

TITLE 26 - INTERNAL REVENUE CODE**Subtitle B - Estate and Gift Taxes****CHAPTER 11 - ESTATE TAX****Subchapter C - Miscellaneous****§ 2204. Discharge of fiduciary from personal liability****(a) General rule**

If the executor makes written application to the Secretary for determination of the amount of the tax and discharge from personal liability therefor, the Secretary (as soon as possible, and in any event within 9 months after the making of such application, or, if the application is made before the return is filed, then within 9 months after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 6501) shall notify the executor of the amount of the tax. The executor, on payment of the amount of which he is notified (other than any amount the time for payment of which is extended under sections 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment is extended, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) Fiduciary other than the executor

If a fiduciary (not including a fiduciary in respect of the estate of a nonresident decedent) other than the executor makes written application to the Secretary for determination of the amount of any estate tax for which the fiduciary may be personally liable, and for discharge from personal liability therefor, the Secretary upon the discharge of the executor from personal liability under subsection (a), or upon the expiration of 6 months after the making of such application by the fiduciary, if later, shall notify the fiduciary

- (1) of the amount of such tax for which it has been determined the fiduciary is liable, or
- (2) that it has been determined that the fiduciary is not liable for any such tax. Such application shall be accompanied by a copy of the instrument, if any, under which such fiduciary is acting, a description of the property held by the fiduciary, and such other information for purposes of carrying out the provisions of this section as the Secretary may require by regulations. On payment of the amount of such tax for which it has been determined the fiduciary is liable (other than any amount the time for payment of which has been extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment has been extended, or on receipt by him of notification of a determination that he is not liable for any such tax, the fiduciary shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing evidencing such discharge.

(c) Special lien under section 6324A

For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166) shall be treated as the furnishing of bond with respect to the amount for which the time for payment has been extended under section 6166.

(d) Good faith reliance on gift tax returns

If the executor in good faith relies on gift tax returns furnished under section 6103 (e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

- (1) are made more than 3 years before the date of the decedent's death, and
- (2) are not shown on such returns.

(Aug. 16, 1954, ch. 736, 68A Stat. 401; Pub. L. 91–614, title I, § 101(d)(1), (f), Dec. 31, 1970, 84 Stat. 1836, 1838; Pub. L. 94–455, title XIX, §§ 1902(a)(9), 1906 (b)(13)(A), title XX, § 2004(d)(2), (f)(4), (6), Oct. 4, 1976, 90 Stat. 1805, 1834, 1870, 1872; Pub. L. 95–600, title VII, § 702(p)(1), Nov. 6, 1978, 92 Stat. 2937; Pub. L. 97–34, title IV, § 422(e)(1), (3), Aug. 13, 1981, 95 Stat. 316.)

Amendments

1981—Subsecs. (a) to (c). Pub. L. 97–34, § 422(e)(1), (3), struck out reference to section 6166A in subsecs. (a) and (b), and two such references in subsec. (c).

1978—Subsec. (d). Pub. L. 95–600 added subsec. (d).

1976—Subsec. (a). Pub. L. 94–455, §§ 1906(b)(13)(A), 2004 (f)(6), substituted “6166 or 6166A” for “or 6166” after “6161, 6163” and struck out “or his delegate” in two places after “Secretary”.

Subsec. (b). Pub. L. 94–455, §§ 1902(a)(9), 1906 (b)(13)(A), 2004 (f)(4), (6), substituted “6166 or 6166A” for “or 6166” after “6161, 6163”, “has been” for “has not been” after “payment of which”, and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94–455, § 2004(d)(2), added subsec. (c).

1970—Pub. L. 91–614, § 101(d)(1)(A), substituted “fiduciary” for “executor” in section catchline.

Subsec. (a). Pub. L. 91–614, §§ 101(d)(1)(B), (C), (f), designated existing provisions as subsec. (a), inserted “General Rule—” immediately preceding first sentence and permitted a discharge of the executor even where an extension of time has been granted under sections 6161, 6163, or 6166 of this title, where a bond, if required, is provided to assure payment of taxes for which the extension was granted, and substituted “9 months” for “1 year” in two places.

Subsec. (b). Pub. L. 91–614, § 101(d)(1)(D), added subsec. (b).

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

Effective Date of 1978 Amendment

Section 702(p)(2) of Pub. L. 95–600 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.”

Effective Date of 1976 Amendment

Amendment by section 1902(a)(9) of Pub. L. 94–455 applicable in the case of estates of decedents dying after Dec. 31, 1970, see section 1902(c)(1) of Pub. L. 94–455, set out as a note under section 2011 of this title.

Amendment by section 2004(d)(4) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as a note under section 6166 of this title.

Effective Date of 1970 Amendment

Amendment by section 101(d)(1) of 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.

Section 101(f) of Pub. L. 91–614 provided that the amendment made by that section is effective with respect to the estates of decedents dying after Dec. 31, 1973.