

than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.

(2) Notice of specific contacts

The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

(3) Exceptions

This subsection shall not apply—

(A) to any contact which the taxpayer has authorized;

(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or

(C) with respect to any pending criminal investigation.

(d) No administrative summons when there is Justice Department referral

(1) Limitation of authority

No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

(2) Justice Department referral in effect

For purposes of this subsection—

(A) In general

A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

(B) Termination

A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation,

(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws

which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

(3) Taxable years, etc., treated separately

For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.

(e) Limitation on examination on unreported income

The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.

(Aug. 16, 1954, ch. 736, 68A Stat. 901; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §333(a), Sept. 3, 1982, 96 Stat. 622; Pub. L. 105-206, title III, §§3412, 3417(a), July 22, 1998, 112 Stat. 751, 757.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-206, §3417(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-206, §3417(a), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 105-206, §3412, added subsec. (d).

Subsec. (e). Pub. L. 105-206, §3417(a), redesignated subsec. (d) as (e).

1982—Pub. L. 97-248 redesignated existing provisions as subsec. (a), added subsec. (a) heading, and added subsecs. (b) and (c).

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

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3417(b), July 22, 1998, 112 Stat. 758, provided that: “The amendments made by subsection (a) [amending this section] shall apply to contacts made after the 180th day after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §333(b), Sept. 3, 1982, 96 Stat. 623, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 7603. Service of summons

(a) In general

A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by the Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) Service by mail to third-party recordkeepers**(1) In general**

A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

(2) Third-party recordkeeper

For purposes of paragraph (1), the term “third-party recordkeeper” means—

(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A)),

(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))),

(C) any person extending credit through the use of credit cards or similar devices,

(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))),

(E) any attorney,

(F) any accountant,

(G) any barter exchange (as defined in section 6045(c)(3)),

(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof,

(I) any enrolled agent, and

(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 4, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), 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; Pub. L. 105-206, title III, §§3413(c), 3416(a), July 22, 1998, 112 Stat. 754, 756; Pub. L. 106-554, §1(a)(7) [title III, §319(26)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648.)

AMENDMENTS

2000—Subsec. (b)(2)(A) to (G). Pub. L. 106-554 substituted a comma for semicolon at end.

1998—Subsec. (a). Pub. L. 105-206, §3416(a), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 105-206, §3416(a), added subsec. (b). Subsec. (b)(2). Pub. L. 105-206, §3413(c), added subpar. (J) and concluding provisions.

1988—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—Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted “6427(j)(2)” for “6427(i)(2)”.

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

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

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

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

1976—Pub. L. 94-530 substituted “6427(f)(2)” for “6427(e)(2)”.

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

1970—Pub. L. 91-258 inserted reference to section 6427(e)(2).

1965—Pub. L. 89-44 inserted reference to section 6424(d)(2).

1956—Act June 29, 1956, inserted reference to section 6421(f)(2).

Act Apr. 2, 1956, inserted reference to section 6420(e)(2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3413(c) of Pub. L. 105-206 applicable to summonses issued, and software acquired, after July 22, 1998, see section 3413(e)(1) of Pub. L. 105-206, set out as an Effective Date note under section 7612 of this title.

Pub. L. 105-206, title III, §3416(b), July 22, 1998, 112 Stat. 757, provided that: “The amendment made by this section [amending this section] shall apply to summonses served after the date of the enactment of this Act [July 22, 1998].”

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

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2), of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 7604. Enforcement of summons

(a) Jurisdiction of district court

If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) Enforcement

Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States magistrate judge for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or magistrate judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States magistrate judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(c) Cross references

(1) Authority to issue orders, processes, and judgments

For authority of district courts generally to enforce the provisions of this title, see section 7402.

(2) Penalties

For penalties applicable to violation of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602, see section 7210.

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), (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; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1988—Subsecs. (b), (c)(2). 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—Subsecs. (b), (c)(2). Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted “6427(j)(2)” for “6427(i)(2)”.

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

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

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

1978—Subsec. (b). Pub. L. 95-599, §505(c)(5), substituted “6427(g)(2)” for “6427(f)(2)”.

Subsec. (c)(2). Pub. L. 95-599, §505(c)(6), substituted “6427(g)(2)” for “6427(e)(2)”.

1976—Subsec. (b). Pub. L. 94-530 substituted “6427(f)(2)” for “6427(e)(2)”.

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

1970—Subsecs. (b), (c). Pub. L. 91-258 inserted references to section 6427(e)(2).

1965—Subsecs. (b), (c). Pub. L. 89-44 inserted references to section 6424(d)(2).

1956—Subsecs. (b), (c). Act Apr. 2, 1956, inserted references to section 6420(e)(2).

Act June 29, 1956, inserted references to section 6421(f)(2).

CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted for “United States magistrate” and “magistrate”, respectively, wherever appearing in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “United States magistrate” and “magistrate” substituted for “United States commissioner” and “commissioner”, respectively, pursuant to Pub. L. 90-578. See chapter 43 (§331 et seq.) of Title 28.

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.