

Internal Revenue Service, Treasury

§ 301.7502-1

only with respect to exchanges beginning after October 9, 1975.

(Approved by the Office of Management and Budget under control number 1545-0719)

(Sec. 367(a)(1), 90 Stat. 1634, 26 U.S.C. 367(a)(1) and 7805, 68A Stat. 917, 26 U.S.C. 7805, Internal Revenue Code of 1954)

[T.D. 7596, 44 FR 10707, Feb. 23, 1979, as amended by T.D. 7954, 49 FR 19466, May 8, 1984]

COURT REVIEW OF TAX COURT DECISIONS

§ 301.7481-1 Date when Tax Court decision becomes final; decision modified or reversed.

(a) *Upon mandate of Supreme Court.* Under section 7481(3)(A) of the Code, if the Supreme Court directs that the decision of the Tax Court be modified or reversed, the decision of the Tax Court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(b) *Upon mandate of the Court of Appeals.* Under section 7481(3)(B) of the Code, if the decision of the Tax Court is modified or reversed by the U.S. Court of Appeals, and if—

(i) The time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(ii) The petition for certiorari has been denied, or

(iii) The decision of the U.S. Court of Appeals has been affirmed by the Supreme Court, then the decision of the Tax Court rendered in accordance with the mandate of the U.S. Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Tax Court was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

§ 301.7482-1 Courts of review; venue.

Under section 7482(b)(2) of the Code, decisions of the Tax Court may be reviewed by any U.S. Court of Appeals which may be designated by the Commissioner and the taxpayer by stipulation in writing.

§ 301.7483-1 Petition for review.

The decision of the Tax Court may be reviewed by a U.S. Court of Appeals as provided in section 7482 of the Code if a petition for such review is filed by either the Commissioner or the taxpayer within 3 months after the decision is rendered. If, however, a petition for such review is so filed by one party to the proceeding, a petition for review of the decision of the Tax Court may be filed by any other party to the proceeding within 4 months after such decision is rendered.

§ 301.7484-1 Change of incumbent in office.

When the incumbent of the office of Commissioner changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

MISCELLANEOUS PROVISIONS

§ 301.7502-1 Timely mailing of documents and payments treated as timely filing and paying.

(a) *General rule.* Section 7502 provides that, if the requirements of that section are met, a document or payment is deemed to be filed or paid on the date of the postmark stamped on the envelope or other appropriate wrapper (envelope) in which the document or payment was mailed. Thus, if the envelope that contains the document or payment has a timely postmark, the document or payment is considered timely filed or paid even if it is received after the last date, or the last day of the period, prescribed for filing the document or making the payment. Section 7502 does not apply in determining whether a failure to file a return or pay a tax has continued for an additional month or fraction thereof for purposes of computing the penalties and additions to tax imposed by section 6651. Except as provided in section