

CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

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7121.	Closing agreements.
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AMENDMENTS

1998—Pub. L. 105-206, title III, §3465(a)(2), July 22, 1998, 112 Stat. 768, added items 7123 and 7124 and struck out former item 7123 “Cross references”.

§ 7121. Closing agreements

(a) Authorization

The Secretary is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) Finality

If such agreement is approved by the Secretary (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 7122. Compromises

(a) Authorization

The Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) Record

Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than \$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

(c) Rules for submission of offers-in-compromise

(1) Partial payment required with submission

(A) Lump-sum offers

(i) In general

The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of the amount of such offer.

(ii) Lump-sum offer-in-compromise

For purposes of this section, the term “lump-sum offer-in-compromise” means any offer of payments made in 5 or fewer installments.

(B) Periodic payment offers

(i) In general

The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment.

(ii) Failure to make installment during pendency of offer

Any failure to make an installment (other than the first installment) due under such offer-in-compromise during the period such offer is being evaluated by the Secretary may be treated by the Secretary as a withdrawal of such offer-in-compromise.

(2) Rules of application

(A) Use of payment

The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

(B) Application of user fee

In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

(C) Waiver authority

The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).

(3) Exception for low-income taxpayers

Paragraph (1), and any user fee otherwise required in connection with the submission of an offer-in-compromise, shall not apply to any offer-in-compromise with respect to a tax-

payer who is an individual with adjusted gross income, as determined for the most recent taxable year for which such information is available, which does not exceed 250 percent of the applicable poverty level (as determined by the Secretary).

(d) Standards for evaluation of offers

(1) In general

The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

(2) Allowances for basic living expenses

(A) In general

In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

(B) Use of schedules

The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

(3) Special rules relating to treatment of offers

The guidelines under paragraph (1) shall provide that—

(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer,

(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability; and

(ii) the taxpayer shall not be required to provide a financial statement, and

(C) any offer-in-compromise which does not meet the requirements of subparagraph (A)(i) or (B)(i), as the case may be, of subsection (c)(1) may be returned to the taxpayer as unprocessable.

(e) Administrative review

The Secretary shall establish procedures—

(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and

(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Independent Office of Appeals.

(f) Deemed acceptance of offer not rejected within certain period

Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.

(g) Frivolous submissions, etc.

Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 104-168, title V, §503(a), July 30, 1996, 110 Stat. 1461; Pub. L. 105-206, title III, §3462(a), (c)(1), July 22, 1998, 112 Stat. 764, 766; Pub. L. 109-222, title V, §509(a), (b), May 17, 2006, 120 Stat. 362, 363; Pub. L. 109-432, div. A, title IV, §407(d), Dec. 20, 2006, 120 Stat. 2962; Pub. L. 113-295, div. A, title II, §220(y), Dec. 19, 2014, 128 Stat. 4036; Pub. L. 116-25, title I, §§1001(b)(1)(F), 1102(a), July 1, 2019, 133 Stat. 985, 986.)

AMENDMENTS

2019—Subsec. (c)(3). Pub. L. 116-25, §1102(a), added par. (3).

Subsec. (e)(2). Pub. L. 116-25, §1001(b)(1)(F), substituted “Internal Revenue Service Independent Office of Appeals” for “Internal Revenue Service Office of Appeals”.

2014—Subsecs. (f), (g). Pub. L. 113-295 redesignated subsec. (f) relating to frivolous submissions as (g).

2006—Subsec. (c). Pub. L. 109-222, §509(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-222, §509(a), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(3)(C). Pub. L. 109-222, §509(b)(1), added subpar. (C).

Subsec. (e). Pub. L. 109-222, §509(a), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 109-432 added subsec. (f) relating to frivolous submissions.

Pub. L. 109-222, §509(b)(2), added subsec. (f) relating to deemed acceptance of offer not rejected within certain period.

1998—Subsec. (c). Pub. L. 105-206, §3462(a), added subsec. (c).

Subsec. (d). Pub. L. 105-206, §3462(c)(1), added subsec. (d).

1996—Subsec. (b). Pub. L. 104-168 substituted “\$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.” for “\$500.”

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

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-25, title I, §1102(b), July 1, 2019, 133 Stat. 986, provided that: “The amendment made by this section [amending this section] shall apply to offers-in-compromise submitted after the date of the enactment of this Act [July 1, 2019].”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of this title, see section 407(f) of Pub. L. 109-432, set out as a note under section 6320 of this title.

Amendment by Pub. L. 109-222 applicable to offers-in-compromise submitted on and after the date which is 60 days after May 17, 2006, see section 509(d) of Pub. L. 109-222, set out as a note under section 6159 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 applicable to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, see section 3462(e)(1) of Pub. L. 105-206, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title V, § 503(b), July 30, 1996, 110 Stat. 1461, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE

Pub. L. 105-206, title III, § 3462(d), July 22, 1998, 112 Stat. 766, provided that: “The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

“(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status;

“(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of one spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise; and

“(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals [now Internal Revenue Service Independent Office of Appeals].”

§ 7123. Appeals dispute resolution procedures**(a) Early referral to appeals procedures**

The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Independent Office of Appeals.

(b) Alternative dispute resolution procedures**(1) Mediation**

The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Independent Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) Arbitration

The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Independent Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(c) Administrative appeal relating to adverse determination of tax-exempt status of certain organizations**(1) In general**

The Secretary shall prescribe procedures under which an organization which claims to be described in section 501(c) may request an administrative appeal (including a conference relating to such appeal if requested by the organization) to the Internal Revenue Service Independent Office of Appeals of an adverse determination described in paragraph (2).

(2) Adverse determinations

For purposes of paragraph (1), an adverse determination is described in this paragraph if such determination is adverse to an organization with respect to—

(A) the initial qualification or continuing qualification of the organization as exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) the initial classification or continuing classification of the organization as a private foundation under section 509(a), or

(C) the initial classification or continuing classification of the organization as a private operating foundation under section 4942(j)(3).

(Added Pub. L. 105-206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 768; amended Pub. L. 114-113, div. Q, title IV, § 404(a), Dec. 18, 2015, 129 Stat. 3118; Pub. L. 116-25, title I, § 1001(b)(1)(G), July 1, 2019, 133 Stat. 985.)

PRIOR PROVISIONS

A prior section 7123 was renumbered section 7124 of this title.

AMENDMENTS

2019—Pub. L. 116-25 substituted “Internal Revenue Service Independent Office of Appeals” for “Internal Revenue Service Office of Appeals” wherever appearing.

2015—Subsec. (c). Pub. L. 114-113 added subsec. (c).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, § 404(b), Dec. 18, 2015, 129 Stat. 3118, provided that: “The amendment made by subsection (a) [amending this section] shall apply to determinations made on or after May 19, 2014.”

§ 7124. Cross references

For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(Aug. 16, 1954, ch. 736, 68A Stat. 850, § 7123; Pub. L. 97-258, § 3(f)(12), Sept. 13, 1982, 96 Stat. 1065; renumbered § 7124, Pub. L. 105-206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 767.)

AMENDMENTS

1998—Pub. L. 105-206 renumbered section 7123 of this title as this section.

1982—Subsec. (a). Pub. L. 97-258, § 3(f)(12)(A), struck out heading “Criminal penalties”.