

(c) Adjudication and decree

The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(d) Receivership

In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 89-719, title I, §107(b), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XX, §2004(f)(2), Oct. 4, 1976, 90 Stat. 1834, 1872; Pub. L. 97-34, title IV, §422(e)(8), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-34 struck out “or 6166A(h)” after “section 6166(g)”.

1976—Subsec. (a). Pub. L. 94-455, §§1906(b)(13)(A), 2004(f)(2), struck out “or his delegate” after “Secretary” and inserted provisions relating to the acceleration of payment under section 6166(g) or 6166A(h).

Subsecs. (c), (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1966—Subsec. (c). Pub. L. 89-719 inserted sentence permitting the United States, if the property is sold to satisfy a first lien held by the United States, to bid at the sale such sum, not more than the amount of such lien with expenses of sale, as the Secretary or his delegate directs.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7404. Authority to bring civil action for estate taxes

If the estate tax imposed by chapter 11 is not paid on or before the due date thereof, the Secretary shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court of the United States having jurisdiction to subject the property of the decedent to be sold under the judgment or

decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This section insofar as it applies to the collection of a deficiency shall be subject to the provisions of sections 6213 and 6601.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7405. Action for recovery of erroneous refunds**(a) Refunds after limitation period**

Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) Refunds otherwise erroneous

Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) Interest

For provision relating to interest on erroneous refunds, see section 6602.

(d) Periods of limitation

For periods of limitations on actions under this section, see section 6532(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 874.)

§ 7406. Disposition of judgments and moneys recovered

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary as collections of internal revenue taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 875; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7407. Action to enjoin tax return preparers**(a) Authority to seek injunction**

A civil action in the name of the United States to enjoin any person who is a tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as a tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the tax return preparer resides or has his principal place of business or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exer-

cise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such tax return preparer or any taxpayer.

(b) Adjudication and decrees

In any action under subsection (a), if the court finds—

(1) that a tax return preparer has—

(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as a tax return preparer,

(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that a tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as a tax return preparer.

(Added Pub. L. 94-455, title XII, §1203(g), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 101-239, title VII, §7738(a), (b), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 110-28, title VIII, §8246(a)(2)(I)(i), May 25, 2007, 121 Stat. 202.)

PRIOR PROVISIONS

A prior section 7407 was renumbered section 7410 of this title.

AMENDMENTS

2007—Pub. L. 110-28, §8246(a)(2)(I)(i)(I), substituted “tax return preparers” for “income tax return preparers” in section catchline.

Subsec. (a). Pub. L. 110-28, §8246(a)(2)(I)(i)(II)–(IV), substituted “tax return” for “income tax return” after “with respect to whose”, “tax return preparer” for “income tax preparer” after “district in which the” and after “against such”, and “a tax return preparer” for “an income tax return preparer” in two places.

Subsec. (b). Pub. L. 110-28, §8246(a)(2)(I)(i)(II), substituted “a tax return preparer” for “an income tax return preparer” in introductory provisions and subpar. (B) of par. (1) and in two places in concluding provisions.

1989—Subsec. (a). Pub. L. 101-239, §7738(b), substituted “A civil” for “Except as provided in subsection (c), a civil”.

Subsec. (c). Pub. L. 101-239, §7738(a), struck out subsec. (c) relating to bonds to stay injunctions.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7738(c), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendments made by

this section [amending this section] shall apply to actions commenced after December 31, 1989.”

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 7701 of this title.

§ 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

(b) Adjudication and decree

In any action under subsection (a), if the court finds—

(1) that the person has engaged in any specified conduct, and

(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

(c) Specified conduct

For purposes of this section, the term “specified conduct” means any action, or failure to take action, which is—

(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

(2) in violation of any requirement under regulations issued under section 330 of title 31, United States Code.

(d) Citizens and residents outside the United States

If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.

(Added Pub. L. 97-248, title III, §321(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 98-369, div. A, title I, §143(b), July 18, 1984, 98 Stat. 682; Pub. L. 108-357, title VIII, §820(a), (b)(1), Oct. 22, 2004, 118 Stat. 1585.)

PRIOR PROVISIONS

A prior section 7408 was renumbered section 7410 of this title.

AMENDMENTS

2004—Pub. L. 108-357, §820(b)(1), amended section catchline generally, substituting “Actions to enjoin specified conduct related to tax shelters and reportable transactions” for “Action to enjoin promoters of abusive tax shelters, etc.”