

§ 1.6851-3

(c) Any other income tax returns which have not been filed as required.

Upon compliance with the foregoing requirements of this subdivision, and payment of the income tax required to be shown on the returns filed pursuant to (a) and (b) of this subdivision and of any income tax due and owing for prior years, the departing alien will be issued the certificate of compliance on the duplicate copy of Form 1040C. The certificate of compliance so issued shall be effective only for the specific departure with respect to which it is issued. A departing alien may postpone payment of the tax required to be shown on the returns filed in accordance with (a) and (b) of this subdivision until the usual time of payment by furnishing a bond as provided in §301.6863-1.

(4) *Joint return on Form 1040C.* A departing alien may not file a joint return on Form 1040C unless:

(i) Such alien and his spouse may reasonably be expected to be eligible to file a joint return at the normal close of their taxable periods for which the return is made; and

(ii) If the taxable period of such alien is terminated, the taxable periods of both spouses are so terminated as to end at the same time.

(5) *Annual return.* Notwithstanding that Form 1040C has been filed for either the entire taxable year of departure or for a terminated period, the return required under section 6012 and §1.6012-1 for such taxable year shall be filed. Any income tax paid on income shown on the return on Form 1040C shall be applied against the tax determined to be due on the income required to be shown on the subsequent return under section 6012 and §1.6012-1.

[T.D. 6537, 26 FR 547, Jan. 20, 1961, as amended by T.D. 6620, 27 FR 11803, Nov. 30, 1962; T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7670, 45 FR 6931, Jan. 31, 1980; T.D. 8332, 56 FR 3034, Jan. 28, 1991; T.D. 8526, 59 FR 10067, Mar. 3, 1994]

§ 1.6851-3 Furnishing of bond to insure payment; cross reference.

See section 6863 and §301.6863-1 of this chapter (regulations on procedure and administration) for rules relating

26 CFR Ch. I (4-1-04 Edition)

to the furnishing of bond to stay collection.

[T.D. 7575, 43 FR 58817, Dec. 18, 1978]

THE TAX COURT

DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS

§ 1.7476-1 Interested parties.

(a) *In general*—(1) *Notice requirement.* Before the Internal Revenue Service can issue an advance determination as to the qualified status of certain retirement plans, the applicant must provide the Internal Revenue Service with satisfactory evidence that such applicant has notified the persons who qualify as interested parties, under regulations prescribed under section 7476(b)(1) of the Code, of the application for such determination. See section 3001(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 995). For the rules for giving notice to interested parties, see §1.7476-2 and paragraph (o) of §601.201 of this chapter (Statement of Procedural Rules).

(2) *Declaratory judgments.* Section 7476 provides a procedure for obtaining a declaratory judgment by the Tax Court with respect to the initial or continuing qualification under subchapter D of chapter 1 of the Code of a retirement plan defined in section 7476(d), in the case of an actual controversy involving:

(i) A determination by the Internal Revenue Service with respect to the initial qualification or continuing qualification under such subchapter of such a plan, or

(ii) A failure by the Internal Revenue Service to make a determination with respect to:

(A) Such initial qualification of such a plan, or

(B) Such continuing qualification of such a plan, if the controversy arises from a plan amendment or plan termination.

Under section 7476(d) the term “retirement plan” means a pension profitsharing, or stock bonus plan described in section 401(a), or a trust which is part of such a plan, an annuity plan described in section 403(a), or a bond purchase plan described in section