

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