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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.

(b) *Procedure in office of district director.* (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate, or gift taxes, such assessment is not made as a jeopardy assessment (see paragraph (h) of § 601.105), and the provisions of section 6861 of the Code do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6861(b) will not be mailed to the taxpayer. Nevertheless, Letter 1005 (DO) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession, or other person designated to be in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending. Such letter will state how the deficiency was computed, advise that within 30 days a written protest under penalties of perjury may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and advise that upon request an Appeals office conference will be granted with respect to such deficiency. If, after protest is filed (in triplicate), and an Appeals office conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government require otherwise, Letters 1005 (DO) are issued by the office of the district director.

(2) The immediate assessment required by section 6871 of the Code represents an exception to the usual restrictions on the assessment of Federal income, estate, and gift taxes. Since there are no restrictions on the assessment of Federal excise or employment taxes, immediate assessment of such taxes will be made in any case where section 6871 of the Code would require immediate assessment of income, estate, or gift taxes.

(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a conference, an Appeals office conference will be granted. Ordinarily, only one conference will be held, unless it develops that additional information can be furnished which has a material bearing upon the tax liability, in which event the conference will be continued to a later date.

(c) *Procedure before the Appeals office.* If an income, estate, or gift tax case is under consideration by an Appeals office (whether before or after issuance of a statutory notice of deficiency) at the time of either: (i) The adjudication of bankruptcy of the taxpayer in any liquidating proceeding; (ii) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act) the approval of a petition of, or against, the taxpayer in any other proceeding under the Bankruptcy Act; or (iii) the appointment of any receiver, then the case will be returned to the district director for assessment (if not previously made), for issuance of the Letter 1005 (DO), and for filing proof of claim in the proceeding. Excise and employment tax cases pending in the Appeals office at such time will likewise be returned to the district director for assessment (if not previously made) and for filing proof of claim in the proceeding. A petition for redetermination of a deficiency may not be filed in the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver. See section 6871(b) of the Code. However, the Tax Court is not deprived of jurisdiction where the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, the taxpayer in any other bankruptcy proceeding, or the appointment of a receiver, occurred after the filing of the petition. In such a case, the jurisdiction of the bankruptcy or receivership court and the Tax Court is concurrent.

(d) *Priority of claims.* Under section 3466 of the Revised Statutes and section 3467 of the Revised Statutes, as amended, taxes are entitled to priority over other claims therein stated and the receiver or other person designated as in control of the assets or affairs of the debtor by the court in which the receivership proceeding is pending may

be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Under section 64 of the Bankruptcy Act, taxes may be entitled to priority over other claims therein stated and the trustee, receiver, debtor in possession or other person designated as in control of the assets or affairs of the debtor by the court in which the bankruptcy proceeding is pending may be held personally liable for any failure on his part to protect a priority of the Government respecting taxes of which he has notice and which are entitled to priority under the Bankruptcy Act. Sections 77(e), 199, 337(2), 455, and 659(6) of the Bankruptcy Act also contain provisions with respect to the rights of the United States relative to priority of payment. Bankruptcy courts have jurisdiction under the Bankruptcy Act to determine all disputes regarding the amount and the validity of tax claims against a bankrupt or a debtor in a proceeding under the Bankruptcy Act. A receivership proceeding or an assignment for the benefit of creditors does not discharge any portion of a claim of the United States for taxes and any portion of such claim allowed by the court in which the proceeding is pending and which remains unsatisfied after the termination of the proceeding shall be collected with interest in accordance with law. A bankruptcy proceeding under Chapters I through VII of the Bankruptcy Act does discharge that portion of a claim of the United States which became legally due and owning more than three years preceding bankruptcy, with certain exceptions provided in the Bankruptcy Act as does a proceeding under section 77 or Chapter X of the Bankruptcy Act. Any taxes which are dischargeable under the Bankruptcy Act which remain unsatisfied after the termination of the proceeding may be collected only from exempt or abandoned property.

[32 FR 15990, Nov. 22, 1967, as amended at 33 FR 6821, May 4, 1968; 35 FR 15917, Oct. 9, 1970; 43 FR 44503, Sept. 28, 1978; 45 FR 7255, Feb. 1, 1980]

Subpart B—Rulings and Other Specific Matters

§ 601.201 Rulings and determinations letters.

(a) *General practice and definitions.* (1) It is the practice of the Internal Revenue Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions. One of the functions of the National Office of the Internal Revenue Service is to issue rulings in such matters. If a taxpayer's request for a ruling concerns an action that may have an impact on the environment, compliance by the Service with the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91–190) may result in delaying issuing the ruling. Accordingly, taxpayers requesting rulings should take this factor into account. District directors apply the statutes, regulations, Revenue Rulings, and other precedents published in the Internal Revenue Bulletin in the determination of tax liability, the collection of taxes, and the issuance of determination letters in answer to taxpayers' inquiries or requests. For purposes of this section any reference to district director or district office also includes, where appropriate, the Office of the Director, Office of International Operations.

(2) A *ruling* is a written statement issued to a taxpayer or his authorized representative by the National Office which interprets and applies the tax laws to a specific set of facts. Rulings are issued only by the National Office. The issuance of rulings is under the general supervision of the Assistant Commissioner (Technical) and has been largely redelegated to the Director, Corporation Tax Division and Director, Individual Tax Division.

(3) A *determination letter* is a written statement issued by a district director in response to a written inquiry by an individual or an organization that applies to the particular facts involved, the principles and precedents previously announced by the National Office. A determination letter is issued