

§ 6344. Cross references

(a) Length of period

For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6502(a).

(b) Delinquent collection officers

For distraint proceedings against delinquent internal revenue officers, see section 7804(c).

(c) Other references

For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91-172, title I, §101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, §1307(d)(2)(F)(v), title XVI, §1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96-223, title I, §101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100-418, title I, §1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105-206, title I, §1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-206 substituted “section 7804(c)” for “section 7803(d)”.

1988—Subsec. (a)(1). Pub. L. 100-418 substituted “or 44” for “44, or 45”.

1980—Subsec. (a)(1). Pub. L. 96-223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94-455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93-406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91-172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[Subchapter E—Repealed]

[[§§ 6361 to 6365. Repealed. Pub. L. 101-508, title XI, §11801(a)(45), Nov. 5, 1990, 104 Stat. 1388-522]

Section 6361, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95-473, §2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95-600, title IV, §421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-248, title II, §201(d)(7), formerly §201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, §5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97-424, title V, §547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-369, div. A, title IV, §§412(b)(6), 474(r)(35), title VII, §721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99-514, title XIII, §1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, §402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97-248, title III, §§307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter A. Procedure in general 6401
B. Rules of special application 6411

Subchapter A—Procedure in General

Sec. 6401. Amounts treated as overpayments.
6402. Authority to make credits or refunds.
6403. Overpayment of installment.
6404. Abatements.
6405. Reports of refunds and credits.
6406. Prohibition of administrative review of decisions.
6407. Date of allowance of refund or credit.
6408. State escheat laws not to apply.
6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.

AMENDMENTS

2010—Pub. L. 111-312, title VII, §728(b), Dec. 17, 2010, 124 Stat. 3317, added item 6409.

1 Section numbers editorially supplied.

1987—Pub. L. 100-203, title X, §10621(b), Dec. 22, 1987, 101 Stat. 1330-452, added item 6408.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term “overpayment” includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, G, H, I, and J of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89-44, title VIII, §809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title III, §331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91-258, title II, §207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94-12, title II, §204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title VII, §701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95-600, title VII, §701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95-618, title III, §301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96-222, title I, §103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96-223, title II, §223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97-248, title III, §§307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, §474(r)(36), title VII, §735(c)(16), July 18, 1984, 98 Stat. 846, 985; Pub. L. 99-514, title XII, §1246(b), Oct. 22, 1986, 100 Stat. 2582; Pub. L. 100-647, title I, §1012(s)(1)(B), Nov. 10, 1988, 102 Stat. 3527; Pub. L. 105-206, title VI, §6022(a), July 22, 1998, 112 Stat. 824; Pub. L. 109-58, title XIII, §1303(c)(4), Aug. 8, 2005, 119 Stat. 997; Pub. L. 110-234, title XV, §15316(c)(3), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(c)(3), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 111-5, div. B, title I, §1531(c)(5), Feb. 17, 2009, 123 Stat. 360.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-5 substituted “I, and J” for “and I”.

2008—Subsec. (b)(1). Pub. L. 110-246, §15316(c)(3), substituted “H, and I” for “and H”.

2005—Subsec. (b)(1). Pub. L. 109-58 substituted “G, and H” for “and G”.

1998—Subsec. (b)(1). Pub. L. 105-206 substituted “D, and G” for “and D”.

1988—Subsec. (b)(2). Pub. L. 100-647 amended last sentence generally, substituting “credit so allowed by reason of section 1446” for “amount deducted and withheld under section 1446”.

1986—Subsec. (b)(2). Pub. L. 99-514 inserted last sentence.

1984—Subsec. (b). Pub. L. 98-369, §474(r)(36), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “If the amount allowable as credits under sections 31 (relating to tax withheld on wages) and 39 (relating to certain uses of gasoline and special fuels), and 43 (relating to earned income credit), exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, and 43), the amount of such excess shall be considered an overpayment. For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31.”

Pub. L. 98-369, §735(c)(16), substituted “and special fuels” for “, special fuels, and lubricating oil”.

1983—Subsec. (b). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-247 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (d). Pub. L. 96-223 struck out subsec. (d) which made a cross reference to section 46(a)(9)(C) for a rule allowing a refund for excess investment credit attributable to solar or wind energy property.

Pub. L. 96-222 substituted “46(a)(9)(C)” for “46(a)(10)(C)”.

1978—Subsec. (b). Pub. L. 95-600 inserted provisions relating to credit to a nonresident alien individual.

Subsec. (d). Pub. L. 95-618 added subsec. (d).

1976—Subsec. (b). Pub. L. 94-455 substituted “wages) and” and “lubricating oil), and” for “wages),” and “lubricating oil),”, respectively; and pars. (2) and (3) made identical change: striking out “and 667(b) (relating to taxes paid by certain trusts)” after “(relating to earned income credit)”.

1975—Subsec. (b). Pub. L. 94-12 inserted “43 (relating to earned income credit),” before “and 667(b)” and substituted “, 39, and 43” for “and 39”.

1970—Subsec. (b). Pub. L. 91-258 inserted reference to credits under section 39 relating to certain uses of special fuels.

1969—Subsec. (b). Pub. L. 91-172 struck out “under sections 31 and 39” after “Excessive credits” in heading and inserted in text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89-44 substituted “Excessive credits under sections 31 and 39” for “Excessive with-