

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

**(b) Prohibition of harassment and abuse**

The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

**(c) Civil action for violations of section**

For civil action for violations of this section, see section 7433.

(Added Pub. L. 105-206, title III, §3466(a), July 22, 1998, 112 Stat. 768.)

PRIOR PROVISIONS

A prior section 6304, act Aug. 16, 1954, ch. 736, 68A Stat. 776, related to a cross reference to sections 4504 and 4601 for collection under the Tariff Act of 1930, prior to repeal by Pub. L. 94-455, title XIX, §1906(a)(18), (d)(1), Oct. 4, 1976, 90 Stat. 1825, 1835, effective on first day of first month which begins more than 90 days after Oct. 4, 1976.

EFFECTIVE DATE

Pub. L. 105-206, title III, §3466(c), July 22, 1998, 112 Stat. 769, provided that: "The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

**§ 6305. Collection of certain liability**

**(a) In general**

Upon receiving a certification from the Secretary of Health and Human Services, under sec-

tion 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the Secretary of Health and Human Services, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children,

(4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303, and

(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.

**(b) Review of assessments and collections**

No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

(Added Pub. L. 93-647, §101(b)(1), Jan. 4, 1975, 88 Stat. 2358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-35, title XXIII, §2332(g), Aug. 13, 1981, 95 Stat. 862; Pub. L. 104-193, title III, §361(a), Aug. 22, 1996, 110 Stat. 2242.)

REFERENCES IN TEXT

Section 452(b) of the Social Security Act, referred to in subsec. (a), is classified to section 652(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193, §361(a)(4), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" in two places in introductory provisions.

Subsec. (a)(5). Pub. L. 104-193, §361(a)(1)-(3), added par. (5).

1981—Subsec. (a)(4). Pub. L. 97-35 inserted reference to administrative order.

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

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-193, title III, §361(b), Aug. 22, 1996, 110 Stat. 2242, provided that: "The amendments made by

this section [amending this section] shall become effective October 1, 1997.”

For provisions relating to effective date of title III of Pub. L. 104-193, see section 395(a)-(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97-35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE

Section effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as a note under section 651 of Title 42, the Public Health and Welfare.

### § 6306. Qualified tax collection contracts

#### (a) In general

Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

#### (b) Qualified tax collection contract

For purposes of this section, the term “qualified tax collection contract” means any contract which—

(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

(A) to locate and contact any taxpayer specified by the Secretary,

(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 7 years, and

(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

(3) prohibits subcontractors from—

(A) having contacts with taxpayers,

(B) providing quality assurance services, and

(C) composing debt collection notices, and

(4) permits subcontractors to perform other services only with the approval of the Secretary.

#### (c) Collection of inactive tax receivables

##### (1) In general

Notwithstanding any other provision of law, the Secretary shall enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables.

##### (2) Inactive tax receivables

For purposes of this section—

##### (A) In general

The term “inactive tax receivable” means any tax receivable if—

(i) at any time after assessment, the Internal Revenue Service removes such receivable from the active inventory for lack of resources or inability to locate the taxpayer,

(ii) more than  $\frac{1}{3}$  of the period of the applicable statute of limitation has lapsed and such receivable has not been assigned for collection to any employee of the Internal Revenue Service, or

(iii) in the case of a receivable which has been assigned for collection, more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering the collection of such receivable.

#### (B) Tax receivable

The term “tax receivable” means any outstanding assessment which the Internal Revenue Service includes in potentially collectible inventory.

#### (d) Certain tax receivables not eligible for collection under qualified tax collections contracts

A tax receivable shall not be eligible for collection pursuant to a qualified tax collection contract if such receivable—

(1) is subject to a pending or active offer-in-compromise or installment agreement,

(2) is classified as an innocent spouse case,

(3) involves a taxpayer identified by the Secretary as being—

(A) deceased,

(B) under the age of 18,

(C) in a designated combat zone, or

(D) a victim of tax-related identity theft,

(4) is currently under examination, litigation, criminal investigation, or levy, or

(5) is currently subject to a proper exercise of a right of appeal under this title.

#### (e) Fees

The Secretary may retain and use—

(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

(2) an amount not in excess of 25 percent of such amount collected to fund the special compliance personnel program account under section 6307.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

#### (f) No Federal liability

The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

#### (g) Application of Fair Debt Collection Practices Act

The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

#### (h) Contracting priority

In contracting for the services of any person under this section, the Secretary shall utilize