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calculation, or such other circumstance that indicates that failure to take such action would be a serious administrative omission, and then only with the approval of the Regional Director of Appeals.

(4) A case not docketed in the Tax Court and closed by the Appeals on a basis not involving concessions made by both Appeals and the taxpayer may be reopened by the taxpayer by any appropriate means, such as by the filing of a timely claim for refund.

(i) *Special procedures for crude oil windfall profit tax cases.* For special procedures relating to crude oil windfall profit tax cases, see § 601.405.

((5 U.S.C. 301 and 552) 80 Stat. 379 and 383; sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805))

[32 FR 15990, Nov. 22, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 601.106, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 601.107 Criminal investigation functions.

(a) *General.* Each district has a Criminal Investigation function whose mission is to encourage and achieve the highest possible degree of voluntary compliance with the internal revenue laws by: Enforcing the statutory sanctions applicable to income, estate, gift, employment, and certain excise taxes through the investigation of possible criminal violations of such laws and the recommendation (when warranted) of prosecution and/or assertion of the 50 percent ad valorem addition to the tax; developing information concerning the extent of criminal violations of all Federal tax laws (except those relating to alcohol, tobacco, narcotics, and firearms); measuring the effectiveness of the investigation process; and providing protection of persons and of property and other enforcement coordination as required.

(b) *Investigative procedure.* (1) A witness when questioned in an investigation conducted by the Criminal Investigation Division may have counsel present to represent and advise him. Upon request, a copy of an affidavit or transcript of a question and answer statement will be furnished a witness promptly, except in circumstances deemed by the Regional Commissioner to necessitate temporarily withholding a copy.

(2) A taxpayer who may be the subject of a criminal recommendation will be afforded a district Criminal Investigation conference when he requests one or where the Chief, Criminal Investigation Division, makes a determination that such a conference will be in the best interests of the Government. At the conference, the IRS representative will inform the taxpayer by a general oral statement of the alleged fraudulent features of the case, to the extent consistent with protecting the Government's interests, and, at the same time, making available to the taxpayer sufficient facts and figures to acquaint him with the basis, nature, and other essential elements of the proposed criminal charges against him.

(c) *Processing of cases after investigation.* The Chief, Criminal Investigation Division, shall ordinarily notify the subject of an investigation and his authorized representative, if any, when he forwards a case to the Regional Counsel with a recommendation for prosecution. The rule will not apply if the case is with a United States Attorney.

[33 FR 17235, Nov. 21, 1968, as amended at 38 FR 9227, Apr. 12, 1973; 39 FR 8917, Mar. 7, 1974; 43 FR 53029, Nov. 15, 1978]

§ 601.108 Review of overpayments exceeding $200,000.

(a) *General.* Section 6405(a) of the Code provides that no refund or credit of income, war profits, excess profits, estate, or gift taxes or any tax imposed by Chapters 41 through 44, including penalties and interest, in excess of $200,000 may be made until after the expiration of 30 days from the date a report is made to the Joint Committee on Taxation. Taxpayers, in cases requiring review by the Joint Committee, are afforded the same appeal rights as other taxpayers. In general, these cases follow regular procedures, except for preparation of reports to and review by the Joint Committee.

(b) *Reports to Joint Committee.* In any case in which no protest is made to Appeals and no petition docketed in the Tax Court, the report to the Joint

Committee is prepared by a Joint Committee Coordinator, who is an Examination Division regional specialist. In cases in which a protest has been made, the report to the Joint Committee is prepared by an Appeals officer; in cases in which a petition is docketed, either an Appeals officer or a Counsel attorney prepares the report, depending on the circumstances.

(c) *Procedure after report to Joint Committee.* After compliance with section 6405 of the Code, the case is processed for issuance of a certificate of overassessment, and payment or credit of any overpayment. If the final determination involves a rejection of a claimed overpayment in whole or in part, a statutory notice of disallowance will be sent by certified or registered mail to the taxpayer, except where the taxpayer has filed a written waiver of such notice of disallowance.

[32 FR 15990, Nov. 22, 1967, as amended at 42 FR 46519, Sept. 16, 1977; 43 FR 44503, Sept. 28, 1978; 43 FR 53030, Nov. 15, 1978; 45 FR 7255, Feb. 1, 1980]

§ 601.109 Bankruptcy and receivership cases.

(a) *General.* (1) Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under the Bankruptcy Act or the appointment of a receiver for any taxpayer in any receivership proceeding before a court of the United States or of any State or Territory or of the District of Columbia, the assessment of any deficiency in income, profits, estate, or gift tax (together with all interests, additional amounts, or additions to the tax provided for by law) shall be made immediately. See section 6871 of the Code. In such cases the restrictions imposed by section 6213(a) of the Code upon assessments are not applicable. (In the case of an assignment for the benefit of creditors, the assessment will be made under section 6861, relating to jeopardy assessments. See § 601.105(h).) Cases in which immediate assessment will be made include those of taxpayers in receivership or in bankruptcy, reorganization, arrangement, or wage earner proceedings, under Chapters I to VII, section 77, Chapters X, XI, XII, and XIII of the Bankruptcy Act. The term ''approval of a petition in any other proceeding under the Bankruptcy Act'' includes the filing of a petition under Chapters XI to XIII of the Bankruptcy Act with a court of competent jurisdiction. A fiduciary in any proceeding under the Bankruptcy Act (including a trustee, receiver, debtor in possession, or other person designated by the court as in control of the assets or affairs of a debtor) or a receiver in any receivership proceeding may be required, as provided in regulations prescribed under section 6036 of the Code, to give notice in writing to the district director of his qualification as such. Failure on the part of such fiduciary in a receivership proceeding or a proceeding under the Bankruptcy Act to give such notice, when required, results in the suspension of the running of the period of limitations on the making of assessments from the date of the institution of the proceeding to the date upon which such notice is received by the district director, and for an additional 30 days thereafter. However, in no case where the required notice is not given shall the suspension of the running of the period of limitations on assessment exceed 2 years. See section 6872 of the Code.

(2) Except in cases where departmental instructions direct otherwise, the district director will, promptly after ascertaining the existence of any outstanding Federal tax liability against a taxpayer in any proceeding under the Bankruptcy Act or receivership proceeding, and in any event within the time limited by appropriate provisions of law or the appropriate orders of the court in which such proceeding is pending, file a proof of claim covering such liability in the court in which the proceeding is pending. Such a claim may be filed regardless of whether the unpaid taxes involved have been assessed. Whenever an immediate assessment is made of any income, estate, or gift tax after the commencement of a proceeding the district director will send to the taxpayer notice and demand for payment together with a copy of such claim.