

(Added Pub. L. 103-66, title XIII, §13301(a), Aug. 10, 1993, 107 Stat. 555, §1397D; renumbered §1397F, Pub. L. 105-34, title II, §226(a), Aug. 5, 1997, 111 Stat. 820; amended Pub. L. 105-206, title VI, §6004(g)(1), July 22, 1998, 112 Stat. 796.)

AMENDMENTS

1998—Pub. L. 105-206 amended directory language of Pub. L. 105-34, §226(a). See 1997 Amendment note below.

1997—Pub. L. 105-34, §226(a), as amended by Pub. L. 105-206, renumbered section 1397D of this title as this section.

Subchapter V—Title 11 Cases

Sec.

1398. Rules relating to individuals' title 11 cases.
1399. No separate taxable entities for partnerships, corporations, etc.

AMENDMENTS

1980—Pub. L. 96-589, §3(a)(1), Dec. 24, 1980, 94 Stat. 3397, added subchapter V heading "Title 11 Cases" and items 1398 and 1399.

§ 1398. Rules relating to individuals' title 11 cases

(a) Cases to which section applies

Except as provided in subsection (b), this section shall apply to any case under chapter 7 (relating to liquidations) or chapter 11 (relating to reorganizations) of title 11 of the United States Code in which the debtor is an individual.

(b) Exceptions where case is dismissed, etc.

(1) Section does not apply where case is dismissed

This section shall not apply if the case under chapter 7 or 11 of title 11 of the United States Code is dismissed.

(2) Section does not apply at partnership level

For purposes of subsection (a), a partnership shall not be treated as an individual, but the interest in a partnership of a debtor who is an individual shall be taken into account under this section in the same manner as any other interest of the debtor.

(c) Computation and payment of tax; basic standard deduction

(1) Computation and payment of tax

Except as otherwise provided in this section, the taxable income of the estate shall be computed in the same manner as for an individual. The tax shall be computed on such taxable income and shall be paid by the trustee.

(2) Tax rates

The tax on the taxable income of the estate shall be determined under subsection (d) of section 1.

(3) Basic standard deduction

In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year.

(d) Taxable year of debtors

(1) General rule

Except as provided in paragraph (2), the taxable year of the debtor shall be determined

without regard to the case under title 11 of the United States Code to which this section applies.

(2) Election to terminate debtor's year when case commences

(A) In general

Notwithstanding section 442, the debtor may (without the approval of the Secretary) elect to treat the debtor's taxable year which includes the commencement date as 2 taxable years—

- (i) the first of which ends on the day before the commencement date, and
- (ii) the second of which begins on the commencement date.

(B) Spouse may join in election

In the case of a married individual (within the meaning of section 7703), the spouse may elect to have the debtor's election under subparagraph (A) also apply to the spouse, but only if the debtor and the spouse file a joint return for the taxable year referred to in subparagraph (A)(i).

(C) No election where debtor has no assets

No election may be made under subparagraph (A) by a debtor who has no assets other than property which the debtor may treat as exempt property under section 522 of title 11 of the United States Code.

(D) Time for making election

An election under subparagraph (A) or (B) may be made only on or before the due date for filing the return for the taxable year referred to in subparagraph (A)(i). Any such election, once made, shall be irrevocable.

(E) Returns

A return shall be made for each of the taxable years specified in subparagraph (A).

(F) Annualization

For purposes of subsections (b), (c), and (d) of section 443, a return filed for either of the taxable years referred to in subparagraph (A) shall be treated as a return made under paragraph (1) of subsection (a) of section 443.

(3) Commencement date defined

For purposes of this subsection, the term "commencement date" means the day on which the case under title 11 of the United States Code to which this section applies commences.

(e) Treatment of income, deductions, and credits

(1) Estate's share of debtor's income

The gross income of the estate for each taxable year shall include the gross income of the debtor to which the estate is entitled under title 11 of the United States Code. The preceding sentence shall not apply to any amount received or accrued by the debtor before the commencement date (as defined in subsection (d)(3)).

(2) Debtor's share of debtor's income

The gross income of the debtor for any taxable year shall not include any item to the extent that such item is included in the gross income of the estate by reason of paragraph (1).