

written statement provided for in section 7429(a)(1). In addition, after the deficiency asserted against the possessor of cash has been levied upon, the true owner of cash may bring an action in federal district court to recover the cash, as provided in section 7426, relating to civil actions by persons other than taxpayers. See, however, section 6532(c), relating to the 9-month statute of limitations for suits under section 7426. In addition, the true owner of cash, with the permission of the court, may appear before the United States Tax Court in any proceeding that may be filed by the possessor of the cash challenging the notice of deficiency issued to the possessor solely in that person's capacity as possessor of the cash.

(2) *Actions not permitted.* The true owner of cash may not file a petition with the United States Tax Court challenging the notice of deficiency issued to the possessor solely in that person's capacity as possessor of cash. Notwithstanding the preceding sentence, the true owner of cash may file a petition with the United States Tax Court challenging any notice of deficiency issued to the true owner following the abatement of the assessment made against the possessor of cash.

(f) *Definitions.* For the purposes of this section and section 6867—

(1) *Cash.* The term *cash* includes any cash equivalents.

(2) *Cash equivalent*—(i) *In general.* The term *cash* equivalent includes foreign currency, any bearer obligation, and any medium of exchange that is of a type that has been frequently used in illegal activities, as listed in paragraph (f)(2)(ii) of this section.

(ii) *Specific cash equivalents.* For purposes of paragraph (f)(2)(i), the following are also cash equivalents—

- (A) Coins;
- (B) Precious metals;
- (C) Jewelry;
- (D) Precious stones;
- (E) Postage stamps;
- (F) Traveler's checks in any form;

(G) Negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious

payee, or otherwise in such form that title thereto passes upon delivery;

(H) Incomplete instruments (including personal checks, business checks, official bank checks, cashier's checks, notes, and money orders) signed but with the payee's name omitted; and

(I) Securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery.

(iii) *Value of cash equivalents.* A cash equivalent is taken into account at its fair market value except in the case of a bearer obligation, in which case it is taken into account at its face value.

(3) *Possessor of cash.* An individual is considered to be the possessor of cash if the cash is found on that individual's person or in that individual's possession or is found in any object, container, vehicle, or area under that individual's custody or control.

(4) *True owner of the cash.* The true owner of cash is the individual who beneficially owns the cash on the date such cash is found in the physical possession of the individual described in paragraph (f)(3) of this section. An agent, bailee, or other custodian of the cash is not the true owner of cash. A true owner of cash does not include an individual who, subsequent to the date on which the cash is found in the physical possession of the individual described in paragraph (f)(3) of this section, obtains ownership of the cash by purchase, subrogation, descent, or other means.

(g) *Effective date.* This section is effective with respect to cash found in the physical possession of an individual on or after August 3, 1995.

[T.D. 8605, 60 FR 39654, Aug. 3, 1995]

BANKRUPTCY AND RECEIVERSHIPS

§ 301.6871(a)-1 Immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership proceedings.

(a) Upon (1) the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, (2) the filing with a court of competent jurisdiction or (where approval is required by the Bankruptcy Act, 11 U.S.C. Chapters 1-14) the approval of a petition of, or the approval of a petition against, any taxpayer in any other proceeding under

the Bankruptcy Act, or (3) the appointment of any receiver for any taxpayer in a receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, the district director shall immediately assess any deficiency of income, estate, or gift tax (together with all interest, additional amounts, or additions to the tax provided by law), determined by him, if such deficiency has not heretofore been assessed in accordance with law. Such assessment shall be made immediately, whether or not a notice of deficiency has been issued, and without regard to the restrictions upon assessment under section 6213.

(b) As used in this section and §§ 301.6871(a)-2 to 301.6873-1, inclusive, the term "proceeding under the Bankruptcy Act" includes a proceeding under chapters I to VII, inclusive, of the Bankruptcy Act, or under section 75 or 77 (11 U.S.C. 203, 205), or chapters X to XIII, inclusive, of such Act, or any other proceeding under the Act.

§ 301.6871(a)-2 Collection of assessed taxes in bankruptcy and receivership proceedings.

(a) During a proceeding under the Bankruptcy Act (11 U.S.C. chapters 1-14) or a receivership proceeding in either a Federal or State court, generally the assets of the taxpayer are under the control of the court in which such proceeding is pending, and the collection of taxes cannot be made by levying upon such assets. However, any assets which under applicable provisions of law are not under the control of the court may be subject to levy. See paragraph (b) of this section and § 301.6871(b)-1 with respect to claims for such taxes. See section 6873 with respect to collection of unpaid claims.

(b) District directors should, promptly after ascertaining the existence of any outstanding liability against a taxpayer in any proceeding under the Bankruptcy Act or in any receivership proceeding, and in any event within the time limited by the appropriate provisions of the Bankruptcy Act, or by the appropriate orders of the court in which such proceeding is pending, file proof of claim covering such liability in the court in which such pro-

ceeding is pending. Such proof of claim should be filed whether the unpaid taxes involved have been assessed or not, except in cases where the instructions of the Commissioner direct otherwise; for example, where the payment of the taxes is secured by a sufficient bond. At the same time proof of claim is filed with the bankruptcy or receivership court, the district director will send notice and demand for payment to the taxpayer, together with a copy of such proof of claim.

(c) Under sections 3466 and 3467 of the Revised Statutes (31 U.S.C. 191, 192) and section 64 of the Bankruptcy Act (11 U.S.C. 104), taxes are entitled to the priority over other claims therein specified, and the trustee, receiver, debtor in possession, or other person designated as in control of the assets of the debtor by the court in which the proceeding under the Bankruptcy Act or receivership proceeding is pending, may be held personally liable for failure on his part to protect the priority of the Government respecting taxes of which he has notice. Sections 75(1), 77(e), 199, 337(2), 455, and 659(6) of the Bankruptcy Act (11 U.S.C. 203(1), 205(e), 599, 737(2), 855, and 1059(6)) also contain provisions with respect to the rights of the United States relative to priority of payment. For the filing of returns by a trustee in bankruptcy or by a receiver, see section 6012(b)(3) and 28 U.S.C. 960. Bankruptcy courts have jurisdiction under the Bankruptcy Act to determine all disputes regarding the amount and validity of taxes claimed in a proceeding under the Bankruptcy Act. A proceeding under the Bankruptcy Act or a receivership proceeding does not discharge any portion of a claim of the United States for taxes except in the case of a proceeding under section 77 or chapter X of the Bankruptcy Act. However, the claim may be settled or compromised as in other cases in court.

(d) For the requirement that a receiver, trustee in bankruptcy, or other like fiduciary give notice as to his qualification as such, see section 6036 and the regulations thereunder.