

paragraph (d), shall be deemed an agreement and extension thereof for purposes of section 6511(c) (relating to limitations on credit or refund in case of extension of time by agreement).

(ii) For the purpose of determining the limit specified in section 6511(c)(2) on the amount of the credit or refund, if the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fiduciary arises, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date the agreement is executed. The application of this subdivision may be illustrated by the following example:

*Example.* Assume that Corporation A files its income tax return on March 15, 1955, for the calendar year 1954, showing a liability of \$100,000 which is paid with the return. The period within which an assessment may be made against Corporation A expires on March 15, 1958. Corporation B is a transferee of Corporation A. An agreement is executed on October 9, 1958, extending, beyond its normal expiration date of March 15, 1959, the period within which an assessment may be made against Corporation B. Under section 6511(c)(2) and section 6511(b)(2)(A) the portion of an overpayment, paid before the execution of an agreement extending the period for assessment, may not be credited or refunded unless paid within three years prior to the date on which the agreement is executed. However, as applied to Corporation B such 3-year period is increased under section 6901(d)(2) to include the period from March 15, 1958, to October 9, 1958, the date on which the agreement was executed.

(e) *Period of assessment against taxpayer.* For the purpose of determining the period of limitation for assessment against a transferee or a fiduciary, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

(f) *Suspension of running of period of limitations.* In the cases of the income, estate, and gift taxes, if a notice of liability of a transferee or the liability of a fiduciary has been mailed to such transferee or to such fiduciary under the provisions of section 6212, then the running of the statute of limitations

shall be suspended for the period during which assessment is prohibited in respect of liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

#### § 301.6902-1 Burden of proof.

In proceedings before the Tax Court the burden of proof shall be upon the Commissioner to show that a petitioner is liable as a transferee or property of a taxpayer, but not to show that the taxpayer was liable for the tax.

#### § 301.6903-1 Notice of fiduciary relationship.

(a) *Rights and obligations of fiduciary.* Every person acting for another person in a fiduciary capacity shall give notice thereof to the district director in writing. As soon as such notice is filed with the district director such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the taxpayer with respect to the taxes imposed by the Code. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in section 6901, such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is ordinarily not collectible from the personal estate of the fiduciary but is collectible from the estate of the taxpayer or from the estate of the transferee or other person subject to the liability specified in section 6901.

(b) *Manner of notice—(1) Notices filed before April 24, 2002.* This paragraph (b)(1) applies to notices filed before April 24, 2002. The notice shall be signed by the fiduciary, and shall be filed with the Internal Revenue Service office where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and, if so, the type of tax, the year or years involved, or a liability at

law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192) in respect of the payment of any tax from the estate of the taxpayer. Satisfactory evidence of the authority of the fiduciary to act for any other person in a fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Internal Revenue Service office with whom the notice of fiduciary relationship was filed written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary. Any written notice disclosing a fiduciary relationship which has been filed with the Commissioner under the Internal Revenue Code of 1939 or any prior revenue law shall be considered as sufficient notice within the meaning of section 6903. Any satisfactory evidence of the authority of the fiduciary to act for another person already filed with the Commissioner or district director need not be resubmitted.

(2) *Notices filed on or after April 24, 2002.* This paragraph (b)(2) applies to notices filed on or after April 24, 2002. The notice shall be signed by the fiduciary, and shall be filed with the Internal Revenue Service Center where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and if so, the type of tax, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under 31 U.S.C. 3713(b), in respect of the payment of any tax from the estate of the taxpayer. The fiduciary must retain satisfactory evidence of his or her au-

thority to act for any other person in a fiduciary capacity as long as the evidence may become material in the administration of any internal revenue law.

(c) *Where notice is not filed.* If the notice of the fiduciary capacity described in paragraph (b) of this section is not filed with the district director before the sending of notice of a deficiency by registered mail or certified mail to the last known address of the taxpayer (see section 6212), or the last known address of the transferee or other person subject to liability (see section 6901(g)), no notice of the deficiency will be sent to the fiduciary. For further guidance regarding the definition of last known address, see §301.6212-2. In such a case the sending of the notice to the last known address of the taxpayer, transferee, or other person, as the case may be will be a sufficient compliance with the requirements of the Code, even though such taxpayer, transferee, or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence. Under such circumstances, if no petition is filed with the Tax Court of the United States within 90 days after the mailing of the notice (or within 150 days after mailing in the case of such a notice addressed to a person outside the States of the Union and the District of Columbia) to the taxpayer, transferee, or other person, the tax, or liability under section 6901, will be assessed immediately upon the expiration of such 90-day or 150-day period, and demand for payment will be made. See paragraph (a) of §301.6213-1 with respect to the expiration of such 90-day or 150-day period.

(d) *Definition of fiduciary.* The term “fiduciary” is defined in section 7701(a)(6) to mean a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(e) *Applicability of other provisions.* This section, relating to the provisions of section 6903, shall not be taken to

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abridge in any way the powers and duties of fiduciaries provided for in other sections of the Code.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 8939, 66 FR 2821, Jan. 12, 2001; T.D. 8989, 67 FR 20032, Apr. 24, 2002; T.D. 9040, 68 FR 4921, Jan. 31, 2003]

### § 301.6905-1 Discharge of executor from personal liability for decedent's income and gift taxes.

(a) *Discharge of liability.* With respect to decedents dying after December 31, 1970, the executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091-1 of this chapter, for a determination of the income or gift taxes imposed upon the decedent by subtitle A or by chapter 12 of the Code, and for a discharge of personal liability therefrom. If no estate tax return is required to be filed, then such application should be filed where the decedent's final income tax return is required to be filed. The application must be filed after the return with respect to such income or gift taxes is filed. Within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, the executor shall be notified of the amount of the income or gift tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in income or gift tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) period from personal liability for any deficiency thereafter found to be due. The discharge of the executor under this section from personal liability applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge does not operate as a release of any part of the property from the lien provided under section 6321 or the special lien provided under subsection (a) or (b) of section 6324.

(b) *Definition of "executor".* For purposes of this section, the term "execu-

tor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For provisions concerning the discharge of the executor from personal liability for estate taxes imposed by chapter 11 of the Code, see section 2204 and the regulations thereunder.

[T.D. 7238, 37 FR 28742, Dec. 29, 1972]

## Licensing

### § 301.7001-1 License to collect foreign items.

(a) *In general.* Any bank or agent undertaking as a matter of business or for profit the collection of foreign items must obtain a license from the district director for the district in which is located its principal place of business within the United States. For definitions of the terms "foreign item" and "collection", see paragraph (b) of this section.

(b) *Definitions*—(1) *Foreign item.* The term "foreign item" as used in this section, means any item of interest upon the bonds of a foreign country or of a nonresident foreign corporation not having a fiscal or paying agent in the United States (including Puerto Rico as if a part of the United States), or any item of dividends upon the stock of such corporation.

(2) *Collection.* The term "collection" as used in this section, includes the following:

(i) The payment by the licensee of the foreign item in cash;

(ii) The crediting by the licensee of the account of the person presenting the foreign item;

(iii) The tentative crediting by the licensee of the account of the person presenting the foreign item until the amount of the foreign item is received by the licensee from abroad; and

(iv) The receipt of foreign items by the licensee for the purpose of transmitting them abroad for deposits.

(c) *Application for license.* Application for the license required by paragraph (a) of this section shall be made in writing and shall contain the following information:

(1) The name and present business of the person, partnership (including