

payer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

(4) This section inapplicable where section 6861 applies

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

(b) Notice of deficiency

If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a).

(c) Citizens

In the case of a citizen of the United States or of a possession of the United States about to depart from the United States, the Secretary may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(d) Departure of alien

Subject to such exceptions as may, by regulations, be prescribed by the Secretary—

(1) No alien shall depart from the United States unless he first procures from the Secretary a certificate that he has complied with all the obligations imposed upon him by the income tax laws.

(2) Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such taxes if, in the case of an alien about to depart from the United States, the Secretary determines that the collection of the tax will not be jeopardized by the departure of the alien.

(e) Sections 6861(f) and (g) to apply

The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

(f) Cross references

(1) For provisions permitting immediate levy in case of jeopardy, see section 6331(a).

(2) For provisions relating to the review of jeopardy, see section 7429.

(Aug. 16, 1954, ch. 736, 68A Stat. 833; Pub. L. 85-866, title I, §87, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94-455, title XII, §1204(b), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1696, 1834.)

AMENDMENTS

1976—Pub. L. 94-455, §1204(b)(1), substituted “assessments of income tax” for “of taxable year” in section catchline.

Subsec. (a). Pub. L. 94-455, §1204(b)(1), revised pars. (1) and (2) to provide that a termination assessment does not end the taxable year for any purpose other than the computation of the amount of tax to be assessed and collected and to set out the method for determining the tax for the current taxable year, and added pars. (3) and (4).

Subsec. (b). Pub. L. 94-455, §1204(b)(1), substituted provisions for the mailing of a notice of deficiency for provisions for the reopening of taxable period.

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

Subsec. (e). Pub. L. 94-455, §1204(b)(2), substituted provisions making section 6861(f) and (g) applicable with respect to assessments under subsec. (a).

Subsec. (f). Pub. L. 94-455, §1204(b)(2), added subsec. (f).

1958—Subsec. (d). Pub. L. 85-866 designated existing provisions as par. (1), inserted opening provisions, and added par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XII, §1204(d), Oct. 4, 1976, 90 Stat. 1699, as amended by Pub. L. 94-528, §2(a), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting section 7429 of this title and amending this section and sections 443, 6091, 6211, 6213, 6863, 7103, and 7421 of this title] apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] where the notice and demand takes place after February 28, 1977.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to make

(1) In general

If the Secretary finds that—

(A) a section 501(c)(3) organization has made political expenditures, and

(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as

the case may be, together with a demand for immediate payment of such tax.

(2) Computation of tax

In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

(4) Section inapplicable to assessments after due date

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

(b) Definitions and special rules

(1) Definitions

For purposes of this section, the terms "section 501(c)(3) organization", "political expenditure", and "organization manager" have the respective meanings given to such terms by section 4955.

(2) Certain rules made applicable

The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists.

(Added Pub. L. 100-203, title X, §10713(b)(1), Dec. 22, 1987, 101 Stat. 1330-469.)

PART II—JEOPARDY ASSESSMENTS

Sec.	
6861.	Jeopardy assessments of income, estate, gift, and certain excise taxes.
6862.	Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.
6863.	Stay of collection of jeopardy assessments.
6864.	Termination of extended period for payment in case of carryback.

AMENDMENTS

1974—Pub. L. 93-406, title II, §1016(b)(5), Sept. 2, 1974, 88 Stat. 932, substituted "gift, and certain excise taxes" for "and gift taxes" in items 6861 and 6862.

§ 6861. Jeopardy assessments of income, estate, gift, and certain excise taxes

(a) Authority for making

If the Secretary believes that the assessment or collection of a deficiency, as defined in section 6211, will be jeopardized by delay, he shall, notwithstanding the provisions of section 6213(a), immediately assess such deficiency (to-

gether with all interest, additional amounts, and additions to the tax provided for by law), and notice and demand shall be made by the Secretary for the payment thereof.

(b) Deficiency letters

If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 6212(a), then the Secretary shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Tax Court

The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court. The Secretary may, at any time before the decision of the Tax Court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary shall notify the Tax Court of the amount of such assessment, or abatement, if the petition is filed with the Tax Court before the making of the assessment or is subsequently filed, and the Tax Court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Tax Court

If the jeopardy assessment is made after the decision of the Tax Court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court in its decision.

(e) Expiration of right to assess

A jeopardy assessment may not be made after the decision of the Tax Court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court.

(f) Collection of unpaid amounts

When the petition has been filed with the Tax Court and when the amount which should have been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary.

(g) Abatement if jeopardy does not exist

The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist.