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(iii) Gift tax imposed by Chapter 4 of the 1939 Code and Chapter 12 of the 1954 Code.

(iv) The tax on generation-skipping transfers imposed by Chapter 13 of the 1954 Code.

(v) Taxes imposed by Chapters 41 through 44 of the 1954 Code.

(2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by Chapter 1, 2, 3, or 4 of the 1939 Code or Subtitle A or Chapter 11 or 12 of the 1954 Code are within this class, such as:

(i) Employment taxes.

(ii) Miscellaneous excise taxes collected by return.

(3) The difference between these two main classes is that only taxes described in subparagraph (1) of this paragraph, i.e., those within the jurisdiction of the Tax Court, may be contested before an independent tribunal prior to payment. Taxes of both classes may be contested by first making payment, filing claim for refund, and then bringing suit to recover if the claim is disallowed or no decision is rendered thereon within six months.

[32 FR 15990, Nov. 22, 1967, as amended at 35 FR 7111, May 6, 1970; 46 FR 26053, May 11, 1981; T.D. 8685, 61 FR 58008, Nov. 12, 1996]

### § 601.103 Summary of general tax procedure.

(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue, or the director of the regional service center after assessment issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners, annuitants, pensioners, and nonresident aliens, the income tax is collected in large part through withholding at the source. Another means of collecting the income tax is through payments of estimated tax which are required by law to be paid by certain individual and corporate taxpayers. Neither withholding nor payments of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

(b) *Examination and determination of tax liability.* After the returns are filed and processed in internal revenue service centers, some returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, ordinarily the taxpayer is afforded certain appeal rights. If the taxpayer agrees to the proposed adjustments and the tax involved is an income, profits, estate, gift, generation–skipping transfer, or Chapter 41, 42, 43, or 44, tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105(b)(4)), the deficiency will be immediately assessed.

(c) *Disputed liability*—(1) *General.* The taxpayer is given an opportunity to request that the case be considered by an Appeals Office provided that office has jurisdiction (see § 601.106(a)(3)). If the taxpayer requests such consideration, the case will be referred to the Appeals Office, which will afford the taxpayer the opportunity for a conference. The determination of tax liability by the Appeals Office is final insofar as the taxpayer's appeal rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director, Foreign Operations District, exclusive settlement authority is vested in the Appeals Office having jurisdiction of the place where the taxpayer requests the conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the United States, the Washington, D.C. Appeals Office of the Mid-Atlantic Region assumes jurisdiction.

(2) *Petition to the U.S. Tax Court.* In the case of income, profits, estate, and gift taxes, imposed by Subtitles A and B, and excise taxes under Chapters 41 through 44 of the 1954 Code, before a deficiency may be assessed a statutory notice of deficiency (commonly called a ''90-day letter'') must be sent to the taxpayer by certified mail or registered

mail unless the taxpayer waives this restriction on assessment. See, however, §§ 601.105(h) and 601.109 for exceptions. The taxpayer may then file a petition for a redetermination of the proposed deficiency with the U.S. Tax Court within 90 days from the date of the mailing of the statutory notice. If the notice is addressed to a person outside the States of the Union and the District of Columbia, the period within which a petition may be filed in the Tax Court is 150 days in lieu of 90 days. In other words, the taxpayer has the right in respect of these taxes to contest any proposed deficiency before an independent tribunal prior to assessment or payment of the deficiency. Unless the taxpayer waives the restrictions on assessment and collection after the date of the mailing of the statutory notice, no assessment or collection of a deficiency (not including the correction of a mathematical error) may be made in respect of these taxes until the expiration of the applicable period or, if a petition is filed with the Tax Court, until the decision of the Court has become final. If, however, the taxpayer makes a payment with respect to a deficiency, the amount of such payment may be assessed. See, however, § 601.105(h). If the taxpayer fails to file a petition with the Tax Court within the applicable period, the deficiency will be assessed upon the expiration of such period and notice and demand for payment of the amount thereof will be mailed to the taxpayer. If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by a final decision of the Tax Court will be assessed and is payable upon notice and demand. There are no restrictions on the timely assessment and collection of the amount of any deficiency determined by the Tax Court, and a notice of appeal of the Court's decision will not stay the assessment and collection of the deficiency so determined, unless on or before the time the notice of appeal is filed the taxpayer files with the Tax Court a bond in a sum fixed by the Court not exceeding twice the portion of the deficiency in respect of which the notice of appeal is filed. No part of an amount determined as a deficiency but disallowed as such by a decision of the Tax Court which has become final may be assessed or collected by levy or by proceeding in court with or without assessment.

(3) *Claims for refund.* After payment of the tax a taxpayer may, within the applicable period of limitations, contest the assessment by filing with the district director a claim for refund of all or any part of the amount paid, except with respect to certain taxes determined by the Tax Court, the decision of which has become final. If the claim is allowed, the overpayment of tax and allowable interest thereon will be credited against other liabilities of the taxpayer, or will be refunded to the taxpayer. Generally, if the claim for refund is rejected in whole or in part, the taxpayer is notified of the rejection by certified mail or registered mail. The taxpayer may then bring suit in the United States District Court or in the United States Claims Court for recovery of the tax. Suit may not be commenced before the expiration of six months from the date of filing of the claim for refund, unless a decision is rendered thereon within that time, nor after the expiration of two years from the date of mailing by certified mail or registered mail to the taxpayer of a notice of the disallowance of the part of the claim to which the suit relates. Under the 1954 Code, the 2-year period of limitation for bringing suit may be extended for such period as may be agreed upon in a properly executed Form 907. Also, under the 1954 Code, if the taxpayer files a written waiver of the requirement that the taxpayer be sent a notice of disallowance, the 2-year period for bringing suit begins to run on the date such waiver is filed. See section 6532(a) of the Code.

[32 FR 15990, Nov. 22, 1967, as amended at 38 FR 4955, Feb. 23, 1973; 43 FR 44497, Sept. 28, 1978; 45 FR 7251, Feb. 1, 1980; 46 FR 26053, May 11, 1981; 49 FR 36498, Sept. 18, 1984]

### § 601.104 Collection functions.

(a) *Collection methods*—(1) *Returns.* Generally, an internal revenue tax assessment is based upon a return required by law or regulations to be filed by the taxpayer upon which the taxpayer computes the tax in the manner indicated by the return. Certain taxpayers who choose to use the Optional