

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7405. Action for recovery of erroneous refunds

(a) Refunds after limitation period

Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) Refunds otherwise erroneous

Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) Interest

For provision relating to interest on erroneous refunds, see section 6602.

(d) Periods of limitation

For periods of limitations on actions under this section, see section 6532(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 874.)

§ 7406. Disposition of judgments and moneys recovered

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary as collections of internal revenue taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 875; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 7407. Action to enjoin tax return preparers

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person who is a tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as a tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the tax return preparer resides or has his principal place of business or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such tax return preparer or any taxpayer.

(b) Adjudication and decrees

In any action under subsection (a), if the court finds—

(1) that a tax return preparer has—

(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as a tax return preparer,

(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that a tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as a tax return preparer.

(Added Pub. L. 94-455, title XII, §1203(g), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 101-239, title VII, §7738(a), (b), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 110-28, title VIII, §8246(a)(2)(I)(i), May 25, 2007, 121 Stat. 202.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7407 was renumbered section 7410 of this title.

AMENDMENTS

2007—Pub. L. 110-28, §8246(a)(2)(I)(i)(I), substituted “tax return preparers” for “income tax return preparers” in section catchline.

Subsec. (a). Pub. L. 110-28, §8246(a)(2)(I)(i)(II)–(IV), substituted “tax return” for “income tax return” after “with respect to whose”, “tax return preparer” for “income tax preparer” after “district in which the” and after “against such”, and “a tax return preparer” for “an income tax return preparer” in two places.

Subsec. (b). Pub. L. 110-28, §8246(a)(2)(I)(i)(II), substituted “a tax return preparer” for “an income tax return preparer” in introductory provisions and subpar. (B) of par. (1) and in two places in concluding provisions.

1989—Subsec. (a). Pub. L. 101-239, §7738(b), substituted “A civil” for “Except as provided in subsection (c), a civil”.

Subsec. (c). Pub. L. 101-239, §7738(a), struck out subsec. (c) relating to bonds to stay injunctions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7738(c), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendments made by this section [amending this section] shall apply to actions commenced after December 31, 1989.”

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94-455, set out as

an Effective Date of 1976 Amendment note under section 7701 of this title.

§ 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

(b) Adjudication and decree

In any action under subsection (a), if the court finds—

- (1) that the person has engaged in any specified conduct, and
- (2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

(c) Specified conduct

For purposes of this section, the term “specified conduct” means any action, or failure to take action, which is—

- (1) subject to penalty under section 6700, 6701, 6707, or 6708, or
- (2) in violation of any requirement under regulations issued under section 330 of title 31, United States Code.

(d) Citizens and residents outside the United States

If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.

(Added Pub. L. 97-248, title III, §321(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 98-369, div. A, title I, §143(b), July 18, 1984, 98 Stat. 682; Pub. L. 108-357, title VIII, §820(a), (b)(1), Oct. 22, 2004, 118 Stat. 1585.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7408 was renumbered section 7410 of this title.

AMENDMENTS

2004—Pub. L. 108-357, §820(b)(1), amended section catchline generally, substituting “Actions to enjoin specified conduct related to tax shelters and reportable transactions” for “Action to enjoin promoters of abusive tax shelters, etc.”

Subsecs. (a) to (d), Pub. L. 108-357, §820(a), added subsecs. (a) to (c), redesignated former subsec. (c) as (d), and struck out former subsecs. (a) and (b), which authorized a civil action to enjoin any person from fur-

ther engaging in conduct subject to penalty under section 6700 or 6701 of this title and authorized the court, if it found that the person had engaged in such conduct and that injunctive relief was appropriate, to enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700 or 6701.

1984—Subsec. (a), Pub. L. 98-369, §143(b)(1), (2), inserted “or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)” and inserted reference to section 6701 at end of second sentence.

Subsec. (b), Pub. L. 98-369, §143(b)(1), (3), inserted “or section 6701 (relating to penalties for aiding and abetting understatement of tax liability),” in par. (1) and inserted reference to section 6701 at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §820(c), Oct. 22, 2004, 118 Stat. 1585, provided that: “The amendment made by this section [amending this section] shall take effect on the day after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on day after July 18, 1984, see section 143(c) of Pub. L. 98-369, set out as a note under section 6700 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §321(c), Sept. 3, 1982, 96 Stat. 612, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to seek injunction

(1) In general

If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

(2) Requirements

An action may be brought under subsection (a) only if—

(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

(B) the Commissioner of Internal Revenue has personally determined that—

- (i) such organization has flagrantly participated in, or intervened in (including