

turn for each taxable period while the case is pending after the order for relief. For corporations in chapter 11, the trustee is required to file the tax returns due while the case is pending (sec. 346(c)(2)).

Subsection (c) exempts from Federal, State, or local stamp taxes the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan. This subsection is derived from section 267 of the present Bankruptcy Act [section 667 of former title 11].

Subsection (d) permits the court to authorize the proponent of a reorganization plan to request from the Internal Revenue Service (or State or local tax authority) an advance ruling on the tax effects of the proposed plan. If a ruling is not obtained within 270 days after the request was made, or if a ruling is obtained but the proponent of the plan disagrees with the ruling, the bankruptcy court may resolve the dispute and determine the tax effects of the proposed plan.

Subsection (e) provides that prepetition taxes which are nondischargeable in a reorganization, and all taxes arising during the administration period of the case, may be assessed and collected from the debtor or the debtor's successor in a reorganization (see sec. 505(c) of the bill).

HOUSE REPORT NO. 95-595

Section 1146 of title 11 specifies five subsections which embody special tax provisions that apply in a case under chapter 11 of title 11. Subsection (a) indicates that the tax year of an individual debtor terminates on the date of the order for relief under chapter 11. Termination of the taxable year of the debtor commences the tax period of the estate. If the case was converted from chapter 7 of title 11 then the estate is created as a separate taxable entity dating from the order for relief under chapter 7. If multiple conversion of the case occurs, then the estate is treated as a separate taxable entity on the date of the order for relief under the first chapter under which the estate is a separate taxable entity.

Subsection (d) permits the court to authorize the proponent of a plan to request a taxing authority to declare the tax effects of such plan. In the event of an actual controversy, the court may declare the tax effects of the plan of reorganization at any time after the earlier of action by such taxing authority or 270 days after the request. Such a declaration, unless appealed, becomes a final judgment and binds any tax authority that was requested by the proponent to determine the tax effects of the plan.

Editorial Notes

AMENDMENTS

2019—Subsec. (a). Pub. L. 116-54 inserted “or 1191” after “1129”.

2005—Pub. L. 109-8 redesignated subsecs. (c) and (d) as (a) and (b), respectively, and struck out former subsecs. (a) and (b) which read as follows:

“(a) For the purposes 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.

“(b) 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.”

1984—Subsec. (c). Pub. L. 98-353, §517(a), struck out “State or local” before “law imposing a stamp tax”.

Subsec. (d)(1). Pub. L. 98-353, §517(b), substituted “or” for “and”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-54 effective 180 days after Aug. 23, 2019, see section 5 of Pub. L. 116-54, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by 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 DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

SUBCHAPTER IV—RAILROAD
REORGANIZATION**§ 1161. Inapplicability of other sections**

Sections 341, 343, 1102(a)(1), 1104, 1105, 1107, 1129(a)(7), and 1129(c) of this title do not apply in a case concerning a railroad.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

This section makes inapplicable sections of the bill which are either inappropriate in railroad reorganizations, or relate to matters which are otherwise dealt with in subchapter IV.

§ 1162. Definition

In this subchapter, “Board” means the “Surface Transportation Board”.

(Added Pub. L. 104-88, title III, §302(1), Dec. 29, 1995, 109 Stat. 943.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1162, Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641, defined “Commission”, prior to repeal by Pub. L. 104-88, title III, §302(1), Dec. 29, 1995, 109 Stat. 943.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of Title 49, Transportation.

§ 1163. Appointment of trustee

As soon as practicable after the order for relief the Secretary of Transportation shall submit a list of five disinterested persons that are qualified and willing to serve as trustees in the case. The United States trustee shall appoint one of such persons to serve as trustee in the case.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2641; Pub. L. 99-554, title II, §226, Oct. 27, 1986, 100 Stat. 3102.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1163 of the House amendment represents a compromise between the House bill and Senate amendment with respect to the appointment of a trustee in a railroad reorganization. As soon as practicable after the order for relief, the Secretary of Transportation is required to submit a list of five disinterested persons who are qualified to serve as trustee and the court will then appoint one trustee from the list to serve as trustee in the case.