

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding section 1201 of this title.

EFFECTIVE DATES

Permanent reenactment of section effective July 1, 2005, see section 1001(a)(2) of Pub. L. 109-8, set out as a Repeal, Reenactment, and Termination of Chapter note under section 1201 of this title. For effective dates of section and amendments extending periods for which section was reenacted prior to permanent reenactment, see Effective Date and Effective Date of 1999, 2001, 2002, 2003, and 2004 Amendment notes set out under section 1201 of this title.

§ 1231. Special tax provisions

(a) The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1225 of this title, may not be taxed under any law imposing a stamp tax or similar tax.

(b) The court may authorize the proponent of a plan to request a determination, limited to questions of law, by any governmental unit charged with responsibility for collection or determination of a tax on or measured by income, of the tax effects, under section 346 of this title and under the law imposing such tax, of the plan. In the event of an actual controversy, the court may declare such effects after the earlier of—

- (1) the date on which such governmental unit responds to the request under this subsection; or
- (2) 270 days after such request.

(Added and amended Pub. L. 99-554, title II, § 255, title III, § 302(f), Oct. 27, 1986, 100 Stat. 3113, 3124; Pub. L. 103-65, § 1, Aug. 6, 1993, 107 Stat. 311; Pub. L. 105-277, div. C, title I, § 149(a), Oct. 21, 1998, 112 Stat. 2681-610; Pub. L. 106-5, § 1(1), (2), Mar. 30, 1999, 113 Stat. 9; Pub. L. 106-70, § 1, Oct. 9, 1999, 113 Stat. 1031; Pub. L. 107-8, § 1, May 11, 2001, 115 Stat. 10; Pub. L. 107-17, § 1, June 26, 2001, 115 Stat. 151; Pub. L. 107-170, § 1, May 7, 2002, 116 Stat. 133; Pub. L. 107-171, title X, § 10814(a), May 13, 2002, 116 Stat. 532; Pub. L. 107-377, § 2(a), Dec. 19, 2002, 116 Stat. 3115; Pub. L. 108-73, § 2(a), Aug. 15, 2003, 117 Stat. 891; Pub. L. 108-369, § 2(a), Oct. 25, 2004, 118 Stat. 1749; Pub. L. 109-8, title VII, § 719(b)(4), title X, §§ 1001(a)(1), (c), 1003(b), Apr. 20, 2005, 119 Stat. 133, 185, 186.)

CODIFICATION

For repeal of section effective Oct. 1, 1998, and subsequent reenactment of section, see note set out preceding section 1201 of this title.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-8, § 719(b)(4), redesignated subsec. (c) as (a) and struck out former subsec. (a) which read as follows: “For the purpose of any State or local law imposing a tax on or measured by income, the taxable period of a debtor that is an individual shall terminate on the date of the order for relief under this chapter, unless the case was converted under section 706 of this title.”

Subsec. (b). Pub. L. 109-8, § 1003(b), substituted “any governmental unit” for “a State or local governmental unit”.

Pub. L. 109-8, § 719(b)(4), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: “The trustee shall make a State or local tax return of

income for the estate of an individual debtor in a case under this chapter for each taxable period after the order for relief under this chapter during which the case is pending.”

Subsecs. (c), (d). Pub. L. 109-8, § 719(b)(4)(B), redesignated subsecs. (c) and (d) as (a) and (b), respectively.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1003(b) of Pub. L. 109-8 effective Apr. 20, 2005, and not applicable with respect to cases commenced under this title before Apr. 20, 2005, see section 1003(c) of Pub. L. 109-8, set out as a note under section 1222 of this title.

Amendment by section 719(b)(4) of Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

EFFECTIVE DATES

Permanent reenactment of section effective July 1, 2005, see section 1001(a)(2) of Pub. L. 109-8, set out as a Repeal, Reenactment, and Termination of Chapter note under section 1201 of this title. For effective dates of section and amendments extending periods for which section was reenacted prior to permanent reenactment, see Effective Date and Effective Date of 1999, 2001, 2002, 2003, and 2004 Amendment notes set out under section 1201 of this title.

§ 1232. Claim by a governmental unit based on the disposition of property used in a farming operation

(a) Any unsecured claim of a governmental unit against the debtor or the estate that arises before the filing of the petition, or that arises after the filing of the petition and before the debtor's discharge under section 1228, as a result of the sale, transfer, exchange, or other disposition of any property used in the debtor's farming operation—

- (1) shall be treated as an unsecured claim arising before the date on which the petition is filed;
- (2) shall not be entitled to priority under section 507;
- (3) shall be provided for under a plan; and
- (4) shall be discharged in accordance with section 1228.

(b) For purposes of applying sections 1225(a)(4), 1228(b)(2), and 1229(b)(1) to a claim described in subsection (a) of this section, the amount that would be paid on such claim if the estate of the debtor were liquidated in a case under chapter 7 of this title shall be the amount that would be paid by the estate in a chapter 7 case if the claim were an unsecured claim arising before the date on which the petition was filed and were not entitled to priority under section 507.

(c) For purposes of applying sections 523(a), 1228(a)(2), and 1228(c)(2) to a claim described in subsection (a) of this section, the claim shall not be treated as a claim of a kind specified in subparagraph (A) or (B) of section 523(a)(1).

(d)(1) A governmental unit may file a proof of claim for a claim described in subsection (a) that arises after the date on which the petition is filed.

(2) If a debtor files a tax return after the filing of the petition for a period in which a claim described in subsection (a) arises, and the claim relates to the tax return, the debtor shall serve

notice of the claim on the governmental unit charged with the responsibility for the collection of the tax at the address and in the manner designated in section 505(b)(1). Notice under this paragraph shall state that the debtor has filed a petition under this chapter, state the name and location of the court in which the case under this chapter is pending, state the amount of the claim, and include a copy of the filed tax return and documentation supporting the calculation of the claim.

(3) If notice of a claim has been served on the governmental unit in accordance with paragraph (2), the governmental unit may file a proof of claim not later than 180 days after the date on which such notice was served. If the governmental unit has not filed a timely proof of the claim, the debtor or trustee may file proof of the claim that is consistent with the notice served under paragraph (2). If a proof of claim is filed by the debtor or trustee under this paragraph, the governmental unit may not amend the proof of claim.

(4) A claim filed under this subsection shall be determined and shall be allowed under subsection (a), (b), or (c) of section 502, or disallowed under subsection (d) or (e) of section 502, in the same manner as if the claim had arisen immediately before the date of the filing of the petition.

(Added Pub. L. 115-72, div. B, §1005(a), Oct. 26, 2017, 131 Stat. 1232.)

EFFECTIVE DATE

Section applicable to bankruptcy cases pending on Oct. 26, 2017, in which the plan under this chapter has not been confirmed on Oct. 26, 2017, and relating to which an order of discharge under section 1228 of this title has not been entered, and to bankruptcy cases that commence on or after Oct. 26, 2017, see section 1005(c) of Pub. L. 115-72, set out as an Effective Date of 2017 Amendment note under section 1222 of this title.

CHAPTER 13—ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME

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AMENDMENTS

2005—Pub. L. 109-8, title VII, §716(b)(2), Apr. 20, 2005, 119 Stat. 130, added item 1308.

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

§ 1301. Stay of action against codebtor

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 or 11 of this title.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.

(c) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided by subsection (a) of this section with respect to a creditor, to the extent that—

(1) as between the debtor and the individual protected under subsection (a) of this section, such individual received the consideration for the claim held by such creditor;

(2) the plan filed by the debtor proposes not to pay such claim; or

(3) such creditor's interest would be irreparably harmed by continuation of such stay.

(d) Twenty days after the filing of a request under subsection (c)(2) of this section for relief from the stay provided by subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the debtor or any individual that is liable on such debt with the debtor files and serves upon such party in interest a written objection to the taking of the proposed action.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2645; Pub. L. 98-353, title III, §§313, 524, July 10, 1984, 98 Stat. 355, 388.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1301 of the House amendment is identical with the provision contained in section 1301 of the House bill and adopted by the Senate amendment. Section 1301(c)(1) indicates that a basis for lifting the stay is that the debtor did not receive consideration for the claim by the creditor, or in other words, the debtor is really the "codebtor." As with other sections in title 11, the standard of receiving consideration is a general rule, but where two co-debtors have agreed to share liabilities in a different manner than profits it is the individual who does not ultimately bear the liability that is protected by the stay under section 1301.

SENATE REPORT NO. 95-989

Subsection (a) automatically stays the holder of a claim based on a consumer debt of the chapter 13 debtor from acting or proceeding in any way, except as authorized pursuant to subsections (b) and (c), against an individual or the property of an individual liable with the chapter 13 debtor, unless such codebtor became liable in the ordinary course of his business, or unless the case is closed, dismissed, or converted to another chapter.