

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 68 - ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter B - Assessable Penalties

PART II - FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

§ 6721. Failure to file correct information returns

(a) Imposition of penalty

(1) In general

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$250,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period

(1) Correction within 30 days

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be \$15 in lieu of \$50, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$75,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be \$30 in lieu of \$50, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$150,000.

(c) Exception for de minimis failures to include all required information

(1) In general

If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724 (a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation

NB: This unofficial compilation of the U.S. Code is current as of Jan. 2, 2006 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

- (A) 10, or
- (B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000

(1) In general

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

- (A) subsection (a)(1) shall be applied by substituting “\$100,000” for “\$250,000”,
- (B) subsection (b)(1)(B) shall be applied by substituting “\$25,000” for “\$75,000”, and
- (C) subsection (b)(2)(B) shall be applied by substituting “\$50,000” for “\$150,000”.

(2) Gross receipts test

(A) In general

A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed \$5,000,000.

(B) Certain rules made applicable

For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448 (c) shall apply.

(e) Penalty in case of intentional disregard

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

- (1) subsections (b), (c), and (d) shall not apply,
- (2) the penalty imposed under subsection (a) shall be \$100, or, if greater—
 - (A) in the case of a return other than a return required under section 6045 (a), 6041A (b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,
 - (B) in the case of a return required to be filed by section 6045 (a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, or
 - (C) in the case of a return required to be filed under section 6050I (a) with respect to any transaction (or related transactions), the greater of—
 - (i) \$25,000, or
 - (ii) the amount of cash (within the meaning of section 6050I (d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed \$100,000, and
- (3) in the case of any penalty determined under paragraph (2)—
 - (A) the \$250,000 limitation under subsection (a) shall not apply, and
 - (B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

(Added Pub. L. 99–514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2732; amended Pub. L. 100–690, title VII, § 7601(a)(2)(A), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101–239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2388; Pub. L. 101–508, title XI, § 11318(b), Nov. 5, 1990, 104 Stat. 1388–459.)

Amendments

1990—Subsec. (e)(2). Pub. L. 101–508 inserted “6050I,” after “6050H,” and struck out “or” at end of subpar. (A), substituted “or” for “and” at end of subpar. (B), and added subpar. (C).

1989—Pub. L. 101–239 substituted “correct” for “certain” in section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsec. (a) stating general rule and subsec. (b) relating to penalty in case of intentional disregard.

1988—Subsec. (b)(1)(A). Pub. L. 100–690 inserted “(or, if greater, in the case of a return filed under section 6050I, 10 percent of the taxable income derived from the transaction)” after “reported”.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101–508 applicable to amounts received after Nov. 5, 1990, see section 11318(e)(1) of Pub. L. 101–508, set out as a note under section 6050I of this title.

Effective Date of 1989 Amendment

Section 7711(c) of Pub. L. 101–239 provided that: “The amendments made by this section [amending this section and sections 6722 to 6724 and 7205 of this title and repealing sections 6017A, 6676, and 6687 of this title] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.”

Effective Date of 1988 Amendment

Amendment by Pub. L. 100–690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100–690, set out as a note under section 6050I of this title.

Effective Date

Section 1501(e) of Pub. L. 99–514 provided that: “The amendments made by this section [enacting this section and sections 6722 to 6724 of this title, amending sections 219, 6031, 6033 to 6034A, 6041, 6042 to 6045, 6047, 6049, 6050A to 6050C, 6050E to 6050I, 6050K, 6052, 6057, 6058, 6652, and 6676 of this title, and repealing section 6678 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986, except that the amendments made by subsections (c)(2), (c)(3), and (c)(5) [amending sections 6042, 6044, and 6049 of this title] shall apply to returns the due [date] for which (determined without regard to extensions) is after the date of the enactment of this Act [Oct. 22, 1986].”