

REFERENCES IN TEXT

The date of the enactment of the Pension Protection Act of 2006, referred to in text, is the date of enactment of Pub. L. 109-280, which was approved Aug. 17, 2006.

AMENDMENTS

2009—Pub. L. 111-8, which directed the amendment of section 7472 of “title 26, United States Code” by inserting “after April 24, 1999, that is incurred” after “imposed” in second sentence, was executed to this section, which is section 7472 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2006—Pub. L. 109-280 inserted after first sentence “Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees’ Group Life Insurance imposed after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.”

1986—Pub. L. 99-514 substituted “Except as provided in section 7475, all” for “All” in second sentence.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-8, div. D, title VI, §618(b), Mar. 11, 2009, 123 Stat. 677, provided that: “This amendment [amending this section] shall take effect as if included in the amendment made by section 852 of the Pension Protection Act of 2006 [Pub. L. 109-280].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective Jan. 1, 1987, see section 1553(c) of Pub. L. 99-514, set out as an Effective Date note under section 7475 of this title.

§ 7473. Disposition of fees

Except as provided in sections 7470A and 7475, all fees received by the Tax Court pursuant to this title shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 888; Pub. L. 99-514, title XV, §1553(b)(2), Oct. 22, 1986, 100 Stat. 2754; Pub. L. 114-113, div. Q, title IV, §432(b), Dec. 18, 2015, 129 Stat. 3126.)

AMENDMENTS

2015—Pub. L. 114-113 amended section generally. Prior to amendment, text read as follows: “Except as provided in section 7475, all fees received by the Tax Court shall be covered into the Treasury as miscellaneous receipts.”

1986—Pub. L. 99-514 substituted “Except as provided in section 7475, all” for “All”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective Jan. 1, 1987, see section 1553(c) of Pub. L. 99-514, set out as an Effective Date note under section 7475 of this title.

§ 7474. Fee for transcript of record

The Tax Court is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

(Aug. 16, 1954, ch. 736, 68A Stat. 888.)

§ 7475. Practice fee**(a) In general**

The Tax Court is authorized to impose a periodic registration fee on practitioners admitted to practice before such Court. The frequency and amount of such fee shall be determined by the Tax Court, except that such amount may not exceed \$30 per year.

(b) Use of fees

The fees described in subsection (a) shall be available to the Tax Court to employ independent counsel to pursue disciplinary matters and to provide services to pro se taxpayers.

(Added Pub. L. 99-514, title XV, §1553(a), Oct. 22, 1986, 100 Stat. 2754; amended Pub. L. 109-280, title VIII, §860(a), Aug. 17, 2006, 120 Stat. 1020.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-280 inserted “and to provide services to pro se taxpayers” before period at end.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title VIII, §860(b), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE

Pub. L. 99-514, title XV, §1553(c), Oct. 22, 1986, 100 Stat. 2754, provided that: “The amendments made by this section [enacting this section and amending sections 7472 and 7473 of this title] shall take effect on January 1, 1987.”

PART IV—DECLARATORY JUDGMENTS

Sec.

- 7476. Declaratory judgments relating to qualification of certain retirement plans.
- 7477. Declaratory judgments relating to value of certain gifts.
- 7478. Declaratory judgments relating to status of certain governmental obligations.
- 7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166.

AMENDMENTS

1997—Pub. L. 105-34, title V, §§505(b), 506(c)(2), Aug. 5, 1997, 111 Stat. 855, 856, added items 7477 and 7479.

1984—Pub. L. 98-369, div. A, title I, §131(e)(2)(B), July 18, 1984, 98 Stat. 665, struck out item 7477 “Declaratory judgments relating to transfers of property from the United States”.

1978—Pub. L. 95-600, title III, §336(c)(2), Nov. 6, 1978, 92 Stat. 2842, added item 7478.

1976—Pub. L. 94-455, title X, §1042(d)(2)(D), (E), Oct. 4, 1976, 90 Stat. 1639, struck out in part heading “RELATING TO QUALIFICATIONS OF CERTAIN RETIREMENT PLANS” after “DECLARATORY JUDGMENTS”, inserted “relating to qualification of certain retirement plans” after “Declaratory judgments” in item 7476, and added item 7477.

1974—Pub. L. 93-406, title II, §1041(a), Sept. 2, 1974, 88 Stat. 949, added part heading and analysis of sections.

§ 7476. Declaratory judgments relating to qualification of certain retirement plans**(a) Creation of remedy**

In a case of actual controversy involving—

- (1) a determination by the Secretary with respect to the initial qualification or continuing qualification of a retirement plan under subchapter D of chapter 1, or

(2) a failure by the Secretary to make a determination with respect to—

(A) such initial qualification, or

(B) such continuing qualification if the controversy arises from a plan amendment or plan termination,

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by a petitioner who is the employer, the plan administrator, an employee who has qualified under regulations prescribed by the Secretary as an interested party for purposes of pursuing administrative remedies within the Internal Revenue Service, or the Pension Benefit Guaranty Corporation.

(2) Notice

For purposes of this section, the filing of a pleading by any petitioner may be held by the Tax Court to be premature, unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by regulations of the Secretary with respect to notice to other interested parties of the filing of the request for a determination referred to in subsection (a).

(3) Exhaustion of administrative remedies

The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to initial qualification or continuing qualification of a retirement plan before the expiration of 270 days after the request for such determination was made.

(4) Plan put into effect

No proceeding may be maintained under this section unless the plan (and, in the case of a controversy involving the continuing qualification of the plan because of an amendment to the plan, the amendment) with respect to which a decision of the Tax Court is sought has been put into effect before the filing of the pleading. A plan or amendment shall not be treated as not being in effect merely because under the plan the funds contributed to the plan may be refunded if the plan (or the plan as so amended) is found to be not qualified.

(5) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination with respect to the qualification of the plan to the persons referred to in paragraph (1) (or, in the

case of employees referred to in paragraph (1), to any individual designated under regulations prescribed by the Secretary as a representative of such employee), no proceeding may be initiated under this section by any person unless the pleading is filed before the ninety-first day after the day after such notice is mailed to such person (or to his designated representative, in the case of an employee).

(c) Retirement plan

For purposes of this section, the term “retirement plan” means—

(1) a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan, or

(2) an annuity plan described in section 403(a).

(d) Cross reference

For provisions concerning intervention by Pension Benefit Guaranty Corporation and Secretary of Labor in actions brought under this section and right of Pension Benefit Guaranty Corporation to bring action, see section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93-406, title II, §1041(a), Sept. 2, 1974, 88 Stat. 949; amended Pub. L. 94-455, title X, §1042(d)(2)(C), title XIII, §1306(b)(3), title XIX, §§1906(a)(48), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1639, 1719, 1831, 1834; Pub. L. 95-600, title III, §336(b)(2)(A), title VII, §701(dd)(1), Nov. 6, 1978, 92 Stat. 2842, 2924; Pub. L. 98-369, div. A, title IV, §491(d)(52), July 18, 1984, 98 Stat. 852; Pub. L. 99-514, title XVIII, §1899A(59), Oct. 22, 1986, 100 Stat. 2962.)

REFERENCES IN TEXT

Section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1201(c) of Title 29, Labor.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-514 substituted “plan, or” for “plan,, or”.

1984—Subsec. (c)(3). Pub. L. 98-369 struck out par. (3) which included a bond purchase plan described in section 405(a) within the term “retirement plan”.

1978—Subsec. (a). Pub. L. 95-600, §701(dd)(1), inserted provision relating to revocation of qualification.

Subsecs. (c) to (e). Pub. L. 95-600, §336(b)(2)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c), which authorized the chief judge to assign proceedings under this section or section 7428 to be heard by the commissioners of the court, was struck out.

1976—Pub. L. 94-455, §1042(d)(2)(C), inserted “relating to qualification of certain retirement plans” after “Declaratory judgments” in section catchline.

Subsec. (a). Pub. L. 94-455, §§1906(a)(48), (b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing, and “United States” after “appropriate pleading, the” in provisions following par. (2).

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out in pars. (1) to (3) and (5), “or his delegate” after “Secretary” wherever appearing.

Subsec. (c). Pub. L. 94-455, §1306(b)(3), substituted “this section or section 7428” for “this section”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 336(b)(2)(A) of Pub. L. 95-600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95-600, set out as an Effective Date note under section 7478 of this title.

Pub. L. 95-600, title VII, §701(dd)(3), Nov. 6, 1978, 92 Stat. 2924, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by paragraphs (1) and (2) [amending this section and section 7428 of this title] shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as the case may be) at the respective times such sections were added to such Code."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1042(d)(2)(C) of Pub. L. 94-455 applicable to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94-455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(3) of Pub. L. 94-455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94-455, set out as an Effective Date note under section 7428 of this title.

Amendment by section 1906(a)(48), (b)(13)(A) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Pub. L. 93-406, title X, §1041(d), Sept. 2, 1974, 88 Stat. 951, provided that: "The amendments made by this section [enacting this section and amending sections 7451, 7459, and 7482 of this title] shall apply to pleadings filed more than 1 year after the date of the enactment of this Act [Sept. 2, 1974]."

§ 7477. Declaratory judgments relating to value of certain gifts

(a) Creation of remedy

In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the donor.

(2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as de-

scribed in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(Added Pub. L. 105-34, title V, §506(c)(1), Aug. 5, 1997, 111 Stat. 855.)

PRIOR PROVISIONS

A prior section 7477, added Pub. L. 94-455, title X, §1042(d)(1), Oct. 4, 1976, 90 Stat. 1637; amended Pub. L. 95-600, title III, §336(b)(2)(B), Nov. 6, 1978, 92 Stat. 2842, provided for declaratory judgments relating to transfers of property from the United States, prior to repeal by Pub. L. 98-369, div. A, title I, §131(e)(1), (g), July 18, 1984, 98 Stat. 664, 665, applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984.

EFFECTIVE DATE

Section applicable to gifts made after Aug. 5, 1997, see section 506(e)(1) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 2001 of this title.

§ 7478. Declaratory judgments relating to status of certain governmental obligations

(a) Creation of remedy

In a case of actual controversy involving—

(1) a determination by the Secretary whether interest on prospective obligations will be excludable from gross income under section 103(a), or

(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether interest on such prospective obligations will be excludable from gross income under section 103(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the prospective issuer.

(2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.