

case of employees referred to in paragraph (1), to any individual designated under regulations prescribed by the Secretary as a representative of such employee), no proceeding may be initiated under this section by any person unless the pleading is filed before the ninety-first day after the day after such notice is mailed to such person (or to his designated representative, in the case of an employee).

**(c) Retirement plan**

For purposes of this section, the term “retirement plan” means—

(1) a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan, or

(2) an annuity plan described in section 403(a).

**(d) Cross reference**

**For provisions concerning intervention by Pension Benefit Guaranty Corporation and Secretary of Labor in actions brought under this section and right of Pension Benefit Guaranty Corporation to bring action, see section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974.**

(Added Pub. L. 93-406, title II, §1041(a), Sept. 2, 1974, 88 Stat. 949; amended Pub. L. 94-455, title X, §1042(d)(2)(C), title XIII, §1306(b)(3), title XIX, §§1906(a)(48), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1639, 1719, 1831, 1834; Pub. L. 95-600, title III, §336(b)(2)(A), title VII, §701(dd)(1), Nov. 6, 1978, 92 Stat. 2842, 2924; Pub. L. 98-369, div. A, title IV, §491(d)(52), July 18, 1984, 98 Stat. 852; Pub. L. 99-514, title XVIII, §1899A(59), Oct. 22, 1986, 100 Stat. 2962.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1201(c) of Title 29, Labor.

**AMENDMENTS**

1986—Subsec. (c). Pub. L. 99-514 substituted “plan, or” for “plan, or”.

1984—Subsec. (c)(3). Pub. L. 98-369 struck out par. (3) which included a bond purchase plan described in section 405(a) within the term “retirement plan”.

1978—Subsec. (a). Pub. L. 95-600, §701(dd)(1), inserted provision relating to revocation of qualification.

Subsecs. (c) to (e). Pub. L. 95-600, §336(b)(2)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c), which authorized the chief judge to assign proceedings under this section or section 7428 to be heard by the commissioners of the court, was struck out.

1976—Pub. L. 94-455, §1042(d)(2)(C), inserted “relating to qualification of certain retirement plans” after “Declaratory judgments” in section catchline.

Subsec. (a). Pub. L. 94-455, §§1906(a)(48), (b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing, and “United States” after “appropriate pleading, the” in provisions following par. (2).

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out in pars. (1) to (3) and (5), “or his delegate” after “Secretary” wherever appearing.

Subsec. (c). Pub. L. 94-455, §1306(b)(3), substituted “this section or section 7428” for “this section”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of

Pub. L. 98-369, set out as a note under section 62 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by section 336(b)(2)(A) of Pub. L. 95-600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95-600, set out as an Effective Date note under section 7478 of this title.

Pub. L. 95-600, title VII, §701(dd)(3), Nov. 6, 1978, 92 Stat. 2924, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by paragraphs (1) and (2) [amending this section and section 7428 of this title] shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as the case may be) at the respective times such sections were added to such Code.”

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by section 1042(d)(2)(C) of Pub. L. 94-455 applicable to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94-455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(3) of Pub. L. 94-455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94-455, set out as an Effective Date note under section 7428 of this title.

Amendment by section 1906(a)(48), (b)(13)(A) 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**

Pub. L. 93-406, title X, §1041(d), Sept. 2, 1974, 88 Stat. 951, provided that: “The amendments made by this section [enacting this section and amending sections 7451, 7459, and 7482 of this title] shall apply to pleadings filed more than 1 year after the date of the enactment of this Act [Sept. 2, 1974].”

**§7477. Declaratory judgments relating to value of certain gifts**

**(a) Creation of remedy**

In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

**(b) Limitations**

**(1) Petitioner**

A pleading may be filed under this section only by the donor.

**(2) Exhaustion of administrative remedies**

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

**(3) Time for bringing action**

If the Secretary sends by certified or registered mail notice of his determination as de-

scribed in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(Added Pub. L. 105-34, title V, § 506(c)(1), Aug. 5, 1997, 111 Stat. 855.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 7477, added Pub. L. 94-455, title X, § 1042(d)(1), Oct. 4, 1976, 90 Stat. 1637; amended Pub. L. 95-600, title III, § 336(b)(2)(B), Nov. 6, 1978, 92 Stat. 2842, provided for declaratory judgments relating to transfers of property from the United States, prior to repeal by Pub. L. 98-369, div. A, title I, § 131(e)(1), (g), July 18, 1984, 98 Stat. 664, 665, applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section applicable to gifts made after Aug. 5, 1997, see section 506(e)(1) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 2001 of this title.

#### § 7478. Declaratory judgments relating to status of certain governmental obligations

##### (a) Creation of remedy

In a case of actual controversy involving—

(1) a determination by the Secretary whether interest on prospective obligations will be excludable from gross income under section 103(a), or

(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether interest on such prospective obligations will be excludable from gross income under section 103(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

##### (b) Limitations

###### (1) Petitioner

A pleading may be filed under this section only by the prospective issuer.

###### (2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

###### (3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as de-

scribed in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(Added Pub. L. 95-600, title III, § 336(a), Nov. 6, 1978, 92 Stat. 2841; amended Pub. L. 100-647, title I, § 1013(a)(42), Nov. 10, 1988, 102 Stat. 3544.)

#### Editorial Notes

##### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647 substituted “whether interest on prospective obligations will be excludable from gross income under section 103(a)” for “whether prospective obligations are described in section 103(a)” in par. (1) and “whether interest on such prospective obligations will be excludable from gross income under section 103(a)” for “whether such prospective obligations are described in section 103(a)” in concluding provisions.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

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.

##### EFFECTIVE DATE

Pub. L. 95-600, title III, § 336(d), Nov. 6, 1978, 92 Stat. 2842, provided that: “The amendments made by this section [enacting this section and amending sections 7456, 7476, 7477, and 7482 of this title] shall apply to requests for determinations made after December 31, 1978.”

#### § 7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166

##### (a) Creation of remedy

In a case of actual controversy involving a determination by the Secretary of (or a failure by the Secretary to make a determination with respect to)—

(1) whether an election may be made under section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) with respect to an estate (or with respect to any property included therein), or

(2) whether the extension of time for payment of tax provided in section 6166(a) has ceased to apply with respect to an estate (or with respect to any property included therein),

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to whether such election may be made or whether such extension has ceased to apply. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

##### (b) Limitations

###### (1) Petitioner

A pleading may be filed under this section, with respect to any estate, only—

(A) by the executor of such estate, or

(B) by any person who has assumed an obligation to make payments under section