

or fiduciary have both consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. For the purpose of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments of tax made by such transferee or fiduciary or overpayments of tax made by the transferor of which the transferee or fiduciary is legally entitled to credit or refund, such agreement and any extension thereof shall be deemed an agreement and extension thereof referred to in section 6511(c).

(2) Extension of time for credit or refund

If the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, then in applying the limitations under section 6511(c) on the amount of the credit or refund, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date of the agreement.

(e) Period for assessment against transferor

For purposes of this section, if any person is deceased, or is a corporation which has terminated its existence, the period of limitation for assessment against such person shall be the period that would be in effect had death or termination of existence not occurred.

(f) Suspension of running of period of limitations

The running of the period of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 6212 (relating to income, estate, and gift taxes), be suspended for the period during which the Secretary is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(g) Address for notice of liability

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, any notice of liability enforceable under this section required to be mailed to such person, shall, if mailed to the person subject to the liability at his last known address, be sufficient for purposes of this title, even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(h) Definition of transferee

As used in this section, the term “transferee” includes donee, heir, legatee, devisee, and distributee, and with respect to estate taxes, also includes any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(i) Extension of time

For extensions of time by reason of armed service in a combat zone, see section 7508.

(Aug. 16, 1954, ch. 736, 68A Stat. 841; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-258, §3(f)(10), Sept. 13, 1982, 96 Stat. 1065.)

AMENDMENTS

1982—Subsec. (a)(1)(B). 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)”.

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

§ 6902. Provisions of special application to transferees

(a) Burden of proof

In proceedings before the Tax Court the burden of proof shall be upon the Secretary to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(b) Evidence

Upon application to the Tax Court, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Tax Court, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Tax Court for the redetermination of his liability in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application, the Tax Court may require by subpoena, ordered by the Tax Court or any division thereof and signed by a judge, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Tax Court or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpoena.

(Aug. 16, 1954, ch. 736, 68A Stat. 843; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 6903. Notice of fiduciary relationship

(a) Rights and obligations of fiduciary

Upon notice to the Secretary that any person is acting for another person in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of such other person in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of such other person), until notice is given that the fiduciary capacity has terminated.

(b) Manner of notice

Notice under this section shall be given in accordance with regulations prescribed by the Secretary.