

“(2) SUBSECTION (f).—The amendment made by subsection (f) [amending this section] shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982 [see Effective Date note below].

“(3) APPLICABILITY OF AMENDMENTS TO CERTAIN PRIOR CASES.—The amendments made by this section shall apply to any case commenced after December 31, 1985, and finally disposed of before the date of the enactment of this Act [Oct. 22, 1986], except that in any such case, the 30-day period referred to in section 2412(d)(1)(B) of title 28, United States Code, or Rule 231 of the Tax Court, as the case may be, shall be deemed to commence on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE

Section 292(e) of Pub. L. 97-248, as amended by Pub. L. 98-369, div. A, title I, §160, July 18, 1984, 98 Stat. 696, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 6673 of this title and section 2412 of Title 28, Judiciary and Judicial Procedure] shall apply to civil actions or proceedings commenced after February 28, 1983.

“(2) PENALTY.—The amendments made by subsections (b) and (d)(2) [amending section 6673 of this title] shall apply to any action or proceeding in the United States Tax Court which—

“(A) is commenced after December 31, 1982, or

“(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984 [July 18, 1984].”

§ 7431. Civil damages for unauthorized inspection or disclosure of returns and return information

(a) In general

(1) Inspection or disclosure by employee of United States

If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 or in violation of section 6104(c), such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions

No liability shall arise under this section with respect to any inspection or disclosure—

- (1) which results from a good faith, but erroneous, interpretation of section 6103, or
- (2) which is requested by the taxpayer.

(c) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the de-

fendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(1) the greater of—

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of—

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

- (1) paragraph (1) or (2) of section 7213(a),
- (2) section 7213A(a), or
- (3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions

For purposes of this section, the terms “inspect”, “inspection”, “return”, and “return information” have the respective meanings given such terms by section 6103(b).

(g) Extension to information obtained under section 3406

For purposes of this section—

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(h) Special rule for information obtained under section 6103(k)(9)

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

(Added Pub. L. 97-248, title III, §357(a), Sept. 3, 1982, 96 Stat. 645; amended Pub. L. 98-67, title I, §104(b), Aug. 5, 1983, 97 Stat. 379; Pub. L. 105-34, title XII, §1205(c)(2), Aug. 5, 1997, 111 Stat. 998; Pub. L. 105-35, §3(a)-(d)(4), (6), Aug. 5, 1997, 111 Stat. 1105, 1106; Pub. L. 105-206, title III, §3101(f), title VI, §6012(b)(3), July 22, 1998, 112 Stat. 729, 819; Pub. L. 109-280, title XII, §1224(b)(7), Aug. 17, 2006, 120 Stat. 1093.)

PRIOR PROVISIONS

A prior section 7431 was renumbered section 7437 of this title.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109-280, which directed insertion of “or in violation of section 6104(c)” after “6103” in subsec. (a)(2) of section 7431, without specifying the act to be amended, was executed by making the insertion in subsec. (a)(2) of this section, which is section 7431 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1998—Subsec. (c)(2). Pub. L. 105-206, §3101(f), substituted “, plus” for the period at end.

Subsec. (c)(3). Pub. L. 105-206, §3101(f), added par. (3). Subsecs. (g), (h). Pub. L. 105-206, §6012(b)(3), redesignated subsec. (g), relating to special rule for information obtained under section 6103(k)(8), as (h), and substituted “(9)” for “(8)” in heading.

1997—Pub. L. 105-35, §3(d)(4), inserted “inspection or” before “disclosure” in section catchline.

Subsec. (a)(1), (2). Pub. L. 105-35, §3(a)(1), (2), substituted “Inspection or disclosure” for “Disclosure” in headings and “inspects or discloses” for “discloses” in text.

Subsec. (b). Pub. L. 105-35, §3(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.”

Subsec. (c)(1). Pub. L. 105-35, §3(d)(1), (2), inserted “inspection or” before “disclosure” in subpars. (A) and (B)(i) and substituted “willful inspection or disclosure or an inspection or disclosure” for “willful disclosure or a disclosure” in subpar. (B)(ii).

Subsec. (d). Pub. L. 105-35, §3(d)(1), inserted “inspection or” before “disclosure”.

Subsec. (e). Pub. L. 105-35, §3(b), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-35, §3(b), (d)(3), redesignated subsec. (e) as (f) and amended it generally. Prior to amendment, subsec. (f) read as follows:

“(f) RETURN; RETURN INFORMATION.—For purposes of this section, the terms ‘return’ and ‘return information’ have the respective meanings given such terms in section 6103(b).”

Subsec. (g). Pub. L. 105-35, §3(b), (d)(6), redesignated subsec. (f) as (g) and substituted “any inspection or use” for “any use” in par. (2).

Pub. L. 105-34, §1205(c)(2), added subsec. (g) relating to special rule for information obtained under section 6103(k)(8).

1983—Subsec. (f). Pub. L. 98-67 added subsec. (f).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 effective Aug. 17, 2006, but not applicable to requests made before such date, see section 1224(c) of Pub. L. 109-280, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3101(f) of Pub. L. 105-206 applicable to costs incurred more than 180 days after July 22, 1998, see section 3101(g) of Pub. L. 105-206, set out as a note under section 7430 of this title.

Amendment by section 6012(b)(3) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 3(e) of Pub. L. 105-35 provided that: “The amendments made by this section [amending this section] shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by Pub. L. 105-34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105-34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE

Section 357(c) of Pub. L. 97-248 provided that: “The amendments made by this section [enacting this section and repealing section 7217 of this title] shall apply with respect to disclosures made after the date of enactment of this Act [Sept. 3, 1982].”

§ 7432. Civil damages for failure to release lien

(a) In general

If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

- (1) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, plus
- (2) the costs of the action.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Limitations

(1) Requirement that administrative remedies be exhausted

A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

(2) Mitigation of damages

The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

(3) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to