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FILING OF TAX RETURNS DIRECTLY WITH INTERNAL REVENUE SERVICE CENTERS

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Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 6958]

The Committee on Finance, to which was referred the bill (H.R. 6958) to amend the Internal Revenue Code of 1954 to promote savings under the Internal Revenue Service's automatic data processing system, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

H.R. 6958 is concerned primarily with the provisions of the tax laws specifying the place for filing income and other tax returns. The principal purpose of the changes made is to increase substantially the economics possible under the Internal Revenue Service's new automatic data processing system.

Present law generally requires that tax returns be filed in one of the 58 offices of the District Directors of Internal Revenue. Under the Internal Revenue Service's automatic data processing system, after some initial processing at the district director's office, these returns are packaged and shipped to one of the seven regional automatic data processing service centers where the processing of the returns is completed. The bill amends present law to permit the Treasury Department to require taxpayers to mail their tax returns directly to the service centers, thereby eliminating the double handling and extending the economics of volume processing to the initial processing steps. The bill provides, however, that a taxpayer who desires to file his return in person may continue to do so as at present by hand carrying it to his local Internal Revenue Service office.

Your committee, like the Committee on Ways and Means, has been assured by the Treasury Department that none of the services tax-

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payers are accustomed to receiving at their local internal revenue offices will be curtailed as a result of the enactment of this bill.

The bill provides that, in the case of taxpayers residing abroad, foreign corporations, and taxpayers with income from abroad to whom certain enumerated special provisions of the code apply, the Treasury Department may designate by regulations the place at which they must file their tax returns. Presumably, this will be with the Office of International Operations.

The bill also makes amendments which are related to the change in the place for filing tax returns. Several of these, however, have independent significance. The more important of these changes are as follows:

1. Where a criminal prosecution for willful failure to file a tax return is begun in a judicial district other than the one in which he resides, the bill grants the defendant the right to have the trial moved to his home district.

2. The bill does away with tax refund suits against collection officers, but retains the provisions of present law which permit these suits to be brought directly against the United States and which provide for court costs to be borne by the unsuccessful party in the proceedings.

3. The bill provides that appeals from Tax Court decisions are to be made to the court of appeals for the circuit in which the individual resides at the time he filed his petition in the Tax Court, or in the case of a corporation, to the court of appeals for the circuit in which its principal place of business or principal office or agency is located at that time.

4. The bill also provides that the timely mailing of a tax return or payment is to be considered timely filing or timely payment. As a result, where the postmark on an envelope in which an individual income tax return and payment are enclosed shows that it was mailed on or before the due date, the return and payment will be considered as filed or paid on time even though received after the due date.

The provisions of the bill take effect, generally, upon enactment.

This bill was introduced at the request of the Treasury Department. It is reported unanimously by your committee.

II. REASONS FOR THE BILL

The Internal Revenue Service is nearing completion of its conversion from manual to automatic data processing of tax returns. Since, the economies arising from automatic data processing can best be maximized by a high volume of return processing at centralized locations, the Service has established 7 regional service centers to do the processing formerly done in the 58 District Directors' offices.

The changeover to automatic data processing was necessitated by the ever-increasing number of tax returns being filed with the Service. In 1930, the Service handled 6 million tax returns; in 1965, the volume had increased to 102 million. By 1970, the Service anticipates 111 million returns will be filed, and by 1980, 135 million.

At the present time, part of the processing is done at the District Directors' offices but the remainder at the regional centers after the returns are shipped there. The initial processing done at the district offices primarily involves mail opening, taking out the payments, and other clerical operations. The returns are then packaged and shipped to the service centers where the major processing functions are per-

formed. In addition to the added expense of transshipping, the receipt of the returns at the district offices makes it necessary to perform the minimal processing activities referred to at these offices even though this could be done more economically under the high volume techniques possible at the service centers. The elimination of the double handling and shipping costs and the maximization of the economies inherent in volume processing will, according to Internal Revenue Service estimates, produce an annual saving in administrative costs of nearly $4 million.

In addition to the economies referred to above, direct filing will reduce the time it presently takes for the Service to make refunds and will make it possible to commence audit and collection activities at an earlier time.

Your committee, like the Committee on Ways and Means has been assured by the Treasury Department that the enactment of this bill will not result in a curtailment of the services taxpayers are currently receiving at the district offices.

For the reasons given above, the bill amends present law to provide for the direct filing of tax returns at the service centers. This change in the place for filing tax returns makes necessary or desirable certain other changes in the administrative provisions of the tax laws. The reasons for these related changes are contained in the general explanation which follows.

III. GENERAL EXPLANATION OF THE BILL

1. Centralized Filing of Returns (Sec. 1(a) of the Bill and Sec. 6091(b) of the Code)

Under present law an individual is required to file his tax returns in the internal revenue district in which he resides or has his principal place of business.[1] A corporation must file in the internal revenue district in which it has its principal place of business or principal office or agency. If an individual does not have a residence or principal place of business in the United States (for example, a nonresident alien or perhaps a U.S. citizen living abroad) or a corporation does not have a principal place of business or principal office or agency in the United States (as is true of many foreign corporations with income from U.S. sources), present law provides that the Treasury Department is to prescribe the place for filing tax returns by regulations.

The bill, in order to maximize the economies to be obtained from automatic data processing, amends present law to make provision for the filing of tax returns at the Internal Revenue Service centers. More specifically, the bill, as a general rule, provides that in the case of individuals, the Treasury Department may, by regulations, require tax returns to be filed either in the internal revenue district in which the taxpayer's legal residence or principal place of business is located, or at a service center serving that district. Similarly, the bill permits the Treasury Department to require the filing of corporate returns at either the district offices or at the service centers. The District Director's office as an alternative location which the Treasury may designate for the filing of returns is retained primarily for use during the period of time automatic data processing is being brought

[1] A special rule (which is not changed by the bill) provides generally for filing estate tax returns at the domicile of the decendent at the time of his death.

into operation in different areas of the country. Thus, for example, during the period of time in which the Internal Revenue Service is "phasing in" its service centers, the regulations could provide that income tax returns of individuals who reside in districts the service center for which is in operation (and the transition to machine processing has been completed) are to be filed with the service center, and that the income tax returns for individuals residing in districts the service center for which has not been geared up to process individual income tax returns are to be filed in the district offices. However, this authority in the Treasury Department to designate either district offices or service centers for filing returns would also permit the designation of one office for one type of return and the other office for another type of return. For example, the regulations could provide that income tax returns were to be filed at the service centers and excise tax returns in the district offices.

During the period of transition from filing tax returns with district directors to filing them with the service centers, it is inevitable that some taxpayers will, in all good faith, mistakenly mail their tax returns to the district directors as they have in the past. The Treasury Department has assured this committee that in these cases the penalty for failure to file a timely tax return will not be imposed.

As an exception to the general rule set out above, the bill provides that a taxpayer who desires to file his return in person (usually to obtain proof of filing) may continue to do so by hand carrying it to his local internal revenue office. This is important not only to individual taxpayers who want verification of their timely payment but also to accountants who may be filing for a number of taxpayers and to corporate taxpayers where the amounts are large and therefore the danger of any penalty for late filing significant. The bill also provides that returns of nonresident aliens, foreign corporations, and others taking advantage of certain foreign income provisions of the law are to be filed at the place designated by regulations. This need not be either at a district office or regional service center. In these cases special provisions of the code apply, and, as a result, special auditing knowledge is required. The Internal Revenue Service's current practice is to handle the processing and auditing of many of these returns in its Office of International Operations. However, under present law some of these returns are required to be filed in the district offices. In these cases, the returns must be forwarded by the district offices to the Office of International Operations. This tends to delay the processing of these returns and the refunding of overpayments of taxes where this has occurred. For this reason the bill amends present law to provide that these returns are to be filed at the place the Secretary of the Treasury or his delegate designates by regulations.

The types of returns which are to be filed wherever designated by regulations are as follows:

(*a*) Returns of citizens whose principal place of abode is outside the United States during the taxable period. Many of these taxpayers are eligible for the exclusion for income earned abroad;

(*b*) Returns of persons who claim the exclusion from gross income for income earned abroad (sec. 911), persons whose income is largely from sources within possessions of the United States (sec. 931), and persons whose income is largely from sources in Puerto Rico (sec. 933);

(*c*) Returns of nonresident aliens whether or not they have a principal place of business in the United States;

(*d*) Returns of Western Hemisphere trade corporations (sec. 922), corporations deriving income from sources within possessions of the United States (sec. 931), and China Trade Act corporations (sec. 941); and

(*e*) Returns of foreign corporations whether or not they have a principal place of business or principal office or agency in the United States.

These provisions take effect upon enactment.

2. PLACE FOR PAYING TAX SHOWN ON RETURN (SEC. 1(b) OF THE BILL AND SEC. 6151(a) OF THE CODE)

Present law provides that the tax shown on a tax return is to be paid to the principal internal revenue officer for the district in which the return is required to be filed. Since under the bill the return may no longer be filed in a district director's office, a conforming change is required in the provision relating to payment. As amended, the tax is to be paid to the internal revenue officer with whom the return is filed. This provision applies upon enactment.

3. VENUE IN CRIMINAL CASES (SEC. 2 OF THE BILL AND SEC. 3237(b) OF TITLE 18, UNITED STATES CODE)

Present law provides that the willful failure to file a tax return is a misdemeanor. For purposes of determining where a prosecution of this offense is to occur, present case law holds that the venue is to be in the judicial district in which the return was required to be filed.

Under the bill, taxpayers are required to file returns in either of two judicial districts in the majority of cases. It they choose to mail their return, regulations may require that they be filed in the judicial district in which their service center is located. If they choose to file their return in person, by hand-carrying, they are required to file it at their district director's office. In most cases, the service center and the district office will be located in different judicial districts. Since venue for a willful failure to file prosecution lies in either district, the Government under the bill could bring the prosecution in either district.[2]

Your committee agrees with the Committee on Ways and Means that a prosecution for willful failure to file a return should be brought as close to the defendant's residence as possible in order to avoid hardship to him, his attorneys, and witnesses. In this regard, it is this committee's understanding that the Government in practice will bring prosecutions for willful failure to file returns in the judicial district where the taxpayer resides (or the closest district possible). However, to be sure that the taxpayer has the right to be tried in the district in which he resides, the bill amends present law to provide that he may elect to remove his trial to the judicial district of his residence.

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[2] The courts have held that where taxpayers are required to file a return in either of two judicial districts, venue for a willful failure to file prosecution lies in either district (*United States* v. *Commerford*, 64 F. 2d 28 (2d Cir. 1933), cert. denied 289 U.S. 759 (1933); *United States* v. *Citron*, 221 F. Supp. 454 (S.D. N.Y. (1963)).

4. Abolition of Refund Suits Against Collection Officers (Sec. 3 (a) and (b) of the Bill and Sec. 7422 of the Code)

Under present law a taxpayer seeking a refund of an overpayment of tax generally may sue the United States directly or may bring his action against the district director to whom the tax was paid. In a refund suit against the United States brought by an individual the suit may be brought only in the judicial district in which the individual resides. Refund suits against the district director may be brought only in the judicial district in which the director resides. Moreover, under present law (sec. 2502 of title 28, United States Code) an alien or foreign corporation can sue the United States directly only if the country of which he is a citizen permits itself to be sued by the citizens of the United States having claims against it. However, since a refund suit against the district director in form is not a suit against the United States, aliens and foreign corporations may, under present law, bring these suits for refunds of taxes without establishing the existence of reciprocity.

Under the present practice of filing returns and making payments of taxes to the 58 district directors, suits against collection officers are fairly widely dispersed throughout the judicial districts. However, since under the bill returns will be required to be filed with, and tax paid to, the directors of the seven service centers, continuation of suits against collection officers would result in concentration of these suits in the seven judicial districts. Morover, suits against collection officers in practice are merely an expedient for bringing the Government into court.[3] This is evidenced by the fact that the United States always reimburses the collection officer if the taxpayer prevails. Although this bill abolishes the right of action by a taxpayer against a Government employee serving as the tax collector, this is done only because other adequate remedies either are already available, or are being made available by this bill, for the recovery of illegal collections.

Furthermore, these suits against district directors on occasion, have presented problems for the tax practitioners. For example, taxpayers have sued the current district director although his predecessor was the individual who collected the tax. The predecessor district director may have passed away, or have moved from the judicial district necessitating the bringing of the suit in a different judicial district. Sometimes the running of the statute of limitations bars taxpayers from bringing a second suit for refund after their first suit has been held to have been erroneously brought. Suits against district directors in some cases have also presented a problem for the Internal Revenue Service. Occasionally, taxpayers have thought that their cases would obtain more favorable action if brought in a judicial district other than the one of their residence and have therefore sued the district director where he resided in another judicial district, rather than the United States. The bill prevents this attempt to find a more favorable judicial district by restricting the taxpayer to his judicial district of residence.

For the reasons given above the bill adds a provision to present law which provides that suits for refund may be maintained only against the United States and not against an officer or employee of the United States. However, in order to preserve the right of aliens and foreign

[3] See, for example, the comments of the Supreme Court in *George Moore Ice Cream Company* v. *Rose*, 289 U.S. 373, 383 (1933).

corporations to bring tax refund suits, the bill also modifies present law by permitting aliens and foreign corporations to bring such suits directly against the United States irrespective of whether the foreign country of citizenship or incorporation allows itself to be sued by U.S. citizens or corporation.

The bill also contains a provision which prevents a taxpayer who improperly brings a suit against the collection officer from being denied his right of action. In such a case the United States is to be substituted as the defendant. However, if the United States is so substituted, it may request that the case be transferred to the district or division in which it should have been brought had the suit initially been brought against the United States.

These amendments are applicable to suits brought against collection officers 90 days or more after enactment.

5. Venue for Review of Tax Court Decisions (Sec. 3(c) of the Bill and Sec. 7482(b)(1) of the Code)

Present law provides, in general, that decisions of the Tax Court are to be reviewed by the U.S. court of appeals for the circuit in which a return is filed.

As in the case of criminal prosecutions for willful failure to file income tax returns, your committee agrees with the Committee on Ways and Means that under the new filing requirements, determining the court to which an appeal is to be taken from Tax Court decisions based on the place where the return was filed, would distort the dispersion of such cases among the various circuit courts. Since the regions served by the seven Internal Revenue Service centers are not coincident with the appellate court circuits, some circuits contain more than one service center and others contain none. In addition to the concentration of the appeals in some of the circuit courts, continuance of the existing provision would deprive other circuit courts of appeal of almost all jurisdiction in these cases.

As a result the bill provides that appeals from Tax Court decisions are to be made to the court of appeals for the circuit in which (in the case of a taxpayer other than a corporation) the taxpayer resides. Appeals by corporations are to be made to the court of appeals for the circuit in which they have their principal place of business or principal office or agency. For this purpose the residence, principal place of business, or principal office or agency of the taxpayer is to be determined as of the time he files his petition with the Tax Court. This provision of the bill is modeled after the provision of existing law which prescribes the venue for a refund suit against the United States in the district courts.

This change is to apply to all decisions of the Tax Court entered after the date of enactment of this bill.

6. Publicity of Returns and Disclosure of Information (Sec. 4 of the Bill and Secs. 6103 and 6107 of the Code)

Present law contains two provisions which are designed to aid in the administration of the tax laws by permitting the public to ascertain whether or not specific taxpayers have filed their returns. These provisions require the Internal Revenue Service to maintain in each district office lists containing the names and post office addresses of

persons who made returns in the district. These provisions apply to income tax returns and to certain excise tax returns.

The Internal Revenue Service proposes to maintain the income tax lists on microfilm and it is believed that making the microfilm and the necessary reading equipment available to the general public would not be practical. In addition, under the Service's automatic data processing system the income tax return lists will show the taxpayer's identification number which in most cases is also his social security number. Your committee, like the Committee on Ways and Means, does not believe that it is desirable to make these social security numbers generally available to the public because they can be used to obtain information from the social security offices relative to the wages of the individual. Your committee agrees with the Committee on Ways and Means, however, that whether or not a person has filed his tax return should continue to be a matter of public knowledge.

For these reasons, the bill amends present law to provide that upon inquiry the Internal Revenue Service is to furnish the inquirer information showing whether a particular person in the internal revenue district has, or has not, filed an income tax return. The lists of special excise taxpayers' returns will continue to be maintained in essentially the same form as under present law.

These amendments take effect upon the date of enactment of the bill.

7. Timely Mailing Treated as Timely Filing Extended to Returns and Payments (Sec. 5 of the Bill and Sec. 7502 of the Code)

Present law provides that where a claim, statement, or other document, which is required to be filed by a specified date is properly mailed, the postmarked date is to be considered as the date on which it was filed. This provision however, does not apply to a return or to a payment of tax. The bill extends this rule to tax returns and payments.

The provision of this bill which permits the Secretary of the Treasury to require the filing of tax returns at service centers would technically require many taxpayers (for example, those in Hawaii) to mail their returns and payments at a much earlier date in order to insure delivery by the due date. The existing timely-mailing-timely-filing provision was enacted in 1954. At that time the rule was a new concept with which the Internal Revenue Service had had no experience. For this reason, the Service was concerned with applying it to returns and payments because of unforeseen problems which it believed might develop. Experience with the present provision since 1954 has allayed these fears, and in fact, the Service has in practice generally treated returns and payments which were mailed before the due date as being filed or paid on time.

For these reasons, the bill amends the existing timely-mailing-timely-filing provisions to include returns and payments of tax. However, the special provision relating to registered mail which provides that registration is prima facie evidence of delivery is extended to returns but not to payments of tax. In addition, the timely-mailing-timely-filing provisions, as amended by the bill, are not applied to currency or other medium of payment unless they are actually received and accounted for, or to returns, claims, statements, or other

documents or payments which are required to be delivered by any method other than by mailing. This latter exception applies, primarily, to certain documents relating to alcohol taxes which are required to be submitted directly to the internal revenue officer present on the manufacturer's premises.

Present law contains a special provision dealing with postmarks which are not made by the U.S. post office. Under the bill, this provision will apply to returns and payments as it has in the past to other documents filed with the Internal Revenue Service. Among the postmarks to which this provision applies are those made by postage metering machines. By continuing this provision of present law, this committee does not intend to downgrade postal metering devices. Applying the rule of present Treasury Department regulations, if an envelope (containing a tax return) bearing an April 15 postmark made by a postage meter is received by the Internal Revenue Service not later than the time it would ordinarily have been received had it been postmarked April 15 by the U.S. Post Office at the same point of origin, the return is considered as filed on April 15. In addition, where there is a delay in the receipt of a metered return by the Internal Revenue Service, if the person who is required to file the return established that it was actually deposited in the mail at a time at which stamped letters deposited at that location received timely postmarks and the delay was due to the postal service, the return will be treated as timely filed as in the case of stamped returns.

These amendments apply to mailing which occurs after their enactment.

IV. TECHNICAL EXPLANATION

The bill amends present law to authorize the Secretary or his delegate to require the filing of tax returns directly with the service centers. In addition, it contains other amendments related to direct filing.

Section 1. Centralized Filing of Returns and Payment of Tax

(*a*) *Place for filing returns.*—Subsection (a) of section 1 of the bill amends section 6091(b) of the Internal Revenue Code of 1954 (relating to place for filing returns required under authority of pt. II of subch. A of ch. 61 of the code). The returns which are required under the authority of such part II are tax returns as distinguished from information returns.

General rule—Noncorporate taxpayers

Section 6091(b)(1) of existing law provides in part that returns required under such part II (other than corporate or estate tax returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or the principal place of business of the person making the return. Subparagraph (A) of section 6091(b)(1), as amended by the bill, provides that, except as provided in subparagraph (B) thereof, such a return shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or at a service center serving such district, as the Secretary or his delegate may by regulations designate.

General rule—Corporate taxpayers

Section 6091(b)(2) of existing law provides in part that corporate returns required under such part II shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business, or principal office or agency of the corporation. Subparagraph (A) of section 6091(b)(2), as amended by the bill, provides that except as provided in subparagraph (B) thereof, such return shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or at a service center serving such district, as the Secretary or his delegate may by regulations designate.

General rule—Transitional rules and dual venue

Under paragraphs (1)(A) and (2)(A) of section 6091(b), as amended by the bill, the Secretary or his delegate is authorized to require that income tax returns be filed either in the taxpayer's internal revenue district as under existing law, or with a service center serving his district. Thus, under the bill direct filing with service centers can be implemented in phases, on the basis, for example, of regions or types of returns.

Exception for noncorporate returns

Section 6091(b)(1) of existing law further provides that if a person (other than a corporation) has no legal residence or principal place of business in any internal revenue district, then his return shall be made at such place as the Secretary or his delegate may by regulations designate. Clause (i) of section 6091(b)(1)(B), as amended by the bill, restates this provision of existing law. Under clauses (ii), (iii), and (iv) of section 6091(b)(1)(B), as added by the bill, returns of citizens of the United States whose principal place of abode is outside the United States for the period with respect to which the return is filed; returns of persons who claim the benefits of section 911 (relating to earned income from sources without the United States), section 931 (relating to income from sources within possessions of the United States), or section 933 (relating to income from sources within Puerto Rico); and returns of nonresident alien persons, shall be made at such place as the Secretary or his delegate may by regulations designate.

Exception for corporate returns

Section 6091(b)(2) of existing law further provides that if a corporation has no principal place of business or principal office or agency in any internal revenue district, then it shall make its returns at such place as the Secretary or his delegate may by regulations prescribe. Clause (i) of section 6091(b)(2)(B), as amended by the bill, restates this provision of existing law. Under clauses (ii) and (iii) of section 6091(b)(2)(B), as added by the bill, returns of corporations which claim the benefits of section 922 (relating to special deduction for Western Hemisphere trade corporations), section 931 (relating to income from sources within possessions of the United States), or section 941 (relating to the special deduction for China Trade Act corporations); and returns of foreign corporations, shall be made at such place as the Secretary or his delegate may by regulations designate.

Under the authority contained in paragraphs (1)(B) and (2)(B) of section 6091(b) as amended by the bill, the Secretary of the Treasury

or his delegate may require by regulations that the returns of persons referred to in section 6091(b)(1)(B) (ii), (iii), and (iv), and section 6091(b)(2)(B) (ii) and (iii), be filed with the Director of the Office of International Operations, rather than with a district director or the director of a service center.

Hand-carried returns

Paragraph (3) of subsection (a) of section 1 of the bill adds a new paragraph (4) to section 6091(b) to provide an additional exception to the application of paragraphs (1)(A) and (2)(A) of section 6091(b), as amended. New paragraph (4) provides that notwithstanding new paragraph (1) or (2), a return to which paragraph (1)(A) or (2)(A) of section 6091(b), as amended, would apply, but for such new paragraph (4), which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph (1)(A)(i) or paragraph (2)(A)(i) of section 6091(b), as amended, as the case may be.

Thus, for example, a return referred to in section 6091(b)(1)(A) which is made to the Secretary or his delegate by hand-carrying shall be made in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, rather than with the service center serving such district. A return is not made by hand-carrying if it is, for example, mailed to the Internal Revenue Service. However, a return is made by hand-carrying if it is, for example, brought into an Internal Revenue Service office located within the proper internal revenue district by the person making the return or by his personal representative.

(b) *Place for paying tax shown on return.*—Subsection (b) of section 1 of the bill amends section 6151(a) of the code (relating to time and place for paying tax shown on returns) to conform such provision to the changes made by subsection (a) of section 1 of the bill. Section 6151(a) of existing law provides that, in general, a person who is required to make a return of tax shall pay such tax to the principal internal revenue officer for the internal revenue district in which the return is required to be filed. Subsection (a) of section 6151, as amended by the bill, provides that such tax shall be paid to the internal revenue officer with whom the return is filed.

SECTION 2. RELATED AMENDMENT CONCERNING VENUE FOR CRIMINAL CASES

Section 2 of the bill amends section 3237(b) of title 18 of the United States Code (relating to certain offenses committed in more than one district) to permit a person who is prosecuted under section 7203 of the Internal Revenue Code of 1954 (relating to willful failure to file return, supply information, or pay tax) in a judicial district other than the one in which he resides to elect to be tried in the judicial district in which he resided at the time the alleged failure occurred. Under paragraph (4) of section 6091(b) of the 1954 code which is added by subsection (a) of section 1 of the bill, a person who makes a return described in section 6091 (b)(1)(A) or (b)(2)(A) by hand-carrying shall make such a return in his local internal revenue district. However, in all other cases the Secretary is authorized to require that such return be made with the service center serving such district,

Thus, in the case of such returns all taxpayers would be required to make their returns with either their District Director or the service center, depending upon their method of transmitting the returns. Accordingly, venue for a prosecution under section 7203 for willful failure to file such a return would lie in either the judicial district in which the District Director's office or the judicial district in which the service center is located.

Section 3237(b) of title 18 of existing law provides that with respect to certain crimes described in the Internal Revenue Code (but not including crimes described in sec. 7203) where an offense involves use of the mails and where prosecution is begun in a judicial district other than the district in which the defendant resides, he may, upon timely motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed.

Section 3237(b), as amended by the bill, is expanded to include offenses described in section 7203 even though such offense does not involve use of the mails. Thus, for example, in a case where a taxpayer who resides within judicial district R is required to make his return either by hand-carrying it to a District Director within judicial district D or otherwise make his return with a service center located within judicial district S, and if such a taxpayer is prosecuted under section 7203 in either judicial district D or S, he may elect, under revised section 3237(b), to be tried in judicial district R wherein he resides.

SECTION 3. RELATED AMENDMENTS CONCERNING VENUE FOR CIVIL CASES

(a) *Abolition of refund suits against collection officers.*—Subsection (a) of section 3 of the bill amends section 7422 of the Internal Revenue Code of 1954 (relating to civil actions for refund) by redesignating subsection (f) as subsection (g) and by adding a new subsection (f) to abolish refund suits against collection officers. Under existing law, taxpayers may bring a suit for refund of taxes against either the official to whom the tax was paid, or the United States. Thus, if the tax is paid to the director of a service center, under existing law the director would be subject to suits for refund of such tax, and, consequently, venue for such suits would lie in the judicial district in which the service center director resides.

General rule

Paragraph (1) of section 7422(f), as added by the bill, provides that a suit or proceeding for the recovery of any internal revenue tax, penalty, or sum alleged to have been erroneously, illegally, or in any manner wrongfully collected, may be maintained only against the United States and not against any officer or employee of the United States (or former officer or employee) or his personal representative.

Section 2502 of title 28 of the United States Code provides that citizens or subjects of any foreign government which accords to citizens of the United States the right to prosecute claims against their Government in its courts may sue the United States in the Court of Claims if the subject matter of the suit is otherwise within such court's jurisdiction. New paragraph (1) of section 7422(f) further provides that such a suit may be maintained against the United States notwithstanding the provisions of such section 2502.

Misjoinder and change of venue

Under existing law if a suit for a tax refund is brought against an individual other than the officer who collected the tax, the court may dismiss the suit as having been brought against the wrong party. The first sentence of paragraph (2) of section 7422(f), as added by the bill, provides that if a suit or proceeding brought in a district court against an officer or employee of the United States (or former officer or employee) or his personal representative is improperly brought solely by virtue of the abolition of such refund suits by new section 7422(f)(1), then the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action commenced, upon proper service of the United States. However, the second sentence of new section 7422(f)(2) provides that such suit or proceeding shall upon request by the United States be transferred to the judicial district or division where it should have been brought if such action had been initially brought against the United States.

Thus, where a taxpayer residing within the R judicial district brings an action in the S judicial district for refund of taxes against the director of a service center who resides within such S judicial district (instead of suing the United States in the R judicial district), if such suit is improperly brought solely because such a suit is abolished under new section 7422(f)(1), then under the first sentence of new section 7422(f)(2), the S district court shall substitute the United States as a party for such director as of the time the action commenced. However, upon motion by the United States, such suit shall be transferred to the R judicial district (in which such taxpayer initially would have had to sue the United States).

(*b*) *Technical amendment.*—Subsection (b) of section 3 of the bill amends section 2502 of title 28 of the United States Code (relating to aliens' privilege to sue under Court of Claims procedure) by redesignating the existing provision as subsection (a), and by adding a new subsection (b) which contains a cross-reference to new section 7422(f) of the Internal Revenue Code of 1954.

(*c*) *Venue for review of Tax Court decisions.*—Subsection (c) of section 3 of the bill amends section 7482(b)(1) of the Internal Revenue Code of 1954 (relating to venue for review of decisions of the Tax Court) to provide in general that appeals from the Tax Court are to be made to the court of appeals for the circuit wherein the taxpayer resides or has his principal place of business, rather than the court for the circuit wherein he files his return. Section 7482(b)(1) of existing law provides that a Tax Court decision (except where otherwise designated by a stipulation in writing by the parties) may be reviewed by the court of appeals for the circuit in which is located the office to which was made the return of the tax in respect of which the liability arises, or, if no return was made, then by the Court of Appeals for the District of Columbia. The first sentence of paragraph (1) of section 7482(b), as amended by the bill, provides that (except as otherwise so stipulated) such a decision may be reviewed by the court of appeals for the circuit in which is located the legal residence of a noncorporate petitioner, or in which is located the principal place of business or principal office or agency of a corporate petitioner. The first sentence of new paragraph (1) further provides that if a corporation has no principal place of business or principal office or agency in any judicial

district, then such a decision may be reviewed by the court of appeals for the circuit in which is located the office to which was made the return of the tax in respect of which the liability arises.

The second sentence of new paragraph (1) provides that in all other cases such a decision may be reviewed by the Court of Appeals for the District of Columbia. The last sentence of new paragraph (1) provides that the legal residence, principal place of business, or principal office or agency referred to in new paragraph (1) shall be determined as of the time the petition seeking redetermination of tax liability was filed with the Tax Court.

The application of new section 7482(b)(1) may be illustrated by the following example: A, an individual, files his 1967 income tax return at a service center located in the S judicial circuit. While residing in the R judicial circuit, A files a petition with the Tax Court seeking redetermination of his tax liability. A does not enter into a stipulation as to venue for an appeal to a court of appeals for a particular circuit. In such a case a decision by the Tax Court may be reviewed, under existing law, only by the court of appeals for the S circuit, since A filed his 1967 return in such circuit. Under paragraph (1) of section 7482(b), as amended by the bill, such decision may be reviewed only by the court of appeals for the R circuit (whether or not A resided in such circuit when he filed his 1967 return).

In the above example, if A had brought a suit against the United States in a district court, the court of appeals for the R circuit (within which A resides) would, in the usual case, review such district court's decision.

(*d*) *Effective dates.*—Subsection (d) of section 3 of the bill provides effective dates for the amendments made by subsections (a), (b), and (c) of section 3. The first sentence of subsection (d) provides that the amendments made by subsections (a) and (b) shall apply to suits brought against officers, employees, or personal representatives referred to therein which are instituted 90 days or more after enactment of this bill. The second sentence of subsection (d) of section 3 provides that the amendment made by subsection (c) shall apply to all decisions of the Tax Court entered after the date of enactment of this bill.

Section 5. Publicity of Returns and Disclosure of Information

(*a*) *Disclosure of information as to persons filing income tax returns.*—Paragraph (2) of subsection (a) of section 4 of the bill amends section 6103 of the Internal Revenue Code of 1954 (relating to publicity of returns and lists of taxpayers) by revising subsection (f). Section 6103(f) of existing law provides, in general, that the Secretary or his delegate shall cause to be prepared for public inspection in each internal revenue district lists of persons making an income tax return in such district. Subsection (f) of section 6103, as amended by the bill, provides that the Secretary or his delegate shall, upon inquiry as to whether any person has filed an income tax return in a designated internal revenue district for a particular taxable year, furnish to the inquirer, in such manner as the Secretary or his delegate may determine, information showing that such person, has, or has not, filed an income tax return in such district for such taxable year. Under the revised subsection (f), lists of taxpayers would no longer be required

to be maintained. Thus, a District Director is authorized to furnish information showing whether a person has, or has not, filed an income tax return with the Internal Revenue Service for a particular taxable year.

(*b*) *Technical amendments.*—Paragraph (1) of subsection (a) of section 4 of the bill revises the heading of section 6103 to reflect the changes made to subsection (f). Subsection (b) of section 4 of the bill amends the table of sections for subchapter B of chapter 61 to reflect the change in the heading of section 6103.

(*c*) *List of special taxpayers for public inspection.*—Subsection (c) of section 4 of the bill amends section 6107 of the Internal Revenue Code of 1954 (relating to list of special taxpayers for public inspection). Section 6107 of existing law requires that a list (similar to the list required with respect to income tax returns under existing sec. 6103(f) of the code) of the names of all persons who have paid special taxes under subtitle D or E of the code within an internal revenue district be kept available for public inspection in the principal internal revenue office for that district. The special taxes imposed by subtitles D and E of the code relate in general to certain taxes on wagering, coin-operated devices, narcotics, alcoholic beverages, and tobacco.

Section 6107, as amended by the bill, requires that such a list be maintained of persons who paid such special taxes with respect to a trade or business carried on within such district. Therefore, even if such special taxes are paid at a service center serving such district, the list of taxpayers is to be kept available in the district internal revenue office as under existing law.

Section 5. Timely Mailing Treated as Timely Filing Extended to Returns and to Payments

(*a*) *General rule.*—Subsection (a) of section 5 of the bill amends section 7502 of the Internal Revenue Code of 1954 (relating to cases where timely mailing is treated as timely filing) to make the provisions of that section applicable to any return, claim, statement, or other document required to be filed, or to any payment required to be made, under authority of any provision of the internal revenue laws. Section 7502 presently does not apply to any return or other document required under authority of chapter 61 of the code, nor to any payment.

Subsection (b), subsection (c)(2) and subsection (d)(1) of section 7502, as amended by the bill, restate existing law.

Paragraph (1) of section 7502(a), as amended by the bill, provides, in general that if any return, claim, statement, or other document, or any payment, required to be made within a prescribed time, is, after such time, delivered by mail to the proper office, the date of the U.S. postmark stamped on the cover of such document or payment shall be deemed to be the date of delivery or payment, as the case may be.

Paragraph (2) of section 7502(a), as amended by the bill, restates existing law with respect to mailing requirements, but extends the applicability of such requirements to returns and payments.

Section 7502(c)(1) of existing law provides that if a document referred to in section 7502(a) is sent by U.S. registered mail, such registration is prima facie evidence of such document's delivery and

the date of registration is deemed to be the postmark date. Paragraph (1) of section 7502(c), as amended by the bill, extends to both returns and payments the rule that the registration date is the postmark date, but it extends only to returns, and not to payments, the rule that registration is prima facie evidence of delivery.

Paragraphs (2) and (3) of section 7502(d), as added by the bill, provide, moreover, that section 7502 shall not apply with respect to currency or other medium of payment unless it is actually received and accounted for; and shall not apply with respect to returns, claims, statements, or other documents, or payments which are required by statute or regulations thereunder to be delivered by any method other than by mailing. Thus, section 7502 is not applicable to a cash payment unless it is actually received by the proper office and a receipt is given or the payment is credited to the taxpayer's account. Further, this section is inapplicable to a check tendered in payment unless such check is actually received by the proper office and the check is honored upon presentment. Certain documents relating to alcohol taxes are currently required by regulations prescribed by the Secretary or his delegate to be submitted directly to an internal revenue officer located on the premises of the person submitting the documents. Section 7502 does not apply to the submission of such documents.

(*b*) *Technical amendment.*—Subsection (b) of section 5 of the bill amends the table of sections for chapter 77 to reflect the change in the heading of section 7502.

(*c*) *Effective date.*—Subsection (c) of section 5 of the bill provides that the amendments made by subsections (a) and (b) of section 5 shall apply only if the mailing occurs after the date of the enactment of the bill.

SECTION 6. EFFECTIVE DATES

Section 6 of the bill provides that, except as otherwise specifically provided in the bill, the amendments made by the bill shall take effect upon the date of enactment of the bill.