

see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

Amendment by section 405(c)(6) of Pub. L. 95-600 applicable to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date, see section 405(d) of Pub. L. 95-600, set out as a note under section 1038 of this title.

Amendment by section 703(j)(10) of Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(2) of Pub. L. 94-455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as a note under section 7701 of this title.

Amendment by section 1901(b)(31)(D), (36)(C), (37)(D), (39)(B) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(32) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 213(d) of Pub.

L. 91-172, set out as an Effective Date note under section 183 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

Subchapter B—Limitations on Credit or Refund

Sec.	
6511.	Limitations on credit or refund.
6512.	Limitations in case of petition to Tax Court.
6513.	Time return deemed filed and tax considered paid.
6514.	Credits or refunds after period of limitation.
6515.	Cross references.

§ 6511. Limitations on credit or refund

(a) Period of limitation on filing claim

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

(b) Limitation on allowance of credits and refunds

(1) Filing of claim within prescribed period

No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) Limit on amount of credit or refund

(A) Limit where claim filed within 3-year period

If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) Limit where claim not filed within 3-year period

If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) Limit if no claim filed

If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

(c) Special rules applicable in case of extension of time by agreement

If an agreement under the provisions of section 6501(c)(4) extending the period for assessment of a tax imposed by this title is made within the period prescribed in subsection (a) for the filing of a claim for credit or refund—

(1) Time for filing claim

The period for filing claim for credit or refund or for making credit or refund if no claim is filed, provided in subsections (a) and (b)(1), shall not expire prior to 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof under section 6501(c)(4).

(2) Limit on amount

If a claim is filed, or a credit or refund is allowed when no claim was filed, after the execution of the agreement and within 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof, the amount of the credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection (b)(2) if a claim had been filed on the date the agreement was executed.

(3) Claims not subject to special rule

This subsection shall not apply in the case of a claim filed, or credit or refund allowed if no claim is filed, either—

(A) prior to the execution of the agreement or

(B) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(d) Special rules applicable to income taxes**(1) Seven-year period of limitation with respect to bad debts and worthless securities**

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) Special period of limitation with respect to net operating loss or capital loss carrybacks**(A) Period of limitation**

If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules**(i) In general**

If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

(ii) Tentative carryback adjustments

If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be al-

lowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

(iii) Determinations by courts to be conclusive

In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to—

(I) the net operating loss deduction and the effect of such deduction, and

(II) the determination of a short-term capital loss and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.

(3) Special rules relating to foreign tax credit

(A) Special period of limitation with respect to foreign taxes paid or accrued

If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year in which such taxes were actually paid or accrued.

(B) Exception in the case of foreign taxes paid or accrued

In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

(4) Special period of limitation with respect to certain credit carrybacks

(A) Period of limitation

If the claim for credit or refund relates to an overpayment attributable to a credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed

in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules

If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding.

(C) Credit carryback defined

For purposes of this paragraph, the term “credit carryback” means any business carryback under section 39.

(5) Special period of limitation with respect to self-employment tax in certain cases

If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Commissioner of Social Security.

(6) Special period of limitation with respect to amounts included in income subsequently recaptured under qualified plan termination

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 4045 of the Employee Retirement Income Security Act of 1974, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund of the amount of the recapture, until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.

(7) Special period of limitation with respect to self-employment tax in certain cases

If—

(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7436, and

(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.

(8) Special rules when uniformed services retired pay is reduced as a result of award of disability compensation

(A) Period of limitation on filing claim

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(i) the reduction of uniformed services retired pay computed under section 1406 or 1407 of title 10, United States Code, or

(ii) the waiver of such pay under section 5305 of title 38 of such Code,

as a result of an award of compensation under title 38 of such Code pursuant to a determination by the Secretary of Veterans Affairs, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund based upon the amount of such reduction or waiver, until the end of the 1-year period beginning on the date of such determination.

(B) Limitation to 5 taxable years

Subparagraph (A) shall not apply with respect to any taxable year which began more than 5 years before the date of such determination.

[(e) Repealed. Pub. L. 101-508, title XI, § 11801(c)(22)(C), Nov. 5, 1990, 104 Stat. 1388-528]

(f) Special rule for chapter 42 and similar taxes

For purposes of any tax imposed by section 4912, chapter 42, or section 4975, the return referred to in subsection (a) shall be the return specified in section 6501(l)(1).

[(g) Repealed. Pub. L. 114-74, title XI, § 1101(f)(6), Nov. 2, 2015, 129 Stat. 638]

(h) Running of periods of limitation suspended while taxpayer is unable to manage financial affairs due to disability

(1) In general

In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

(2) Financially disabled

(A) In general

For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial af-

fairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

(B) Exception where individual has guardian, etc.

An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.

(i) Cross references

(1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2014(b) and 2015.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013(b)(3).

(5) For limitations in case of payments under section 6420 (relating to gasoline used on farms), see section 6420(b).

(6) For limitations in case of payments under section 6421 (relating to gasoline used for certain non-highway purposes or by local transit systems), see section 6421(d).

(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 808; Apr. 2, 1956, ch. 160, §4(e), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(e)(6), 70 Stat. 397; Pub. L. 85-866, title I, §82, Sept. 2, 1958, 72 Stat. 1663; Pub. L. 86-280, §1(a), Sept. 16, 1959, 73 Stat. 563; Pub. L. 87-794, title III, §317(d), Oct. 11, 1962, 76 Stat. 891; Pub. L. 87-834, §2(e)(2), Oct. 16, 1962, 76 Stat. 971; Pub. L. 88-272, title II, §§232(d), 239, Feb. 26, 1964, 78 Stat. 111, 128; Pub. L. 88-571, §3(c), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89-331, §9(c), Nov. 8, 1965, 79 Stat. 1278; Pub. L. 90-225, §2(d), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91-172, title I, §101(h), title III, §311(d)(3), title V, §512(e)(2), Dec. 30, 1969, 83 Stat. 525, 588, 640; Pub. L. 92-178, title VI, §601(d)(2), Dec. 10, 1971, 85 Stat. 558; Pub. L. 93-406, title IV, §4401(b), formerly §4081(b), Sept. 2, 1974, 88 Stat. 1034, renumbered §4401(b), Pub. L. 96-364, title I, §108(a), Sept. 26, 1980, 94 Stat. 1267; Pub. L. 94-455, title XII, §1203(h)(3), title XIX, §1906(a)(33), title XXI, §2107(g)(2)(B), Oct. 4, 1976, 90 Stat. 1694, 1829, 1904; Pub. L. 95-30, title II, §202(d)(4)(B), May 23, 1977, 91 Stat. 149; Pub. L. 95-600, title II, §212(b)(1), title VII, §703(p)(3), Nov. 6, 1978, 92 Stat. 2819, 2944; Pub. L. 95-628, §8(a), (b), Nov. 10, 1978, 92 Stat. 3630, 3631; Pub. L. 96-222, title I, §§102(a)(2)(B), 108(b)(1)(B), Apr. 1, 1980, 94 Stat. 208, 226; Pub. L. 96-223, title I, §101(g)(2), Apr. 2, 1980, 94 Stat. 254; Pub. L. 96-598, §1(c), Dec. 24, 1980, 94 Stat. 3486; Pub. L. 97-34, title II, §221(b)(2)(A), title III, §331(d)(2)(A), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 97-248, title IV, §402(c)(7), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98-369, div. A, title I, §163(b)(2), title II, §211(b)(25), title IV, §474(r)(40), title VII,

§§714(p)(2)(G), 735(c)(14), div. B, title VI, §2663(j)(5)(F), July 18, 1984, 98 Stat. 698, 757, 847, 965, 984, 1171; Pub. L. 99-514, title I, §141(b)(3), title II, §231(d)(3)(I), title XVIII, §1847(b)(15), Oct. 22, 1986, 100 Stat. 2117, 2180, 2857; Pub. L. 100-418, title I, §1941(b)(2)(I), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §§1017(c)(11), 1018(u)(21), (51), Nov. 10, 1988, 102 Stat. 3577, 3591, 3593; Pub. L. 101-508, title XI, §11801(c)(17)(B), (22)(C), Nov. 5, 1990, 104 Stat. 1388-527, 1388-528; Pub. L. 103-296, title I, §108(h)(8), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 105-34, title X, §1056(a), title XIV, §1454(b)(1), Aug. 5, 1997, 111 Stat. 945, 1056; Pub. L. 105-206, title III, §3202(a), July 22, 1998, 112 Stat. 740; Pub. L. 107-16, title V, §532(c)(11), June 7, 2001, 115 Stat. 75; Pub. L. 110-245, title I, §106(a), June 17, 2008, 122 Stat. 1630; Pub. L. 114-74, title XI, §1101(f)(6), Nov. 2, 2015, 129 Stat. 638.)

Editorial Notes

REFERENCES IN TEXT

Section 218 of the Social Security Act, referred to in subsec. (d)(5), is classified to section 418 of Title 42, The Public Health and Welfare.

Section 4045 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(6), is classified to section 1345 of Title 29, Labor.

AMENDMENTS

2015—Subsec. (g). Pub. L. 114-74 struck out subsec. (g). Text read as follows: “In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter.”

2008—Subsec. (d)(8). Pub. L. 110-245 added par. (8).

2001—Subsec. (i)(2). Pub. L. 107-16 substituted “2014(b)” for “2011(c), 2014(b),”.

1998—Subsecs. (h), (i). Pub. L. 105-206 added subsec. (h) and redesignated former subsec. (h) as (i).

1997—Subsec. (d)(3)(A). Pub. L. 105-34, §1056(a), substituted “for the year in which such taxes were actually paid or accrued” for “for the year with respect to which the claim is made”.

Subsec. (d)(7). Pub. L. 105-34, §1454(b)(1), added par. (7).

1994—Subsec. (d)(5). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1990—Subsec. (d)(2)(A). Pub. L. 101-508, §11801(c)(17)(B), struck out before period at end of first sentence “; except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final”.

Subsec. (e). Pub. L. 101-508, §11801(c)(22)(C), struck out subsec. (e) which related to special rules in case of manufactured sugar either exported, used as livestock feed, or for distillation or production of alcohol.

1988—Subsec. (d)(4)(C). Pub. L. 100-647, §1018(u)(21), made technical correction to directory language of Pub. L. 99-514, §231(d)(3)(I), see 1986 Amendment note below.

Subsec. (f). Pub. L. 100-647, §1018(u)(51), substituted “similar taxes” for “certain chapter 43 taxes” in heading, and “section 4912, chapter 42,” for “chapter 42” in text.

Subsec. (h). Pub. L. 100-418, §1941(b)(2)(I), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to special rules for windfall profit taxes.

Subsec. (i). Pub. L. 100-418, §1941(b)(2)(I), redesignated subsec. (i) as (h).

Subsec. (i)(6). Pub. L. 100-647, §1017(c)(11), substituted “section 6421(d)” for “section 6421(c)”.

1986—Subsec. (d)(2)(B). Pub. L. 99-514, §141(b)(3), amended subpar. (B) generally, restating cl. (i) as cls. (i), (ii), and (iii) and striking out former cl. (ii) which read as follows: “A claim for credit or refund for a computation year (as defined in section 1302(c)(1)) shall be determined to relate to an overpayment attributable to a net operating loss carryback or a capital loss carryback, as the case may be, when such carryback relates to any base period year (as defined in section 1302(c)(3)).”

Subsec. (d)(4)(C). Pub. L. 99-514, §231(d)(3)(I), as amended by Pub. L. 100-647, §1018(u)(21), struck out “and any research credit carryback under section 30(g)(2)” after “under section 39”.

Subsec. (h)(1). Pub. L. 99-514, §1847(b)(15)(A), substituted “section 6501(m)(1)(B)” for “section 6501(q)(1)(B)”.

Subsec. (h)(2). Pub. L. 99-514, §1847(b)(15)(B), substituted “section 6501(m)(2)(B)” for “section 6501(q)(2)(B)”.

1984—Subsec. (d)(4)(C). Pub. L. 98-369, §474(r)(40), substituted “business carryback under section 39 and any research credit carryback under section 30(g)(2)” for “investment credit carryback, work incentive program credit carryback, new employee credit carryback, research credit carryback, and employee stock ownership credit carryback”.

Subsec. (d)(5). Pub. L. 98-369, §2663(j)(5)(F), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (d)(6), (7). Pub. L. 98-369, §211(b)(25), redesignated par. (7) as (6) and struck out former par. (6) relating to a special period of limitation with respect to reduction of policyholders surplus account of life insurance companies.

Subsec. (f). Pub. L. 98-369, §163(b)(2), substituted “section 6501(l)(1)” for “section 6501(n)(1)”.

Subsec. (h)(3). Pub. L. 98-369, §714(p)(2)(G), amended par. (3) generally. Prior to amendment par. (3) related to partnership items of federally registered partnerships and provided that under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986.

Subsecs. (i), (j). Pub. L. 98-369, §735(c)(14), redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to a special rule for certain tread rubber tax credits or refunds.

1982—Subsec. (g). Pub. L. 97-248 substituted “Special rule for claims with respect to partnership items” for “Special rule for partnership items of federally registered partnerships” in heading and, in text, substituted provisions that, in the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter for provisions that (1) in the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership would not expire before the later of (A) the date which was 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or (B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item was made before the date specified in subpar. (A), the date 6 months after the expiration of such extension, with the amount of the credit or refund allowed to exceed the portion of the tax paid within the period provided in subsec. (b)(2) or (c), whichever was applicable, and (2) for purposes of this subsec., the terms “partnership item” and “federally registered partnership” would have the same meanings as such terms had when used in section 6501(o).

1981—Subsec. (d)(4)(C). Pub. L. 97-34, § 331(d)(2)(A), inserted reference to employee stock ownership credit carryback.

Pub. L. 97-34, § 221(b)(2)(A), inserted reference to research credit carryback.

1980—Subsec. (f). Pub. L. 96-222, § 108(b)(1)(B), inserted in heading “and certain chapter 43” after “chapter 42”, and in text “or section 4975” after “chapter 42”.

Subsec. (g)(2). Pub. L. 96-222, § 102(a)(2)(B), substituted “section 6501(o)” for “section 6501(q)”.

Subsec. (h). Pub. L. 96-223 added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (i). Pub. L. 96-598 added subsec. (i) and redesignated former subsec. (i) as (j).

Pub. L. 96-223 redesignated former subsec. (h) as (i).

Subsec. (j). Pub. L. 96-598 redesignated former subsec. (i) as (j).

1978—Subsec. (d)(2)(A). Pub. L. 95-628, § 8(a), substituted “3 years after the time prescribed by law for filing the return (including extensions thereof) for” for “with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of”.

Pub. L. 95-600, § 703(p)(3), struck out provisions relating to the period of limitations with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962.

Subsec. (d)(4). Pub. L. 95-628, § 8(b)(1), substituted in heading “certain credit carrybacks” for “investment credit carrybacks”, in subpar. (A), substituted “a credit carryback” for “an investment credit carryback”, “period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback” for “period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback”, and “(or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year)” for “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year)”, in subpar. (B), substituted “a credit carryback” for “an investment credit carryback”, “any credit” for “the investment credit”, and “affected by a credit carryback” for “affected by a carryback”; and added subpar. (C).

Subsec. (d)(7). Pub. L. 95-628, § 8(b)(2), redesignated par. (8) as (7). Former par. (7), which provided for a special period of limitation with respect to work incentive program credit carrybacks, was struck out.

Subsec. (d)(8). Pub. L. 95-628, § 8(b)(2)(B), redesignated par. (8) as (7).

Subsec. (d)(9). Pub. L. 95-628, § 8(b)(2)(A), struck out par. (9) which provided for a special period of limitation with respect to new employee credit carrybacks.

Subsecs. (g), (h). Pub. L. 95-600, § 212(b)(1), added subsec. (g) and redesignated former subsec. (g) as (h).

1977—Subsec. (d)(9). Pub. L. 95-30 added par. (9).

1976—Subsec. (d)(2)(A)(ii). Pub. L. 94-455, § 1906(a)(33)(A), struck out “September 1, 1959, or” after “shall not expire before” and “, whichever is the later” after “profits becomes final”.

Subsec. (d)(5). Pub. L. 94-455, § 1906(a)(33)(B), struck out “the later of the following dates: (A)” after “filed on or before” and “, or (B) December 31, 1965” after “Health, Education, and Welfare”.

Subsec. (d)(7). Pub. L. 94-455, § 2107(g)(2)(B), inserted “, an investment credit carryback,” after “net operating loss carryback”.

Subsec. (g)(7). Pub. L. 94-455, § 1203(h)(3), added par. (7).

1974—Subsec. (d)(8). Pub. L. 93-406 added par. (8).

1971—Subsec. (d)(7). Pub. L. 92-178 added par. (7).

1969—Subsec. (d)(2). Pub. L. 91-172, § 512(e)(2)(A), substituted “loss or capital loss carrybacks” for “loss carrybacks” in heading.

Subsec. (d)(2)(A). Pub. L. 91-172, § 512(e)(2)(B), (C), substituted “loss carryback or a capital loss carryback” for “loss carryback” and “operating loss or net capital loss which” for “operating loss which”.

Subsec. (d)(2)(B)(i). Pub. L. 91-172, § 512(e)(2)(D), (E), substituted “loss carryback or a capital loss carryback” for “loss carryback” and inserted reference to short-term capital loss.

Subsec. (d)(2)(B)(ii). Pub. L. 91-172, §§ 311(d)(3), 512(e)(2)(F), substituted references to section “1302(c)(1)” and “1302(c)(3)” for section “1302(e)(1)” and “1302(e)(3)”, respectively, and substituted “loss carryback or a capital loss carryback, as the case may be,” for “loss carryback”.

Subsec. (d)(4)(A). Pub. L. 91-172, § 512(e)(2)(G), substituted “loss carryback or a capital loss carryback” for “loss carryback”.

Subsecs. (f), (g). Pub. L. 91-172, § 101(h), added subsec. (f) and redesignated former subsec. (f) as (g).

1967—Subsec. (d)(4)(A). Pub. L. 90-225 inserted “(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year)” after “the unused investment credit which results in such carryback”.

1965—Subsec. (e)(1). Pub. L. 89-331 inserted “or production” after “distillation” in heading.

1964—Subsec. (d)(6). Pub. L. 88-571 added par. (6).

Pub. L. 88-272 designated existing provisions as clause (i) and added clause (ii) in par. (2)(B), and added par. (5).

1962—Subsec. (d)(2)(A). Pub. L. 87-794 inserted provisions stating that, with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification under section 317 of the Trade Expansion Act of 1962, the period of limitations shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer.

Subsec. (d)(4). Pub. L. 87-834 added par. (4).

1959—Subsec. (d)(2)(A). Pub. L. 86-280 inserted in first sentence exception with respect to overpayment as a result of elimination of excess profits by renegotiation.

1958—Subsec. (a). Pub. L. 85-866, § 82(a), struck out from first sentence “required to be” after “3 years from the time the return was”, and “(determined without regard to any extension of time)” before “or 2 years”.

Subsec. (b)(2)(A). Pub. L. 85-866, § 82(b), substituted “Limit where claim not filed within 3-year period” for “Limit to amount paid within years” in heading, and in text substituted “within the period,” for “within the 3 years”, inserted “equal to 3 years plus the period of any extension of time for filing the return” and struck out provision that if the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

Subsec. (b)(2)(B). Pub. L. 85-866, § 82(c), substituted “Limit where claim not filed within 3-year period” for “Limit to amount paid within 2 years” in heading.

Subsec. (d)(2)(A). Pub. L. 85-866, § 82(d), substituted in first sentence “15th day of the 40th month (or 39th month, in the case of a corporation)” for “15th day of the 39th month”.

1956—Subsec. (f)(5). Act Apr. 2, 1956, added par. (5).

Subsec. (f)(6). Act June 29, 1956, added par. (6).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2015 AMENDMENT**

Amendment by Pub. L. 114-74 applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-245, title I, §106(b), June 17, 2008, 122 Stat. 1630, provided that: "The amendment made by subsection (a) [amending this section] shall apply to claims for credit or refund filed after the date of the enactment of this Act [June 17, 2008]."

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3202(b), July 22, 1998, 112 Stat. 741, provided that: "The amendment made by subsection (a) [amending this section] shall apply to periods of disability before, on, or after the date of the enactment of this Act [July 22, 1998] but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of the date of the enactment of this Act."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1056(b), Aug. 5, 1997, 111 Stat. 945, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

Pub. L. 105-34, title X, §1454(c), Aug. 5, 1997, 111 Stat. 1057, provided that: "The amendments made by this section [enacting section 7436 of this title, amending this section and sections 7421, 7453, and 7481 of this title, and renumbering section 7436 of this title as 7437] shall take effect on the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 141(b)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 231(d)(3)(I) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99-514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(15) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 163(b)(2) of Pub. L. 98-369 applicable to expenditures with respect to which the second taxable year described in former section 118(b)(2)(B) of this title ends after Dec. 31, 1984, see section 163(c) of Pub. L. 98-369, set out as a note under section 118 of this title.

Amendment by section 211(b)(25) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 474(r)(40) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 714(p)(2)(G) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 735(c)(14) of Pub. L. 98-369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97-424, to which such amendment relates, see section 736 of Pub. L. 98-369, set out as a note under section 4051 of this title.

Amendment by section 2663(j)(5)(F) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partner, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(A) of Pub. L. 97-34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97-34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(A) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96-598, set out as a note under section 4071 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

Amendment by section 102(a)(2)(B) of Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

Amendment by section 108(b)(1)(B) of Pub. L. 96-222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, see section 108(b)(4) of Pub. L. 96-222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Pub. L. 95-628, §8(d), Nov. 10, 1978, 92 Stat. 3632, provided that: "The amendments made by this section

[amending this section and sections 6501, 6601, and 6611 of this title] shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act [Nov. 10, 1978].”

Amendment by section 212(b)(1) of Pub. L. 95-600 applicable to partnership items arising in partnership taxable years beginning after Dec. 31, 1978, see section 212(c) of Pub. L. 95-600, set out as a note under section 6501 of this title.

Amendment by section 703(p)(3) of Pub. L. 95-600 applicable with respect to losses sustained in taxable years ending Nov. 6, 1978, see section 703(p)(4) of Pub. L. 95-600, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95-30, set out as an Effective Date note under section 44B of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(3) of Pub. L. 94-455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as a note under section 7701 of this title.

Amendment by section 1906(a)(33) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Amendment by section 2107(g)(2)(B) of Pub. L. 94-455 applicable to parts and accessories sold after Oct. 4, 1976, see section 2108(b) of Pub. L. 94-455, set out as a note under section 6416 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Sept. 2, 1974, with exceptions specified in section 1461(b), (c) of Title 29, Labor, see section 1461(a) of Title 29.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92-178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(h) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 311(d)(3) of Pub. L. 91-172 applicable with respect to computation years (within the meaning of section 1302(c)(1) of this title) beginning after Dec. 31, 1969, and to base period years (within the meaning of section 1302(c)(3) of this title) applicable to such computation years, see section 311(e) of Pub. L. 91-172, set out as a note under section 1301 of this title.

Amendment by section 512(e)(2) of Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90-225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-331 effective Nov. 8, 1965, see section 14 of Pub. L. 89-331, Nov. 8, 1965, 79 Stat. 1281.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88-571 effective, with respect to amounts added to policyholders surplus accounts,

for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88-571, set out as a note under section 6501 of this title.

Amendment by Pub. L. 88-272, applicable to taxable years beginning after Dec. 31, 1964, see section 232(g) of Pub. L. 88-272, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-280, §1(c), Sept. 16, 1959, 73 Stat. 564, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided in part that: “The amendment made by subsection (a) [amending this section] shall apply with respect to claims for credit or refund resulting from the elimination of excessive profits by renegotiation to which section 6511(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

TRANSITION RULES

Pub. L. 110-245, title I, §106(c), June 17, 2008, 122 Stat. 1630, as amended by Pub. L. 113-295, div. A, title II, §213(a), Dec. 19, 2014, 128 Stat. 4033, provided that: “In the case of a determination described in paragraph (8) of section 6511(d) of the Internal Revenue Code of 1986 (as added by this section) which is made by the Secretary of Veterans Affairs after December 31, 2000, and before the date of the enactment of this Act [June 17, 2008], such paragraph—

“(1) shall not apply with respect to any taxable year which began before January 1, 2001, and

“(2) shall be applied by substituting ‘June 17, 2008’ for ‘the date of such determination’ in subparagraph (A) thereof.”

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

EXTENSION OF TIME FOR FILING CLAIMS FOR TAX REFUNDS

Pub. L. 85-866, title I, §96, Sept. 2, 1958, 72 Stat. 1672, authorized refunds and credits for tax overpayments for any taxable year beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, based upon business, trade, or education expenses, if the proper claim were filed on or before Sept. 2, 1958, or within 60 days thereafter.

§ 6512. Limitations in case of petition to Tax Court

(a) Effect of petition to Tax Court

If the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a) (or 7481(c) with respect to a determination of statutory interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final, and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final, and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive, and

(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63, and

(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).

(b) Overpayment determined by Tax Court

(1) Jurisdiction to determine

Except as provided by paragraph (3) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when

the decision of the Tax Court has become final, be credited or refunded to the taxpayer. If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.

(2) Jurisdiction to enforce

If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(3) Limit on amount of credit or refund

No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) after the mailing of the notice of deficiency,

(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

(C) within the period which would be applicable under section 6511(b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency—

(i) which had not been disallowed before that date,

(ii) which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

(iii) in respect of which a suit for refund had been commenced before that date and within the period specified in section 6532.

In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.

(4) Denial of jurisdiction regarding certain credits and reductions

The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.

(c) Cross references

(1) For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.