

Public Law 95-472
95th Congress

An Act

Oct. 17, 1978

[H.R. 8811]

To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

U.S. Tax Court,
judges'
retirement pay.
26 USC 7447.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7447 of the Internal Revenue Code of 1954 (relating to retirement of Tax Court judges) is amended by adding at the end thereof the following new subsection:

“(i) REVOCATION OF ELECTION TO RECEIVE RETIRED PAY.—

“(1) IN GENERAL.—Notwithstanding subsection (e)(2), an individual who has filed an election to receive retired pay under subsection (d) may revoke such election at any time before the first day on which retired pay (or compensation under subsection (c) in lieu of retired pay) would (but for such revocation) begin to accrue with respect to such individual.

“(2) MANNER OF REVOKING.—Any revocation under this subsection shall be made by filing a notice thereof in writing with the Civil Service Commission. The Civil Service Commission shall transmit to the chief judge a copy of each notice filed under this subsection.

“(3) EFFECT OF REVOCATION.—In the case of any revocation under this subsection—

“(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (d),

26 USC 7448.

“(B) for purposes of section 7448—

“(i) the individual shall be treated as not having filed an election under section 7448(b), and

“(ii) section 7448(g) shall not apply, and the amount credited to such individual's account (together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

“(C) no credit shall be allowed for any service as a judge of the Tax Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

“(D) the Tax Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (e), and

“(E) if subparagraph (D) is complied with, service on the Tax Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.”

26 USC 7447
note.

SEC. 2. (a) The amendment made by the first section of this Act shall

apply with respect to revocations made after the date of the enactment of this Act.

(b) Any individual who elects to revoke under section 7447(i) of the Internal Revenue Code of 1954 within one year after the date of enactment of this Act shall be treated as having the requisite current service for purposes of redepositing funds in the Civil Service Retirement and Disability Fund and for purposes of reviving creditable service under subchapter III of chapter 83 of title 5 of the United States Code. 26 USC 7447. 5 USC 8331.

SEC. 3. TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS FOR PURPOSES OF UNEMPLOYMENT AND SOCIAL SECURITY TAXES.

(a) Section 3306(b) of the Internal Revenue Code of 1954 (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended— 26 USC 3306.

(1) by striking out “or” at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof “; or”; and

(3) by adding at the end thereof the following new paragraph:

“(12) any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).” 26 USC 120.

(b) Section 3121(a) of such Code (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended— 26 USC 3121. 26 USC 3101 et seq.

(1) by striking out “or” at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof “; or”; and

(3) by adding at the end thereof the following new paragraph:

“(17) any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).”

(c) Section 209 of the Social Security Act is amended— 42 USC 409.

(1) by striking out “or” at the end of subsection (n);

(2) by striking out the period at the end of subsection (o) and inserting in lieu thereof “; or”; and

(3) by inserting after subsection (o) and before the sentence beginning with “For purposes of this title, in the case of domestic service” the following new subsection:

“(p) Any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans).”

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976. 26 USC 3121 note.

SEC. 4. INVOLUNTARY CONVERSION OF SPECIALLY VALUED FARM, ETC., REAL PROPERTY.

26 USC 2032A.

(a) **IN GENERAL.**—Section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended by adding at the end the following new subsection:

“(h) **SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROPERTY.**—

“(1) **TREATMENT OF CONVERTED PROPERTY.**—

“(A) **IN GENERAL.**—If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subsection—

“(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

“(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

“(B) **AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.**—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

“(i) bears the same ratio to such tax, as

“(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

“(2) **TREATMENT OF REPLACEMENT PROPERTY.**—For purposes of subsection (c)—

“(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property—

“(i) the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property, and

“(ii) the phaseout period under paragraph (3) of subsection (c) shall be appropriately adjusted to take into account the extension referred to in clause (i),

“(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

“(C) paragraph (7) of subsection (c) shall be applied—

“(i) by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

“(ii) by treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

“(3) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this subsection—

26 USC 1033.

“(A) INVOLUNTARY CONVERSION.—The term ‘involuntary conversion’ means a compulsory or involuntary conversion within the meaning of section 1033.

26 USC 1033.

“(B) QUALIFIED REPLACEMENT PROPERTY.—The term ‘qualified replacement property’ means—

“(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified real property is converted, or

“(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the qualified real property qualified under subsection (a).

“(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (3)(B)(ii).

“(5) ELECTION.—Any election under this subsection shall be made at such time and in such manner as the Secretary may by regulations prescribe.”

(b) ADJUSTMENT OF BASIS.—Section 1016 of such Code (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

26 USC 1016.

“(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

“(1) IN GENERAL.—If there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property the basis of which is determined under section 1023 and an additional estate tax is imposed on such conversion under section 2032A(c), then the adjusted basis of such property shall be increased by an amount which bears the same ratio to such tax with respect to the conversion of that property as—

26 USC 1023.

26 USC 2032A.

“(A) the net appreciation in value of such property, bears to

“(B) the excess of—

“(i) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent without regard to section 2032A; over

26 USC 2001.

“(ii) the value of such property for purposes of chapter 11 as determined with respect to the estate of the decedent with regard to section 2032A.

“(2) NET APPRECIATION IN VALUE.—For purposes of this subsection, the net appreciation in value of any property shall be determined in accordance with section 1023(f)(2) except that—

“(A) the adjusted basis taken into account shall be increased by any adjustment under section 1023,

“(B) the fair market value of such property shall be determined without regard to section 2032A, and

“(C) any net appreciation in value in excess of the amount determined under paragraph (1)(B) shall be disregarded.

“(3) TIME ADJUSTMENT MADE.—Any adjustment under para-

graph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.”.

26 USC 2032A.

(c) **CONFORMING AMENDMENT.**—Paragraph (1) of section 2032 A(f) of such Code (relating to period of limitations) is amended by inserting “(or if later in the case of an involuntary conversion to which an election under subsection (h) applies, 3 years from the date the Secretary is notified of the replacement of the converted property or of an intention not to replace)” immediately before “, and”.

26 USC 1016
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to involuntary conversions after December 31, 1976.

Approved October 17, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-744 (Comm. on Ways and Means).

SENATE REPORT No. 95-1113 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Jan. 24, considered and passed House.

Aug. 23, considered and passed Senate, amended.

Sept. 19, House concurred in Senate amendments with amendments.

Sept. 28, Senate concurred in House amendments.