

[JOINT COMMITTEE PRINT]

**GENERAL EXPLANATION OF
TAX LEGISLATION ENACTED IN 2015**

PREPARED BY THE STAFF
OF THE
JOINT COMMITTEE ON TAXATION



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SUMMARY CONTENTS

	Page
Part One: Slain Officer Family Support Act of 2015 (Public Law 114–7)	3
Part Two: Medicare Access and Chip Reauthorization Act of 2015 (Public Law 114–10)	5
Part Three: Don't Tax Our Fallen Public Safety Heroes Act (Public Law 114–14)	7
Part Four: Highway and Transportation Funding Act of 2015 (Public Law 114–21)	9
Part Five: Defending Public Safety Employees' Retirement Act (Public Law 114–26)	10
Part Six: Trade Preferences Extension Act of 2015 (Public Law 114–27)	12
Part Seven: Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (Public Law 114–41)	24
Part Eight: Airport and Airway Extension Act of 2015 (Public Law 114–55)	42
Part Nine: Surface Transportation Extension Act of 2015 (Public Law 114–73)	44
Part Ten: Bipartisan Budget Act of 2015 (Public Law 114–74)	45
Part Eleven: Surface Transportation Extension Act of 2015, Part II (Public Law 114–87)	85
Part Twelve: Fixing America's Surface Transportation Act ("Fast Act") (Public Law 114–94)	86
Part Thirteen: Consolidated Appropriations Act, 2016 (Public Law 114–113)	99

VIII

	Page
A. Partnership Audits and Adjustments (sec. 1101 of the Act and secs. 6221–6241 of the Code)	51
B. Partnership Interests Created by Gift (sec. 1102 of the Act and secs. 704(e) and 761(b) of the Code)	83
Part Eleven: Surface Transportation Extension Act of 2015, Part II (Public Law 114–87)	85
A. Extension of Highway Trust Fund Expenditure Authority (sec. 2001 of the Act and secs. 9503, 9504, and 9508 of the Code)	85
Part Twelve: Fixing America’s Surface Transportation act (“FAST ACT”) (Public Law 114–94)	86
Division C—Finance	86
TITLE XXXI—HIGHWAY TRUST FUND AND RELATED TAXES	86
A. Extension of Highway Trust Fund Expenditure Authority (secs. 31101 of the Act and secs. 9503, 9504, and 9508 of the Code)	86
B. Extension of Highway-Related Taxes (sec. 31102 of the Act and secs. 4041, 4051, 4071, 4081, 4221, 4481, 4483, and 6412 of the Code)	87
C. Additional Transfers to the Highway Trust Fund (sec. 31201 of the Act and sec. 9503 of the Code)	88
D. Transfer to Highway Trust Fund of Certain Motor Vehicle Safety Penalties (sec. 31202 of the Act and sec. 9503 of the Code)	90
E. Appropriation From Leaking Underground Storage Tank Trust Fund (sec. 31203 of the Act and secs. 9503 and 9508 of the Code)	90
TITLE XXXII—OFFSETS	91
A. Revocation or Denial of Passport in Case of Certain Unpaid Taxes (sec. 32101 of the Act and secs. 6320, 6331, 7345 and 6103(k)(11) of the Code)	91
B. Reform of Rules Related to Qualified Tax Collection Contracts, and Special Compliance Personnel Program (secs. 32102–32103 of the Act and sec. 6306 of the Code)	93

PART TWELVE: FIXING AMERICA'S SURFACE TRANSPORTATION ACT ("FAST ACT") (PUBLIC LAW 114-94)²⁷⁰

DIVISION C—FINANCE

TITLE XXXI—HIGHWAY TRUST FUND AND RELATED TAXES

A. Extension of Highway Trust Fund Expenditure Authority (secs. 31101 of the Act and secs. 9503, 9504, and 9508 of the Code)

Present Law

In general

Under present law, revenues from the highway excise taxes, as imposed through October 1, 2016, generally are dedicated to the Highway Trust Fund. Dedication of excise tax revenues to the Highway Trust Fund and expenditures from the Highway Trust Fund are governed by the Code.²⁷¹ The Code authorizes expenditures (subject to appropriations) from the Highway Trust Fund through December 4, 2015, for the purposes provided in authorizing legislation, as such legislation was in effect on the date of enactment of the Surface Transportation Extension Act of 2015, Part II.

Highway Trust Fund expenditure purposes

The Highway Trust Fund has a separate account for mass transit, the Mass Transit Account.²⁷² The Highway Trust Fund and the Mass Transit Account are funding sources for specific programs.

Highway Trust Fund expenditure purposes have been revised with each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are specified by the Code as Highway Trust Fund expenditure purposes. The Code provides that the authority to make expenditures from the Highway Trust Fund expires after December 4, 2015. Thus, no Highway Trust Fund expenditures may occur after December 4, 2015, without an amendment to the Code.

Section 9503 of the Code appropriates to the Highway Trust Fund amounts equivalent to the taxes received from the following:

²⁷⁰H.R. 22. The House passed H.R. 22 on January 6, 2015. The Senate Committee on Finance reported H.R. 22 on February 12, 2015 (S. Rep. No. 114-3). The Senate passed H.R. 22 with an amendment on July 30, 2015. The conference report was filed on December 1, 2015 (H. Rep. No. 114-357) and was passed by the House on December 3, 2015, and the Senate on December 3, 2015. The President signed the bill on December 4, 2015.

²⁷¹Sec. 9503. The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

²⁷²Sec. 9503(e)(1).

TITLE XXXII—OFFSETS

A. Revocation or Denial of Passport in Case of Certain Unpaid Taxes (sec. 32101 of the Act and secs. 6320, 6331, 7345 and 6103(k)(11) of the Code)

Present Law

The administration of passports is the responsibility of the Department of State.²⁸⁶ The Secretary of State may refuse to issue or renew a passport if the applicant owes child support in excess of \$2,500 or owes certain types of Federal debts, such as expenses incurred in providing assistance to an applicant to return to the United States. The scope of this authority does not extend to rejection or revocation of a passport on the basis of delinquent Federal taxes. Although issuance of a passport does not require a social security number or taxpayer identification number (“TIN”), the applicant is required under the Code to provide such number. Failure to provide a TIN is reported by the State Department to the IRS and may result in a \$500 fine.²⁸⁷

Returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to such information except as provided in the Internal Revenue Code.²⁸⁸ There are a number of exceptions to the general rule of nondisclosure that authorize disclosure in specifically identified circumstances, including disclosure of information about federal tax debts for purposes of reviewing an application for a Federal loan²⁸⁹ and for purposes of enhancing the integrity of the Medicare program.²⁹⁰

Explanation of Provision

In general

Under the provision, the Secretary of State is required to deny a passport (or renewal of a passport) to a seriously delinquent taxpayer and is permitted to revoke any passport previously issued to such person. In addition to the revocation or denial of passports to delinquent taxpayers, the Secretary of State is authorized to deny an application for a passport if the applicant fails to provide a social security number or provides an incorrect or invalid social security number. With respect to an incorrect or invalid number, the inclusion of an erroneous number is a basis for rejection of the application only if the erroneous number was provided willfully, intentionally, recklessly or negligently. Exceptions to these rules are permitted for emergency or humanitarian circumstances, including the issuance of a passport for short-term use to return to the United States by the delinquent taxpayer.

The provision authorizes limited sharing of information between the Secretary of State and Secretary of the Treasury. If the Commissioner of Internal Revenue certifies to the Secretary of the

²⁸⁶ “Passport Act of 1926,” 22 U.S.C. sec. 211a et seq.

²⁸⁷ Sec. 6039E.

²⁸⁸ Sec. 6103.

²⁸⁹ Sec. 6103(1)(3).

²⁹⁰ Sec. 6103(1)(22).

Treasury the identity of persons who have seriously delinquent Federal taxes as defined in this provision, the Secretary of the Treasury or his delegate is authorized to transmit such certification to the Secretary of State for use in determining whether to issue, renew, or revoke a passport. Certification of a seriously delinquent tax debt under this provision is added to the list of actions for which the time in which the action must be performed may be postponed due to the taxpayer's service in a combat zone.²⁹¹ Applicants whose names are included on the certifications provided to the Secretary of State are ineligible for a passport. The Secretary of State and Secretary of the Treasury are held harmless with respect to any certification issued pursuant to this provision.

Applicable only to “seriously delinquent tax debt”

The provision applies only to “seriously delinquent tax debt,” which includes any outstanding Federal tax liability (including interest and any penalties) in excess of \$50,000²⁹² for which a notice of lien or a notice of levy has been filed. With respect to debts for which a notice of lien has been filed, the debt is considered seriously delinquent only if the taxpayer's administrative review rights have been exhausted or lapsed. The amount is to be adjusted for inflation annually, using calendar year 2014, and a cost-of-living adjustment. Even if a tax debt otherwise meets the statutory threshold, it may not be considered seriously delinquent if (1) the debt is being paid in a timely manner pursuant to an installment agreement or offer-in-compromise, or (2) collection action with respect to the debt is suspended because a collection due process hearing or innocent spouse relief has been requested or is pending.

Taxpayer safeguards

Several measures ensure that the IRS corrects erroneous certifications and considers actions taken by a taxpayer after action has been initiated under this provision if such actions would have the effect of removing the debt from the category of seriously delinquent debt. These measures include limits on the authority of the Commissioner, notification requirements, standards under which the Commissioner may reverse the certification of serious delinquency, and limits on authority to delegate the certification process.

The Commissioner may not delegate the authority to provide certification of a seriously delinquent tax debt except to a Deputy Commissioner for Services and Enforcement, or to a Division Commissioner (the head of an IRS operating division). Neither official may redelegate such authority.

The Commissioner must inform taxpayers regarding the procedures in three ways. First, the possible loss of a passport is added to the list of matters required to be included in notices to taxpayer of potential collection activity under sections 6320 or 6331. Second, the Commissioner must provide contemporaneous notice to a taxpayer when the Commissioner sends a certification of serious delinquency to the Secretary. Finally, in instances in which the Com-

²⁹¹ Sec. 7508(a).

²⁹² The amount is indexed to inflation annually, based on calendar year 2015.

missioner decertifies the taxpayer's status as a delinquent taxpayer, he is required to provide notice to the taxpayer at the same time as the notice to the Secretary of the Treasury.

The decertification process provides a mechanism under which the Commissioner can correct an erroneous certification or end the certification because the debt is no longer seriously delinquent, due to certain events subsequent to the certification. If after certifying the delinquency to the Secretary, the IRS receives full payment of the seriously delinquent tax debt; the taxpayer enters into an installment agreement under section 6159; the IRS accepts an offer in compromise under section 7122; or a spouse files for relief from joint liability, the Commissioner must notify the Secretary that the taxpayer is not seriously delinquent. In each instance, the "decertification" is limited to the taxpayer who is the subject of one of the above actions. In the case of a claim for innocent spouse relief, the decertification is only with respect to the spouse claiming relief, not both spouses. The Commissioner must generally decertify within 30 days of the event that requires decertification.

The Commissioner must provide the notice of decertification to the Secretary of the Treasury, who must in turn promptly notify the Secretary of State of the decertification. The Secretary of State must delete the certification from the records regarding that taxpayer.

In addition, the provision allows limited judicial review of a wrongful certification (or failure to decertify) in a Federal district court or the U.S. Tax Court. If the court determines that the certification is erroneous, the court may order the Secretary of the Treasury to notify the Secretary of State of the error. No other relief is authorized.

Effective Date

The provision is effective on the date of enactment (December 4, 2015).

B. Reform of Rules Related to Qualified Tax Collection Contracts, and Special Compliance Personnel Program (secs. 32102–32103 of the Act and sec. 6306 of the Code)

Present Law

Code section 6306 permits the IRS to use private debt collection companies to locate and contact taxpayers owing outstanding tax liabilities of any type²⁹³ and to arrange payment of those taxes by the taxpayers. There must be an assessment pursuant to section 6201 in order for there to be an outstanding tax liability. An assessment is the formal recording of the taxpayer's tax liability that fixes the amount payable. An assessment must be made before the IRS is permitted to commence enforcement actions to collect the amount payable. In general, an assessment is made at the conclusion of all examination and appeals processes within the IRS.²⁹⁴

²⁹³ This provision generally applies to any type of tax imposed under the Internal Revenue Code.

²⁹⁴ An amount of tax reported as due on the taxpayer's tax return is considered to be self-assessed. If the IRS determines that the assessment or collection of tax will be jeopardized by