

ability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the return of such property will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).

**(e) Release of levy upon agreement that amount is not collectible**

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89-719, title I, §104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §4(a), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 99-514, title XV, §1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-647, title VI, §6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104-168, title V, §501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105-206, title I, §1102(d)(1)(B), title III, §3432(a), July 22, 1998, 112 Stat. 704, 759.)

AMENDMENTS

1998—Subsec. (d)(2)(D). Pub. L. 105-206, §1102(d)(1)(B), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

Subsec. (e). Pub. L. 105-206, §3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104-168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100-647 inserted “and notice of release” after “levy” in heading and amended text generally. Prior to amendment, text read as follows: “It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.”

1986—Subsec. (c). Pub. L. 99-514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1979—Subsec. (c). Pub. L. 96-167 added subsec. (c).

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

1966—Pub. L. 89-719 inserted “and return property” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102 of Pub. L. 105-206 effective July 22, 1998, see section 1102(f) of Pub. L. 105-206, set out as a note under section 7803 of this title.

Pub. L. 105-206, title III, §3432(b), July 22, 1998, 112 Stat. 759, provided that: “The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c)(1) of Pub. L. 96-167 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

**§ 6344. Cross references**

**(a) Length of period**

**For period within which levy may be begun in case of—**

**(1) Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).**

**(2) Employment and miscellaneous excise taxes, see section 6502(a).**

**(b) Delinquent collection officers**

**For distraint proceedings against delinquent internal revenue officers, see section 7804(c).**

**(c) Other references**

**For provisions relating to—**

**(1) Stamps, marks and brands, see section 6807.**

**(2) Administration of real estate acquired by the United States, see section 7506.**

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91-172, title I, §101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, §1307(d)(2)(F)(v), title XVI, §1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96-223, title I, §101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100-418, title I, §1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105-206, title I, §1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-206 substituted “section 7804(c)” for “section 7803(d)”.

1988—Subsec. (a)(1). Pub. L. 100-418 substituted “or 44” for “44, or 45”.

1980—Subsec. (a)(1). Pub. L. 96-223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94-455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93-406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91-172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

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 1980 AMENDMENT

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.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section

1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 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.

[Subchapter E—Repealed]

[[§§ 6361 to 6365. Repealed. Pub. L. 101-508, title XI, § 11801(a)(45), Nov. 5, 1990, 104 Stat. 1388-522]

Section 6361, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95-473, § 2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95-600, title IV, § 421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-248, title II, § 201(d)(7), formerly § 201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97-448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, § 5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97-424, title V, § 547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-369, div. A, title IV, §§ 412(b)(6), 474(r)(35), title VII, § 721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99-514, title XIII, § 1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, § 402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92-512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, § 1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97-248, title III, §§ 307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal 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.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter A. Procedure in general ..... 6401
B. Rules of special application ..... 6411

1 Section numbers editorially supplied.

Subchapter A—Procedure in General

Sec. 6401. Amounts treated as overpayments.
6402. Authority to make credits or refunds.
6403. Overpayment of installment.
6404. Abatements.
6405. Reports of refunds and credits.
6406. Prohibition of administrative review of decisions.
6407. Date of allowance of refund or credit.
6408. State escheat laws not to apply.
6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.

AMENDMENTS

2010—Pub. L. 111-312, title VII, § 728(b), Dec. 17, 2010, 124 Stat. 3317, added item 6409.
1987—Pub. L. 100-203, title X, § 10621(b), Dec. 22, 1987, 101 Stat. 1330-452, added item 6408.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term "overpayment" includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, G, H, I, and J of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89-44, title VIII, § 809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title III, § 331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91-258, title II, § 207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94-12, title II, § 204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94-455, title VII, § 701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95-600, title VII, § 701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95-618, title III, § 301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96-222, title I, § 103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96-223, title II, § 223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97-248, title III, §§ 307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, § 102(a), Aug.