§ 1.6694-4 Extension of period of collection when tax return preparer pays 15 percent of a penalty for understatement of taxpayer’s liability and certain other procedural matters.

(a) In general. (1) The Internal Revenue Service (IRS) will investigate the preparation by a tax return preparer of a return of tax under the Internal Revenue Code (Code) or claim for refund of tax under the Code as described in §301.7701-15(b)(4) of this chapter, and will send a report of the examination to the tax return preparer before the assessment of either—
   (i) A penalty for understating tax liability due to a position for which either it was not reasonable to believe that the position would more likely than not be sustained on its merits under section 6694(a) or no substantial authority, as applicable (or not a reasonable basis for disclosed positions); or
   (ii) A penalty for willful understatement of liability or reckless or intentional disregard of rules or regulations under section 6694(b).

(2) Unless the period of limitations (if any) under section 6696(d) may expire without adequate opportunity for assessment, the IRS will also send, before assessment of either—
   (i) A penalty for understating tax liability due to a position for which either it was not reasonable to believe that the position would more likely than not be sustained on its merits under section 6694(a) or no substantial authority, as applicable (or not a reasonable basis for disclosed positions); or
   (ii) A penalty for willful understatement of liability or reckless or intentional disregard of rules or regulations under section 6694(b).

(3) Unless the period of limitations (if any) under section 6696(d) may expire without adequate opportunity for assessment, the IRS will also send, before assessment of either—
   (i) A penalty for understating tax liability due to a position for which either it was not reasonable to believe that the position would more likely than not be sustained on its merits under section 6694(a) or no substantial authority, as applicable (or not a reasonable basis for disclosed positions); or
   (ii) A penalty for willful understatement of liability or reckless or intentional disregard of rules or regulations under section 6694(b).

(4) Within 30 days after the day on which notice and demand of either of the two penalties described in section 6694(a) and section 6694(b) is made against the tax return preparer, the tax return preparer must either—
   (i) Pay the entire amount assessed (and may file a claim for refund of the amount paid at any time not later than 3 years after the date of payment); or
   (ii) Pay an amount which is not less than 15 percent of the entire amount assessed with respect to each return or claim for refund and file a claim for refund of the amount paid.

(5) If the tax return preparer pays an amount and files a claim for refund under paragraph (a)(4)(ii) of this section, the IRS may not make, begin, or prosecute a levy or proceeding in court for collection of the unpaid remainder of the amount assessed until the later of—
   (i) A date which is more than 30 days after the earlier of—
      (A) The day on which the tax return preparer’s claim for refund is denied; or
      (B) The expiration of 6 months after the day on which the tax return preparer filed the claim for refund; and
   (ii) Final resolution of any proceeding begun as provided in paragraph (b) of this section.

(6) The IRS may counterclaim in any proceeding begun as provided in paragraph (b) of this section for the unpaid remainder of the amount assessed. Final resolution of a proceeding includes any settlement between the IRS and the tax return preparer, any final determination by a court (for which the period for appeal, if any, has expired) and, generally, the types of determinations provided under section 1313(a) (relating to taxpayer deficiencies). Notwithstanding section 7421(a) (relating to suits to restrain assessment or collection), the beginning of a levy or proceeding in court by the IRS in contravention of paragraph (a)(5) of this section may be enjoined by a proceeding in the proper court.
§ 1.6695–1 Other assessable penalties with respect to the preparation of tax returns for other persons.

(a) Failure to furnish copy to taxpayer. (1) A person who is a signing tax return preparer as described in §301.7701–15(b)(1) of this chapter with respect to a return of tax or claim for refund of tax under the Code as described in §301.7701–15(b)(4) that is not signed electronically shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer for signature. For rules covering electronically signed returns, see paragraph (b)(2) of this section. If the signing tax return preparer is unavailable for signature, another tax return preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The tax return preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(2) In the case of electronically signed tax returns, the signing tax return preparer need not sign the return prior to presenting a completed copy of the return to the taxpayer. The signing tax return preparer, however, must furnish all of the information that will be transmitted as the electronically signed tax return to the taxpayer contemporaneously with furnishing the Form 8879, “IRS e-file Signature Authorization,” or other similar Internal Revenue Service (IRS) e-file signature form. The information may be furnished on a replica of an official form. The signing tax return preparer shall electronically sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(b) Failure to sign return. (1) An individual who is a signing tax return preparer as described in §301.7701–15(b)(1) of this chapter with respect to a return of tax or claim for refund of tax under the Code as described in §301.7701–15(b)(4) that is not signed electronically shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or non-taxable entity) for signature. For rules covering electronically signed returns, see paragraph (b)(2) of this section. If the signing tax return preparer is unavailable for signature, another tax return preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The tax return preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(ii) In order faithfully to carry out their official duties, have so arranged their affairs that they have less than full knowledge of the property that they hold or of the debts for which they are responsible, if information is deleted from the copy in order to preserve or maintain this arrangement.