2, 1966, 80 Stat. 1144; Pub. L. 94-455, title XII, § 1204(c)(11), Oct. 4, 1976, 90 Stat. 1699; Pub. L. 95-628, § 9(b)(1), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 97-258, § 3(f)(13), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105-34, title XII, §§ 1222(b)(1), 1239(e)(3), title XIV, § 1454(b)(2), Aug. 5, 1997, 111 Stat. 1019, 1028, 1057; Pub. L. 105-206, title III, § 3201(e)(3), July 22, 1998, 112 Stat. 740; Pub. L. 105-277, div. J, title IV, § 4002(c)(1), (f), Oct. 21, 1998, 112 Stat. 2681-906, 2681-907; Pub. L. 106-554, § 1(a)(7) [title III, §§ 313(b)(2)(B), 319(24)], Dec. 21, 2000, 114 Stat. 2763, 2763A-642, 2763A-647.)

<sup>1</sup> So in original. Probably should be followed by a comma.

## AMENDMENTS

2000—Subsec. (a). Pub. L. 106-554 inserted “6330(e)(1),” after “6246(b),” and substituted “6672(c)” for “6672(b)”.

1998—Subsec. (a). Pub. L. 105-277 substituted “6015(e)” for “6015(d)” and inserted “6331(i),” after “6246(b),”.

Pub. L. 105-206 inserted “6015(d),” after “sections”.

1997—Subsec. (a). Pub. L. 105-34, § 1454(b)(2), substituted “7429(b), and 7436” for “and 7429(b)”.

Pub. L. 105-34, § 1239(e)(3), inserted “6225(b),” after “6213(a),”.

Pub. L. 105-34, § 1222(b)(1), inserted “6246(b),” after “6213(a),”.

1982—Subsec. (b)(2). Pub. L. 97-258 substituted “section 3713(b) of title 31, United States Code” for “section 3467 of the Revised Statutes (31 U.S.C. 192)”.

1978—Subsec. (a). Pub. L. 95-628 inserted references to sections 6672(b) and 6694(c).

1976—Subsec. (a). Pub. L. 94-455 substituted “7426(a) and (b)(1), and 7429(b)” for “and 7426(a) and (b)(1)”.

1966—Subsec. (a). Pub. L. 89-719 inserted reference to section 7426(a), (b)(1), and “by any person, whether or not such person is the person against whom such tax was assessed”.

## 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 Pub. L. 105-206 applicable to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, see section 3201(g)(1) of Pub. L. 105-206, set out as a note under section 6015 of this title.

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(1) 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.

Amendment by section 1239(e)(3) of Pub. L. 105-34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105-34, set out as a note under section 6225 of this title.

Amendment by section 1454(b)(2) of Pub. L. 105-34, effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105-34, set out as a note under section 6511 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-628 applicable with respect to penalties assessed more than 60 days after Nov. 10, 1978, see section 9(c) of Pub. L. 95-628, set out as a note under section 6672 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

## EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

## PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS

Pub. L. 105-206, title III, § 3468, July 22, 1998, 112 Stat. 770, provided that:

“(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the tax-

payer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

“(b) EXCEPTIONS.—Subsection (a) shall not apply in any case where—

“(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily; or

“(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer's attorney or other representative.”

#### § 7422. Civil actions for refund

##### (a) No suit prior to filing claim for refund

No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

##### (b) Protest or duress

Such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.

##### (c) Suits against collection officer a bar

A suit against any officer or employee of the United States (or former officer or employee) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits in respect of any internal revenue tax, and in all proceedings in the Tax Court and on review of decisions of the Tax Court.

##### (d) Credit treated as payment

The credit of an overpayment of any tax in satisfaction of any tax liability shall, for the purpose of any suit for refund of such tax liability so satisfied, be deemed to be a payment in respect of such tax liability at the time such credit is allowed.

##### (e) Stay of proceedings

If the Secretary prior to the hearing of a suit brought by a taxpayer in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the proceedings in taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition with the Tax Court for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files a petition with the

Tax Court, the district court or the United States Court of Federal Claims, as the case may be, shall lose jurisdiction of taxpayer's suit to whatever extent jurisdiction is acquired by the Tax Court of the subject matter of taxpayer's suit for refund. If the taxpayer does not file a petition with the Tax Court for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits against officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

##### (f) Limitation on right of action for refund

###### (1) General rule

A suit or proceeding referred to in subsection (a) may be maintained only against the United States and not against any officer or employee of the United States (or former officer or employee) or his personal representative. Such suit or proceeding may be maintained against the United States notwithstanding the provisions of section 2502 of title 28 of the United States Code (relating to aliens' privilege to sue) and notwithstanding the provisions of section 1502 of such title 28 (relating to certain treaty cases).

###### (2) Misjoinder and change of venue

If a suit or proceeding brought in a United States district court against an officer or employee of the United States (or former officer or employee) or his personal representative is improperly brought solely by virtue of paragraph (1), the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action commenced, upon proper service of process on the United States. Such suit or proceeding shall upon request by the United States be transferred to the district or division where it should have been brought if such action initially had been brought against the United States.

##### (g) Special rules for certain excise taxes imposed by chapter 42 or 43

###### (1) Right to bring actions

###### (A) In general

With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.