

1959—Pub. L. 86-368 substituted “Chief Counsel for the Internal Revenue Service or his delegate” for “Assistant General Counsel of the Treasury Department serving as Chief Counsel of the Internal Revenue Service, or the delegate of such Chief Counsel.”.

#### EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-368 effective when Chief Counsel for Internal Revenue Service first appointed pursuant to amendment of section 7801 of this title by Pub. L. 86-368 qualifies and takes office, see section 3 of Pub. L. 86-368, set out as a note under section 7801 of this title.

### § 7453. Rules of practice, procedure, and evidence

Except in the case of proceedings conducted under section 7436(c) or 7463, the proceedings of the Tax Court and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Tax Court may prescribe and in accordance with the Federal Rules of Evidence.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91-172, title IX, § 960(f), Dec. 30, 1969, 83 Stat. 734; Pub. L. 105-34, title XIV, § 1454(b)(3), Aug. 5, 1997, 111 Stat. 1057; Pub. L. 114-113, div. Q, title IV, § 425(a), Dec. 18, 2015, 129 Stat. 3125.)

#### REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### AMENDMENTS

2015—Pub. L. 114-113 substituted “the Federal Rules of Evidence” for “the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia”.

1997—Pub. L. 105-34 substituted “section 7436(c) or 7463” for “section 7463”.

1969—Pub. L. 91-172 inserted reference to the exception in the case of proceedings conducted under section 7463 of this title.

#### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 425(b), Dec. 18, 2015, 129 Stat. 3125, provided that: “The amendment made by this section [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Dec. 18, 2015] and, to the extent that it is just and practicable, to all proceedings pending on such date.”

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

#### TAX COURT RULE MAKING NOT AFFECTED

Authority of Tax Court to prescribe rules under this section unaffected by amendments of title IV of Pub. L. 100-702, see section 405 of Pub. L. 100-702, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

### § 7454. Burden of proof in fraud, foundation manager, and transferee cases

#### (a) Fraud

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary.

#### (b) Foundation managers

In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has “knowingly” participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), or whether the trustee of a trust described in section 501(c)(21) has “knowingly” participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952), or whether an organization manager (as defined in section 4955(f)(2)) has “knowingly” agreed to the making of a political expenditure (within the meaning of section 4955),<sup>1</sup> or whether an organization manager (as defined in section 4912(d)(2)) has “knowingly” agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), or whether an organization manager (as defined in section 4958(f)(2)) has “knowingly” participated in an excess benefit transaction (as defined in section 4958(c)), the burden of proof in respect of such issue shall be upon the Secretary.

#### (c) Cross reference

**For provisions relating to burden of proof as to transferee liability, see section 6902(a).**

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91-172, title I, § 101(j)(57), Dec. 30, 1969, 83 Stat. 532; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, § 4(d)(7), Feb. 10, 1978, 92 Stat. 23; Pub. L. 96-222, title I, § 108(b)(3)(B), Apr. 1, 1980, 94 Stat. 226; Pub. L. 100-203, title X, §§ 10712(c)(6), 10714(b), Dec. 22, 1987, 101 Stat. 1330-467, 1330-471; Pub. L. 104-168, title XIII, § 1311(c)(5), July 30, 1996, 110 Stat. 1478; Pub. L. 104-188, title I, § 1704(t)(43), Aug. 20, 1996, 110 Stat. 1889.)

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-188 substituted “section 4955(f)(2)” for “section 4955(e)(2)”.

Pub. L. 104-168 inserted “or whether an organization manager (as defined in section 4958(f)(2)) has ‘knowingly’ participated in an excess benefit transaction (as defined in section 4958(c)),” after “section 4912(b),”.

1987—Subsec. (b). Pub. L. 100-203, § 10714(b), substituted “, or whether an organization manager (as defined in section 4912(d)(2)) has ‘knowingly’ agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof” for “the burden of proof”.

Pub. L. 100-203, § 10712(c)(6), substituted “or whether an organization manager (as defined in section 4955(e)(2)) has ‘knowingly’ agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof” for “the burden of proof”.

1980—Subsec. (b). Pub. L. 96-222 substituted “section 501(c)(21)” for “section 502(c)(21)”.

1978—Subsec. (b). Pub. L. 95-227 inserted provision relating to trustees of a trust described under section 502(c)(21) of this title.

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

1969—Pub. L. 91-172 inserted “, foundation manager” in section catchline.

<sup>1</sup> So in original.