

#48 REPEAL STATUTE SUSPENSION UNDER IRC § 7811(d) FOR TAXPAYERS SEEKING ASSISTANCE FROM THE TAXPAYER ADVOCATE SERVICE

Present Law

IRC § 7811(d) suspends the statutory period of limitations for any action with respect to which a taxpayer is seeking assistance from TAS, but only if the taxpayer submits a written application for assistance.¹⁵⁴

Reasons for Change

Suspension of the assessment or collection period disadvantages the taxpayer because it gives the IRS more time to take enforcement actions. If the IRS has caused a problem that the taxpayer is working with TAS to resolve, statute suspension makes little sense because it punishes the taxpayer and rewards the IRS. Further, there is no compelling reason for the suspension, as evidenced by the fact that the IRS itself has never implemented it. It is unnecessary to protect the government's interests because an application for TAS assistance does not prevent the IRS from taking enforcement action while the taxpayer is working with TAS. It is also impossible to administer using the IRS's existing computer systems.

Moreover, if IRC § 7811(d) were ever to be implemented, it would create an elective trap for the unwary. As noted above, it applies only when a taxpayer submits a written request for TAS assistance. The provision does not apply when taxpayers request TAS assistance by phone, which is the method by which most taxpayers seek TAS's assistance. Thus, this provision — apart from being unnecessary and unutilized — would produce disparate outcomes for taxpayers who, despite lacking any knowledge of this issue, contact TAS by different means.

Recommendation

Repeal IRC § 7811(d).¹⁵⁵

¹⁵⁴ Treas. Reg. § 301.7811-1(e)(4).

¹⁵⁵ For more detail, see National Taxpayer Advocate 2015 Annual Report to Congress 316-328 (Legislative Recommendation: *Repeal or Fix Statute Suspension Under IRC § 7811(d)*). H.R. 4912, 114th Cong. § 202 (2016) and H.R. 2171, 115th Cong. § 202 (2017) would repeal IRC § 7811(d). In response to an earlier proposal, H.R. 586, 107th Cong. § 224 (2001), H.R. 3991, 107th Cong., Title II § 204 (2002), H.R. 5548, 107th Cong. § 5 (2002), H.R. 5763, 107th Cong. § 104 (2002), H.R. 5728, 107th Cong. § 104 (2002), H.R. 1661, 108th Cong. § 314 (2003), S.882, 108th Cong. § 106 (2004), and H.R. 1528, 108th Cong. § 106 (2004) would have limited statute suspension to situations where the period would be extended by more than seven days.