



26 U.S.C.A. § 6020



I.R.C. § 6020

Effective: [See Text Amendments]

United States Code Annotated Currentness
 Title 26. Internal Revenue Code (Refs & Annos)
 Subtitle F. Procedure and Administration (Refs & Annos)
 Chapter 61. Information and Returns
 Subchapter A. Returns and Records (Refs & Annos)
 Part II. Tax Returns or Statements
 Subpart D. Miscellaneous Provisions

→ § 6020. Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary.--If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary.--

(1) Authority of Secretary to execute return.--If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns.--Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

CREDIT(S)

(Aug. 16, 1954, c. 736, 68A Stat. 740; June 28, 1968, Pub.L. 90-364, Title I, § 103(e) (3), 82 Stat. 264; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b) (13) (A), 90 Stat. 1834; July 18, 1984, Pub.L. 98-369, Div. A, Title IV, § 412 (b)(4), 98 Stat. 792.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1954 Acts. House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, see 1954 U.S.Code Cong. and Adm.News, pp. 4546, 5213, 5280, respectively.

1968 Acts. House Report No. 1104, Senate Report No. 1014, and Conference Report No. 1533, see 1968 U.S.Code Cong. and Adm.News, p. 2341.

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1976 Acts. House Report Nos. 94-658, 94-1380, Senate Report No. 94-938, and House Conference Report No. 94-1515, see 1976 U.S.Code Cong. and Adm.News, p. 2897.

1984 Acts. House Report No. 98-432, House Conference Report No. 98-861, Statements by Legislative Leaders, and Two Related Reports, see 1984 U.S.Code Cong. and Adm.News, p. 697.

Amendments

1984 Amendments. Subsec. (b)(1). Pub.L. 98-369 struck out "(other than a declaration of estimated tax required under section 6015)" following "make any return".

1976 Amendments. Pub.L. 94-455 struck out "or his delegate" following "Secretary" wherever appearing.

1968 Amendments. Subsec. (b)(1). Pub.L. 90-364 struck out reference to § 6016.

Effective and Applicability Provisions

1984 Acts. Amendment by Pub.L. 98-369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a) of Pub.L. 98-369, set out as a note under section 6654 of this title.

1976 Acts. Amendment by Pub.L. 94-455 effective the first day of the first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d) of Pub.L. 94-455, set out as a note under section 6013 of this title.

1968 Acts. Amendment by Pub.L. 90-364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by § 104 of Pub.L. 90-364, set out as notes under §§ 51 and 6154 of this title, see § 103(f) of Pub.L. 90-364, set out as a note under § 6154 of this title.

CROSS REFERENCES

Application of failure-to-pay penalty to substitute returns, see 26 USCA § 6651.

Limitations on assessment and collection, see 26 USCA § 6501.

Period of limitations for making assessments, see 26 USCA § 6229.

LIBRARY REFERENCES

American Digest System

Internal Revenue  4470.

Key Number System Topic No. 220.

Corpus Juris Secundum

CJS Internal Revenue § 632, General Considerations.

CJS Internal Revenue § 636, Form and Sufficiency, Generally.

CJS Internal Revenue § 637, Amendment or Change.

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RESEARCH REFERENCES

ALR Library

192 ALR, Fed. 215, Sufficiency and Perfection of Informal Administrative Claim for Credit or Refund of Federal Tax Overpayments.

145 ALR, Fed. 1, Exception from Discharge of Taxes Under § 523(A)(1) of Bankruptcy Code (11 U.S.C.A. § 523(A)(1)).

101 ALR, Fed. 698, Taxpayers' Right to Elect to File Joint Return for First Time Upon Expiration of Last Date Prescribed for Filing Return.

3 ALR 2nd 647, Income Tax: Sufficiency of Return to Start Running of Statute of Limitations.

Encyclopedias

Am. Jur. 2d Bankruptcy § 3582, Return Not Filed or Filed Late.

Am. Jur. 2d Federal Tax Enforcement § 133, Subject Matter Jurisdiction -- What Matters May be Considered.

Am. Jur. 2d Federal Tax Enforcement § 428, Period for Making Assessment; Extensions.

Am. Jur. 2d Federal Tax Enforcement § 441, Limitations Period for Partnership Adjustments.

Am. Jur. 2d Federal Taxation P 5806, IRS May File Return for Corporation.

Am. Jur. 2d Federal Taxation P 183,054, Person Required to File Estate Tax Return.

Forms

9 West's Federal Forms § 14019, Introduction.

9 West's Federal Forms § 14020, Tax Deficiency Proceedings.

9 West's Federal Forms § 14049, Definition of Deficiency and Statutory Period for Assessment.

9 West's Federal Forms § 14050, Form and Contents of Statutory Notice of Deficiency.

9 West's Legal Forms § 13:1, Introduction.

Treatises and Practice Aids

Bankruptcy Service Lawyers Edition § 27:1, Text of Statute.

Bankruptcy Service Lawyers Edition § 27:2, Legislative History.

Bankruptcy Service Lawyers Edition § 27:105, What Constitutes Return, Generally.

Bankruptcy Service Lawyers Edition § 27:106, What Constitutes Return, Generally -- Substitute Returns, Generally.

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Bankruptcy Service Lawyers Edition § 27:107, Deemed Filings; Constructive Returns.

Bankruptcy Service Lawyers Edition § 27:111, Establishing Failure to File.

Bankruptcy Service Lawyers Edition § 27:114, Substitute, "Dummy," and Pro Forma Returns, and the Like.

Bankruptcy Service Lawyers Edition § 48:259, Text of Statute.

Bankruptcy Service Lawyers Edition § 27:2474, Other Miscellaneous Matters.

Casey Federal Tax Practice § 2:02, Assessment Process.

Casey Federal Tax Practice § 3:18, Substitute Return by Service.

Casey Federal Tax Practice § 5:02, Statutory Provisions; General Rule.

Casey Federal Tax Practice § 5:06, Burden of Proof -- General Rule.

Casey Federal Tax Practice § 5:13, Failure to File Return -- Reasonable Cause as an Excuse -- Reliance on Advice of Counsel.

Casey Federal Tax Practice § 6:20, Elements of a Statutory Deficiency.

Casey Federal Tax Practice § 9:14, Venue for Review.

Casey Federal Tax Practice § 16:09, Period of Limitations for Making Assessments.

Casey Federal Tax Practice § 13A:08, Failure to Pay Tax.

Casey Federal Tax Practice § 13D:23, Discharge -- Return Filing Requirement.

Federal Procedure, Lawyers Edition § 48:466, Subject Matter Jurisdiction -- What Matters May be Considered.

Federal Procedure, Lawyers Edition § 48:802, Period for Making Assessment; Extensions.

Federal Procedure, Lawyers Edition § 48:815, Limitations Period for Partnership Adjustments.

Mertens: Law of Federal Income Taxation § 50:19, Introduction.

Mertens: Law of Federal Income Taxation § 50:20, Tax Deficiency Proceedings.

Mertens: Law of Federal Income Taxation § 51:05, Proper Venue.

Mertens: Law of Federal Income Taxation § 55:21, Statute of Limitations.

Mertens: Law of Federal Income Taxation § 57:01, Overview.

Mertens: Law of Federal Income Taxation § 57:07, When Period Commences.

Mertens: Law of Federal Income Taxation § 57:21, Joint Return After Filing Separate Return.

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Mertens: Law of Federal Income Taxation § 57:30, Partnerships.

Mertens: Law of Federal Income Taxation § 47:113, Returns Made by the Service -- Substitute Returns.

Mertens: Law of Federal Income Taxation § 49A:04, Exceptions to Self-Assessment Rule.

Mertens: Law of Federal Income Taxation § 49B:74, Statutory Limitations Upon Assessment.

Norton Bankruptcy Law and Practice 2d § 523, Exceptions to Discharge.

Norton Bankruptcy Law and Practice 2d § 1308, Filing of Prepetition Tax Returns.

Norton Bankruptcy Law and Practice 2d § 47:6, Categories of Tax Liabilities -- Unfiled and Late-Filed Returns.

Social Security Law and Practice § 72:44, Field Examinations.

NOTES OF DECISIONS

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Returns within section 3

1. Construction with other laws

Statute permitting Internal Revenue Service (IRS) to file substitute return for delinquent taxpayer does not excuse taxpayer from filing requirement. In re Bergstrom, C.A.10 (Wyo.) 1991, 949 F.2d 341. Internal Revenue  4472

Where taxpayer concededly did not file returns for 1969 or 1970, Tax Court denied taxpayer's motions to dismiss deficiency, etc., and determined considering case law and statutory scheme, that subsec. (b)(1) of this section did not require Commissioner to file return for taxpayer before determining deficiency under § 6201 of this title. Hartman v. Commissioner of Internal Revenue, U.S. Tax Ct. 1975, 65 T.C. 542.

2. Mandatory or permissive nature of section


While secretary may file a return for a taxpayer, secretary is not required to do so, and taxpayer is not relieved of duty to file. U.S. v. Stafford, C.A.5 (Tex.) 1993, 983 F.2d 25, rehearing denied. Internal Revenue  4472


Notice of deficiency sent by Internal Revenue Service (IRS) was not tainted by the IRS' failure to prepare adequate substitute returns, even though the two substitute returns made out on the taxpayers' behalf contained only a taxpayer's name, social security number and address, his filing status, number of exemptions, and did not reflect calculation of income or tax liability; taxpayer failed to file a return, and the IRS is not required to prepare a substitute return. Geiselman v. U.S., C.A.1 (Mass.) 1992, 961 F.2d 1, certiorari denied 113 S.Ct. 261, 506 U.S.


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891, 121 L.Ed.2d 191. Internal Revenue  4545

When taxpayer did not file tax return, it was as if he filed return showing zero amount for purposes of assessing deficiency; thus, there was no requirement that Internal Revenue Service complete substitute return. *Schiff v. U.S.*, C.A.2 (Conn.) 1990, 919 F.2d 830, certiorari denied 111 S.Ct. 2871, 501 U.S. 1238, 115 L.Ed.2d 1037. Internal Revenue  4472


Secretary is "permitted" and not required to prepare return for person who fails to make any return required by law even if Secretary has made previous treasurer's return for such person. *U. S. v. Verkuilen*, C.A.7 (Ill.) 1982, 690 F.2d 648. Internal Revenue  4470


Internal Revenue Service (IRS) was not required to file formal substitute return on behalf of taxpayer before issuing statutory notice of deficiency. *Tilley v. U.S.*, M.D.N.C.2003, 270 F.Supp.2d 731, affirmed 85 Fed.Appx. 333, 2004 WL 96815, certiorari denied 125 S.Ct. 64, 543 U.S. 819, 160 L.Ed.2d 27. Internal Revenue  4545


IRS's preparation of return on taxpayer's behalf is not prerequisite to its determining and issuing notice of deficiency. *Keenan v. C.I.R.*, U.S.Tax Ct.2006, 2006 WL 680532, Unreported. Internal Revenue  4545

IRS was not required to prepare substitute for return before determining deficiency for taxpayer who did not file return. *Stewart v. C.I.R.*, U.S.Tax Ct.2005, 2005 WL 2194106, Unreported. Internal Revenue  4545


3. Returns within section

Fact that substitute for return, which is prepared by Secretary of Treasury for person who fails to file return but who discloses to Secretary all information necessary to preparation thereof, was not signed by anyone from Internal Revenue Service (IRS) did not invalidate assessment; thus, IRS did not violate statutory confidentiality provisions when it levied on taxpayers' property pursuant to those assessments. *Christensen v. U.S.*, D.N.J.1990, 733 F.Supp. 844, affirmed 925 F.2d 416. Internal Revenue  4472

Substitute federal income tax return, completed by IRS, was not valid claim for refund of taxpayer's proportionate share of overpayment made by taxpayer and spouse; substitute return did not state grounds for refund or that refund was in fact due and IRS was not put on notice that refund might be due or that its records contained the overpayment information. *Simmons v. U.S.*, Fed.Cl.1993, 29 Fed.Cl. 136. Internal Revenue  4963

Internal Revenue agent's computations of taxpayer's unreported taxable income and tax liability for two years for which neither taxpayer nor his wife had filed returns did not constitute "substitute return" pursuant to 26 U.S.C.A. § 6020(b), which authorizes Secretary of Treasury to execute return, absent subscription by the Secretary and other appropriate indicia. *Tucker v. U.S.*, Cl.Ct.1985, 8 Cl.Ct. 575. Internal Revenue  4481


Where petitioner, U.S. citizen residing abroad, filed untimely income tax returns for 1979-81, claiming joint return status with nonresident alien wife after Commissioner had processed dummy returns (Forms 1040 which were blank except for petitioner's name, address, and social security number) for same years using "married filing separately" rates, and after Commissioner had issued notice of deficiency for those years, Court determined Commissioner's dummy returns were not returns within meaning of subsec. (b) of this section. *Phillips v. C.I.R.*, U.S.Tax Ct.1986, 86 T.C. 433, affirmed 851 F.2d 1492, 271 U.S.App.D.C. 265.


Debtor-taxpayer's execution of Internal Revenue Service (IRS) Forms 870 and 4089 to consent to assessment and collection of taxes, after IRS prepared and executed substitute returns without debtor's cooperation and after debtor filed two Tax Court petitions for redetermination of tax deficiency, did not constitute filing of constructive return, and, thus, did not render tax debt dischargeable. *Gentry v. U.S.*, M.D.Tenn.1998, 223 B.R. 127. Bankruptcy 


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3343.5


Unless substitute return prepared by United States Internal Revenue Service (IRS) is signed by taxpayer, substitute return does not excuse taxpayer from filing requirement. *Semenek v. Department of Revenue of State of Ill.*, N.D.Ill.1994, 166 B.R. 327. Internal Revenue  4472


Signature of debtor-taxpayers on separate document which indicated they would elect to file taxes as "married filing jointly" and which referred to taxes for tax year did not constitute attestation under penalty of perjury of particular information required to be disclosed on tax return nor did it transform Internal Revenue Service's (IRS) preparation of administrative substitute return into properly signed federal income tax return. *In re Eastwood, Bkrcty.* E.D.Ark.1994, 164 B.R. 989. Internal Revenue  4478

In deficiency proceeding arising from taxpayer's failure to file return, cryptic and summary reference to substitute for return (SFR) contained in Form 4340, certificate of assessments, was insufficient evidence of preparation of SFR meeting statutory requirements, precluding imposition of addition to tax for failure to pay amount shown on return. *Wheeler v. C.I.R.*, U.S.Tax Ct.2006, 2006 WL 3513676, Unreported. Internal Revenue  5235

Addition to tax for failure to pay tax could not be imposed based on return prepared by IRS, absent showing by IRS that its return met statutory requirements including being subscribed, containing sufficient information from which to compute tax, and purporting to be return. *Metallic v. C.I.R.*, U.S.Tax Ct.2006, 2006 WL 1627974, Unreported. Internal Revenue  5217.60


Substitute Forms 1040 prepared by IRS met requirements to be treated as return filed by taxpayer, for purposes of determining addition to tax for failure to pay amount of tax shown on return; record contained unsubscribed Forms 1040, copies of revenue agent's reports from which taxpayer's tax liability could be calculated, and Form 13496, IRC Section 6020(b) Certification, signed by IRS's examination operation manager. *Hennard v. C.I.R.*, U.S.Tax Ct.2005, 2005 WL 3157927, Unreported. Internal Revenue  5217.60

Documents that IRS prepared did not qualify as returns prepared for or executed by Secretary, as would support addition to tax for failure to pay tax shown on return, since the substitutes for returns (SFR) were not subscribed, showed zeros on relevant lines for computing tax liability, and did not show any tax due; notice of proposed adjustments was not attached to SFR, but was received more than three months later. *Cabirac v. C.I.R.*, U.S.Tax Ct.2003, 120 T.C. 163, Unreported. Internal Revenue  5217.60

Substitute for return prepared by IRS did not constitute a return filed by taxpayer for purposes of tolling limitations period for requesting refund of overpayment, since substitute for return did not relieve taxpayer of the obligation to file a return; taxpayer did not sign IRS' substitute return, it was not received by IRS as the taxpayer's return, and taxpayer disputed each determination in notice of deficiency that appeared in IRS's substitute for return. *Healer v. C.I.R.*, U.S.Tax Ct.2000, 115 T.C. 316, Unreported. Internal Revenue  4960


4. Original obligation of taxpayer

Subsec.(b) of this section provides the Secretary with some recourse should a taxpayer fail to fulfill his obligation to file a return, and does not supplant the taxpayer's original obligation to file. *Moore v. C.I.R.*, C.A.5 1984, 722 F.2d 193.


Internal Revenue Service (IRS) agent was not required to prepare returns for defendant, who had failed to do so; discretion given to IRS as to filing return did not relieve taxpayer of his obligation. *U.S. v. Cooney*, D.R.I.1990, 754 F.Supp. 255. Internal Revenue  4472

Internal Revenue Code section that gives Internal Revenue Service (IRS) authority to prepare substitute return does

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not supplant taxpayer's obligation to file nor relieve taxpayer from criminal liability for failing to file. In re Eastwood, Bkrcty.E.D.Ark.1994, 164 B.R. 989. Internal Revenue  4472

5. Amendment or correction of return



That Internal Revenue Service corrected plaintiff's return without his consent or approval was not a due process violation as it was impliedly sanctioned by this title. Cameron v. I.R.S., N.D.Ind.1984, 593 F.Supp. 1540, affirmed 773 F.2d 126. Constitutional Law  286


The right to amend a return filed by the Collector or deputy collector under § 3612 [I.R.C.1939] was granted to the Commissioner but no such right was given to a taxpayer who had failed to file a return at the time required by law. Second Carey Trust v. C. I. R., Tax Ct.1943, 2 T.C. 629.


6. Probation conditions


Internal Revenue Service's preparation of substitute returns for taxpayer did not discharge taxpayer's personal obligation to file those returns as special condition of his probation after taxpayer had been convicted of willfully and knowingly failing to file federal income tax returns, and, therefore, failure to comply with special condition of probation justified revocation of probation. U. S. v. Lacy, C.A.5 (Ala.) 1981, 658 F.2d 396. Sentencing And Punishment  1983(3)


7. Conclusiveness and validity of returns

Where taxpayer failed to keep adequate records of wagers received, as required by this section, Commissioner was authorized to reconstruct tax base by any reasonable method, and such return was prima facie correct. U. S. v. Firtel, C.A.5 (Fla.) 1971, 446 F.2d 1005. Internal Revenue  4528; Internal Revenue  4909

Where Collector executed tax returns as authorized by § 3612 [I.R.C.1939] on failure of taxpayer to make returns or on making incomplete returns, and filed claim against bankrupt's estate for income, capital stock, excess profits and documentary stamp taxes assessed against corporations owned by the bankrupt, the assessments made on returns filed by the Collector could not be held to be "arbitrary", in absence of proof by the trustee that the assessments were wrong. Paschal v. Blieden, C.C.A.8 (Ark.) 1942, 127 F.2d 398. Bankruptcy  2927

Substitutes for tax returns prepared by Internal Revenue Service (IRS) after taxpayers failed to file returns were not properly prepared, and thus taxpayers were not time-barred from claiming right to file joint returns, where IRS did not provide copies of substitute returns, and did not date or sign documents attached to notices of deficiency. U.S. v. Davenport, W.D.Okla.2005, 412 F.Supp.2d 1201. Internal Revenue  4481

Internal Revenue Service (IRS) could prepare and file substitute returns for taxpayer who failed to do so and those returns were good and sufficient for all legal purposes. Brewer v. U.S., S.D.N.Y.1991, 764 F.Supp. 309. Internal Revenue  4470

Employees of Internal Revenue Service (IRS) were not liable to taxpayer under statute authorizing awards of civil damages for unauthorized collection actions, based upon their use of substitute return to assess tax liability, where employees were statutorily authorized to prepare substitute return and taxpayer failed to provide any evidence that he exhausted administrative remedies prior to seeking damage award. Tecchio v. U.S., C.A.3 (N.J.) 2005, 153 Fed.Appx. 841, 2005 WL 2891471, Unreported. Internal Revenue  4915

8. Computation of income

Internal revenue agent's method of computation in arriving at assessment of wagering tax was not shown to be

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incorrect by reason of his including amounts deposited in accounts of taxpayer's wife and of corporation where agent determined that portions of deposits in such accounts represented wagering receipts. *U. S. v. Firtel*, C.A.5 (Fla.) 1971, 446 F.2d 1005. Internal Revenue ☞ 4528

Where intentional fraud had been established in reporting less income than received over a period of years and taxpayer refused to co-operate or produce any records, approximation in calculation of net income was justified. *Harris v. C.I.R.*, C.A.4 1949, 174 F.2d 70. Internal Revenue ☞ 4738.1

If taxpayer was engaged in the business of accepting wagers for profit and refused to file required wagering tax returns and forms, delinquent excise and occupational wagering taxes could constitutionally be computed and assessed against him on the basis of his average gross wagers as disclosed by forms and information filed the previous year. *Sailor v. U. S.*, W.D.Ky.1971, 343 F.Supp. 1279, affirmed 462 F.2d 488, certiorari denied 93 S.Ct. 62, 409 U.S. 851, 34 L.Ed.2d 93. Internal Revenue ☞ 4528

IRS properly determined taxpayer's unreported income for three taxable years from information received from third parties, since taxpayer never filed income tax returns for such years and refused to cooperate in audit of his tax liability for those years; taxpayer did not identify deductions claimed, nor prove his entitlement to such deductions. *Rodriguez v. C.I.R.*, U.S.Tax Ct.2003, 2003 WL 1889799, Unreported, affirmed 127 Fed.Appx. 914, 2005 WL 751923. Internal Revenue ☞ 4529; Internal Revenue ☞ 4535.1

9. Notice of deficiency

There was no requirement that Secretary of Treasury use specific form to provide notice of deficiency to taxpayer. *Schiff v. U.S.*, C.A.2 (Conn.) 1990, 919 F.2d 830, certiorari denied 111 S.Ct. 2871, 501 U.S. 1238, 115 L.Ed.2d 1037. Internal Revenue ☞ 4545

Where taxpayer concededly did not file returns for 1969 or 1970, Tax Court denied taxpayer's motions to dismiss deficiency, etc. and determined that subsec. (b)(2) of this section does not require that statutory notice of deficiency be made under oath. *Hartman v. Commissioner of Internal Revenue*, U.S.Tax Ct.1975, 65 T.C. 542.

Preparation by Internal Revenue Service (IRS) of substitute tax return was not condition precedent to issuance of notice of deficiency against taxpayer who failed to file voluntary income tax returns. *Brenner v. C.I.R.*, C.A.11 2006, 164 Fed.Appx. 848, 2006 WL 93236, Unreported. Internal Revenue ☞ 4545

A substitute return was not a precondition for issuing a notice of deficiency for income taxes. *Wos v. C.I.R.*, C.A.7 2004, 110 Fed.Appx. 689, 2004 WL 2030079, Unreported. Internal Revenue ☞ 4545


Notice of deficiency was valid, even though IRS did not prepare substitute for return for each year at issue. *Brenner v. C.I.R.*, U.S.Tax Ct.2004, 2004 WL 1946366, Unreported, affirmed 164 Fed.Appx. 848, 2006 WL 93236 . Internal Revenue ☞ 4545


Taxpayer who failed to file tax returns was liable for deficiencies set forth in "substitutes for return" (SFRs), upon which notice of federal tax lien (NFTL) was based; taxpayer forfeited his opportunity to contest underlying deficiencies in pre-lien hearing because of his deliberate refusal of delivery of statutory notices of deficiency, and, in any event, he was not ready at trial to prove that assessments overstated his tax liabilities. *Stein v. C.I.R.*, U.S.Tax Ct.2004, 2004 WL 1147066, Unreported. Internal Revenue ☞ 4765

10. Additions to tax

Substitute for return prepared by IRS, where taxpayer submits no tax return, is treated as a return filed by taxpayer, for purposes addition to tax for failure to pay tax shown on return. *Rodriguez v. C.I.R.*, U.S.Tax Ct.2003, 2003

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WL 1889799, Unreported, affirmed 127 Fed.Appx. 914, 2005 WL 751923. Internal Revenue  5217.60

Additions to tax for failure to timely pay tax reported on returns were not warranted, where taxpayer filed no returns and IRS did not prepare substitute returns; substituted income tax returns made by IRS would be treated, for purposes of determining additions to tax, as returns filed by the taxpayer. *Kinslow v. C.I.R.*, U.S.Tax Ct.2002, 2002 WL 31882861, Unreported. Internal Revenue  5217.60

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