

§ 301.7404-1

26 CFR Ch. I (4-1-01 Edition)

certification by the Commissioner or the Chief Counsel for the Internal Revenue Service during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(b) *Bid by the United States.* If property is sold to satisfy a first lien held by the United States, the United States may bid at the sale a sum which does not exceed the amount of its lien and the expenses of the sale. See also 31 U.S.C. 195.

[T.D. 7305, 39 FR 9950, Mar. 15, 1974]

§ 301.7404-1 Authority to bring civil action for estate taxes.

(a) If the estate tax imposed by chapter 11 of the Code is not paid on or before the last date prescribed for payment, the district director shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court.

(b) The remedy by action provided in section 7404 is not exclusive. The district director may proceed to collect the tax by levy, as provided in section 6331, on any or all property or rights to property of the estate, or collection may be enforced by an appropriate action against the executor, certain transferees, trustees, and beneficiaries for their personal liability. See § 20.2002-1 of this chapter (Estate Tax Regulations).

§ 301.7406-1 Disposition of judgments and moneys recovered.

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the district director as collections of internal revenue taxes.

§ 301.7409-1 Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.

(a) *Letter to organization.* When the Assistant Commissioner (Employee Plans and Exempt Organizations) concludes that a section 501(c)(3) organization has engaged in flagrant political intervention and is likely to continue

to engage in political intervention that involves political expenditures, the Assistant Commissioner (Employee Plans and Exempt Organizations) shall send a letter to the organization providing it with the facts based on which the Service believes that the organization has been engaging in flagrant political intervention and is likely to continue to engage in political intervention that involves political expenditures. The organization will have 10 calendar days after the letter is sent to respond by establishing that it will immediately cease engaging in political intervention, or by providing the Service with sufficient information to refute the Service's evidence that it has been engaged in flagrant political intervention. The Internal Revenue Service will not proceed to seek an injunction under section 7409 until after the close of this 10-day response period.

(b) *Determination by Commissioner.* If the organization does not respond within 10 calendar days to the letter under paragraph (a) of this section in a manner sufficient to dissuade the Assistant Commissioner (Employee Plans and Exempt Organizations) of the need for an injunction, the file will be forwarded to the Commissioner of Internal Revenue. The Commissioner of Internal Revenue will personally determine whether to forward to the Department of Justice a recommendation that it immediately bring an action to enjoin the organization from making further political expenditures. The Commissioner may also recommend that the court action include any other action that is appropriate in ensuring that the assets of the section 501(c)(3) organization are preserved for section 501(c)(3) purposes. The authority of the Commissioner to make the determinations described in this paragraph may not be delegated to any other persons.

(c) *Flagrant political intervention.* For purposes of this section, *flagrant political intervention* is defined as participation in, or intervention in (including the publication and distribution of statements), any political campaign by a section 501(c)(3) organization on behalf of (or in opposition to) any candidate for public office in violation of the prohibition on such participation or intervention in section 501(c)(3) and