

or his delegate in the same manner before the Tax Court as he has heretofore been represented in proceedings before such Court. The taxpayer shall continue to be represented in accordance with the rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before the Tax Court because of his failure to be a member of any profession or calling.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 86-368, §2(a), Sept. 22, 1959, 73 Stat. 648; 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”.

1959—Pub. L. 86-368 substituted “Chief Counsel for the Internal Revenue Service or his delegate” for “Assistant General Counsel of the Treasury Department serving as Chief Counsel of the Internal Revenue Service, or the delegate of such Chief Counsel.”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-368 effective when Chief Counsel for Internal Revenue Service first appointed pursuant to amendment of section 7801 of this title by Pub. L. 86-368 qualifies and takes office, see section 3 of Pub. L. 86-368, set out as a note under section 7801 of this title.

### § 7453. Rules of practice, procedure, and evidence

Except in the case of proceedings conducted under section 7436(c) or 7463, the proceedings of the Tax Court and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Tax Court may prescribe and in accordance with the Federal Rules of Evidence.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91-172, title IX, §960(f), Dec. 30, 1969, 83 Stat. 734; Pub. L. 105-34, title XIV, §1454(b)(3), Aug. 5, 1997, 111 Stat. 1057; Pub. L. 114-113, div. Q, title IV, §425(a), Dec. 18, 2015, 129 Stat. 3125.)

### Editorial Notes

#### REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### AMENDMENTS

2015—Pub. L. 114-113 substituted “the Federal Rules of Evidence” for “the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia”.

1997—Pub. L. 105-34 substituted “section 7436(c) or 7463” for “section 7463”.

1969—Pub. L. 91-172 inserted reference to the exception in the case of proceedings conducted under section 7463 of this title.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title IV, §425(b), Dec. 18, 2015, 129 Stat. 3125, provided that: “The amendment made by

this section [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Dec. 18, 2015] and, to the extent that it is just and practicable, to all proceedings pending on such date.”

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91-172, set out as an Effective Date note under section 7463 of this title.

#### TAX COURT RULE MAKING NOT AFFECTED

Authority of Tax Court to prescribe rules under this section unaffected by amendments of title IV of Pub. L. 100-702, see section 405 of Pub. L. 100-702, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

### § 7454. Burden of proof in fraud, foundation manager, and transferee cases

#### (a) Fraud

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary.

#### (b) Foundation managers

In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has “knowingly” participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), or whether the trustee of a trust described in section 501(c)(21) has “knowingly” participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952), or whether an organization manager (as defined in section 4955(f)(2)) has “knowingly” agreed to the making of a political expenditure (within the meaning of section 4955), or whether an organization manager (as defined in section 4912(d)(2)) has “knowingly” agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), or whether an organization manager (as defined in section 4958(f)(2)) has “knowingly” participated in an excess benefit transaction (as defined in section 4958(c)), the burden of proof in respect of such issue shall be upon the Secretary.

#### (c) Cross reference

**For provisions relating to burden of proof as to transferee liability, see section 6902(a).**

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91-172, title I, §101(j)(57), Dec. 30, 1969, 83 Stat. 532; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-227, §4(d)(7), Feb. 10, 1978, 92 Stat. 23; Pub. L. 96-222, title I, §108(b)(3)(B), Apr. 1, 1980, 94 Stat. 226; Pub. L. 100-203, title X, §§10712(c)(6), 10714(b), Dec. 22, 1987, 101 Stat. 1330-467, 1330-471; Pub. L. 104-168, title XIII, §1311(c)(5), July 30, 1996, 110 Stat. 1478; Pub. L. 104-188, title I, §1704(t)(43), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 115-141, div. U, title IV, §401(a)(329), Mar. 23, 2018, 132 Stat. 1200.)

**Editorial Notes**

## AMENDMENTS

2018—Subsec. (b). Pub. L. 115-141 substituted “4955),” for “4955),”.

1996—Subsec. (b). Pub. L. 104-188 substituted “section 4955(f)(2)” for “section 4955(e)(2)”.

Pub. L. 104-168 inserted “or whether an organization manager (as defined in section 4958(f)(2)) has ‘knowingly’ participated in an excess benefit transaction (as defined in section 4958(c)),” after “section 4912(b),”.

1987—Subsec. (b). Pub. L. 100-203, §10714(b), substituted “, or whether an organization manager (as defined in section 4912(d)(2)) has ‘knowingly’ agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof” for “the burden of proof”.

Pub. L. 100-203, §10712(c)(6), substituted “or whether an organization manager (as defined in section 4955(e)(2)) has ‘knowingly’ agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof” for “the burden of proof”.

1980—Subsec. (b). Pub. L. 96-222 substituted “section 501(c)(21)” for “section 502(c)(21)”.

1978—Subsec. (b). Pub. L. 95-227 inserted provision relating to trustees of a trust described under section 502(c)(21) of this title.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Pub. L. 91-172 inserted “, foundation manager” in section catchline.

Subsecs (b), (c). Pub. L. 91-172 added subsec. (b) and redesignated former subsec. (b) as (c).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104-168, set out as a note under section 4955 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(6) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

Amendment by section 10714(b) of Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10714(e) of Pub. L. 100-203, set out as an Effective Date note under section 4912 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by 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 AMENDMENT

Amendment by Pub. L. 95-227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as an Effective Date note under section 192 of this title.

## EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by 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.

**§ 7455. Service of process**

The mailing by certified mail or registered mail of any pleading, decision, order, notice, or

process in respect of proceedings before the Tax Court shall be held sufficient service of such pleading, decision, order, notice, or process.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 85-866, title I, §89(b), Sept. 2, 1958, 72 Stat. 1665.)

**Editorial Notes**

## AMENDMENTS

1958—Pub. L. 85-866 inserted “certified mail or” before “registered mail”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85-866, set out as a note under section 7502 of this title.

**§ 7456. Administration of oaths and procurement of testimony****(a) In general**

For the efficient administration of the functions vested in the Tax Court or any division thereof, any judge or special trial judge of the Tax Court, the clerk of the court or his deputies, as such, or any other employee of the Tax Court designated in writing for the purpose by the chief judge, may administer oaths, and any judge or special trial judge of the Tax Court may examine witnesses and require, by subpoena ordered by the Tax Court or any division thereof and signed by the judge or special trial judge (or by the clerk of the Tax Court or by any other employee of the Tax Court when acting as deputy clerk)—

(1) the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(2) the taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

**(b) Production of records in the case of foreign corporations, foreign trusts or estates and nonresident alien individuals**

The Tax Court or any division thereof, upon motion and notice by the Secretary, and upon good cause shown therefor, shall order any foreign corporation, foreign trust or estate, or nonresident alien individual, who has filed a petition with the Tax Court, to produce, or, upon satisfactory proof to the Tax Court or any of its divisions, that the petitioner is unable to produce, to make available to the Secretary, and, in either case, to permit the inspection, copying, or photographing of, such books, records, documents, memoranda, correspondence and other papers, wherever situated, as the Tax Court or any division thereof, may deem relevant to the proceedings and which are in the possession, custody or control of the petitioner, or of any person directly or indirectly under his