

§ 7403. Action to enforce lien or to subject property to payment of tax

(a) Filing

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Secretary, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability. For purposes of the preceding sentence, any acceleration of payment under section 6166(g) shall be treated as a neglect to pay tax.

(b) Parties

All persons having liens upon or claiming any interest in the property involved in such action shall be made parties thereto.

(c) Adjudication and decree

The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(d) Receivership

In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 89-719, title I, §107(b), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XX, §2004(f)(2), Oct. 4, 1976, 90 Stat. 1834, 1872; Pub. L. 97-34, title IV, §422(e)(8), Aug. 13, 1981, 95 Stat. 316.)

Editorial Notes

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-34 struck out “or 6166A(h)” after “section 6166(g)”.

1976—Subsec. (a). Pub. L. 94-455, §§1906(b)(13)(A), 2004(f)(2), struck out “or his delegate” after “Secretary” and inserted provisions relating to the acceleration of payment under section 6166(g) or 6166A(h).

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

1966—Subsec. (c). Pub. L. 89-719 inserted sentence permitting the United States, if the property is sold to satisfy a first lien held by the United States, to bid at the sale such sum, not more than the amount of such

lien with expenses of sale, as the Secretary or his delegate directs.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

§ 7404. Authority to bring civil action for estate taxes

If the estate tax imposed by chapter 11 is not paid on or before the due date thereof, the Secretary shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court of the United States having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This section insofar as it applies to the collection of a deficiency shall be subject to the provisions of sections 6213 and 6601.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7405. Action for recovery of erroneous refunds

(a) Refunds after limitation period

Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) Refunds otherwise erroneous

Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) Interest

For provision relating to interest on erroneous refunds, see section 6602.

(d) Periods of limitation

For periods of limitations on actions under this section, see section 6532(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 874.)