

Internal Revenue Service, Treasury

§ 1.6694-0

to the generally applicable rules concerning reasonable cause and good faith.

[T.D. 8381, 56 FR 67508, Dec. 31, 1991; T.D. 8381, 57 FR 6166, Feb. 20, 1992, as amended by T.D. 8617, 60 FR 45666, Sept. 1, 1995; T.D. 8790, 63 FR 66435, Dec. 2, 1998; T.D. 9109, 68 FR 75128, Dec. 30, 2003]

§ 1.6664-4T Reasonable cause and good faith exception to section 6662 penalties.

(a)–(e) [Reserved]

(f) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* For purposes of applying the reasonable cause and good faith exception of section 6664(c) to net section 482 adjustments, the rules of § 1.6662-6(d) apply. A taxpayer that does not satisfy the rules of § 1.6662-6(d) for a net section 482 adjustment cannot satisfy the reasonable cause and good faith exception under section 6664(c). The rules of this section apply to underpayments subject to the transactional penalty in § 1.6662-6(b). If the standards of the net section 482 penalty exclusion provisions under § 1.6662-6(d) are met with respect to such underpayments, then the taxpayer will be considered to have acted with reasonable cause and good faith for purposes of this section.

[T.D. 8656, 61 FR 4885, Feb. 9, 1996]

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(a) In general.

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(c) Suspension of running of period of limitations on collection.

(d) Effective/applicability date.

[T.D. 9436, 73 FR 78439, Dec. 22, 2008]

§ 1.6694-1 Section 6694 penalties applicable to tax return preparers.

(a) *Overview*—(1) *In general*. Sections 6694(a) and (b) impose penalties on tax return preparers for conduct giving rise to certain understatements of liability on a return (including an amended or adjusted return) or claim for refund. For positions other than those with respect to tax shelters (as defined in section 6662(d)(2)(C)(ii)) and reportable transactions to which section 6662A applies, the section 6694(a) penalty is imposed in an amount equal to the greater of \$1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer for an understatement of tax liability that is due to an undisclosed position for which the tax return preparer did not have substantial authority or due to a disclosed position for which there is no reasonable basis. For positions with respect to tax shelters (as defined in section 6662(d)(2)(C)(ii)) or reportable transactions to which section 6662A applies, the section 6694(a) penalty is imposed in an amount equal to the greater of \$1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer for an understatement of tax liability for which it is not reasonable to believe that the position would more likely than not be sustained on its merits. The section 6694(b) penalty is imposed in an amount equal to the greater of \$5,000 or 50 percent of the income derived (or to be derived) by the tax return preparer for an understatement of liability with respect to tax that is due to a willful attempt to understate tax liability or that is due to reckless or intentional disregard of rules or regulations. Refer to § 1.6694-2 for rules relating to the penalty under

section 6694(a). Refer to § 1.6694-3 for rules relating to the penalty under section 6694(b).

(2) *Date return is deemed prepared*. For purposes of the penalties under section 6694, a return or claim for refund is deemed prepared on the date it is signed by the tax return preparer. If a signing tax return preparer within the meaning of § 301.7701-15(b)(1) of this chapter fails to sign the return, the return or claim for refund is deemed prepared on the date the return or claim is filed. See § 1.6695-1 of this section. In the case of a nonsigning tax return preparer within the meaning of § 301.7701-15(b)(2) of this chapter, the relevant date is the date the nonsigning tax return preparer provides the tax advice with respect to the position giving rise to the understatement. This date will be determined based on all the facts and circumstances.

(b) *Tax return preparer*—(1) *In general*. For purposes of this section, “tax return preparer” means any person who is a tax return preparer within the meaning of section 7701(a)(36) and § 301.7701-15 of this chapter. An individual is a tax return preparer subject to section 6694 if the individual is primarily responsible for the position(s) on the return or claim for refund giving rise to an understatement. See § 301.7701-15(b)(3). There is only one individual within a firm who is primarily responsible for each position on the return or claim for refund giving rise to an understatement. In the course of identifying the individual who is primarily responsible for the position, the Internal Revenue Service (IRS) may advise multiple individuals within the firm that it may be concluded that they are the individual within the firm who is primarily responsible. In some circumstances, there may be more than one tax return preparer who is primarily responsible for the position(s) giving rise to an understatement if multiple tax return preparers are employed by, or associated with, different firms.

(2) *Responsibility of signing tax return preparer*. If there is a signing tax return preparer within the meaning of § 301.7701-15(b)(1) of this chapter within a firm, the signing tax return preparer generally will be considered the person