

amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.

(Added Pub. L. 105-206, title III, §3308(a), July 22, 1998, 112 Stat. 745.)

EFFECTIVE DATE

Pub. L. 105-206, title III, §3308(c), July 22, 1998, 112 Stat. 745, provided that: "The amendments made by this section [enacting this subchapter] shall apply to notices issued after December 31, 2000."

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

Table with 2 columns: Subchapter and Sec.1. Row A: Additions to the tax and additional amounts. Row B: Assessable penalties. Row C: Procedural requirements.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3306(b), July 22, 1998, 112 Stat. 744, added item for subchapter C.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7463 of this title.

Subchapter A—Additions to the Tax and Additional Amounts

Table with 2 columns: Part and description. Row I: General provisions. Row II: Accuracy-related and fraud penalties. Row III: Applicable rules.

AMENDMENTS

1989—Pub. L. 101-239, title VII, §7721(c)(13), Dec. 19, 1989, 103 Stat. 2400, added part analysis consisting of parts I to III.

PART I—GENERAL PROVISIONS

Table with 2 columns: Sec. and description. Rows 6651-6658: Failure to file tax return or pay tax, Failure to file certain information returns, Failure to pay stamp tax, Failure by individual to pay estimated income tax, Failure by corporation to pay estimated income tax, Failure to make deposit of taxes, Bad checks, Coordination with title 11.

AMENDMENTS

1996—Pub. L. 104-188, title I, §1704(t)(19), Aug. 20, 1996, 110 Stat. 1888, struck out item 6662 "Applicable rules".

1989—Pub. L. 101-239, title VII, §§7721(c)(13), (14), 7742(b), Dec. 19, 1989, 103 Stat. 2400, 2405, added part heading, substituted "Failure to pay stamp tax" for "Additions to tax for negligence and fraud" in item 6653, substituted "of taxes" for "of taxes or overstatement of deposits" in item 6656, and struck out items 6659 "Addition to tax in the case of valuation overstatements for purposes of the income tax", 6659A "Addition to tax in case of overstatements of pension liabilities", 6660 "Addition to tax in the case of valuation understatement for purposes of estate or gift

taxes", and 6661 "Substantial understatement of liability".

1986—Pub. L. 99-514, title XI, §1138(b), title XV, §1503(d)(2), Oct. 22, 1986, 100 Stat. 2486, 2743, substituted "Additions to tax for negligence and fraud" for "Failure to pay tax" in item 6653 and added item 6659A.

1984—Pub. L. 98-369, div. A, title I, §155(c)(2)(B), July 18, 1984, 98 Stat. 695, added item 6660.

1982—Pub. L. 97-248, title III, §323(b), Sept. 3, 1982, 96 Stat. 615, added item 6661 and redesignated former item 6660 as 6662. See Codification note set out under section 6662 of this title.

1981—Pub. L. 97-34, title VII, §§722(a)(2), 724(b)(2), Aug. 13, 1981, 95 Stat. 342, 345, inserted "or overstatement of deposits" in item 6656, added item 6659, and redesignated item 6659 as 6660.

1980—Pub. L. 96-589, §6(e)(2), Dec. 24, 1980, 94 Stat. 3408, added item 6658.

1979—Pub. L. 96-167, §6(b), Dec. 29, 1979, 93 Stat. 1276, struck out item 6658 "Addition to tax in case of jeopardy".

1974—Pub. L. 93-406, title II, §1031(b)(1)(B)(ii), Sept. 2, 1974, 88 Stat. 946, inserted "registration statements, etc." in item 6652.

1969—Pub. L. 91-172, title IX, §943(c)(5), 83 Stat. 729, inserted "or pay tax" in item 6651.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6229 of this title.

§ 6651. Failure to file tax return or to pay tax

(a) Addition to the tax

In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown on tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date

¹ Section numbers editorially supplied.

¹ So in original. Does not conform to section catchline.

of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.

(b) Penalty imposed on net amount due

For purposes of—

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) Limitations and special rule

(1) Additions under more than one paragraph

With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) Amounts of tax shown more than amount required to be shown

If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) Increase in penalty for failure to pay tax in certain cases

(1) In general

In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting “1 percent” for “0.5 percent” each place it appears.

(2) Description

For purposes of paragraph (1), the day described in this paragraph is the earlier of—

(A) the day 10 days after the date on which notice is given under section 6331(d), or

(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a).

(e) Exception for estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(f) Increase in penalty for fraudulent failure to file

If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

(1) by substituting “15 percent” for “5 percent” each place it appears, and

(2) by substituting “75 percent” for “25 percent”.

(g) Treatment of returns prepared by Secretary under section 6020(b)

In the case of any return made by the Secretary under section 6020(b)—

(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).

(h) Limitation on penalty on individual's failure to pay for months during period of installment agreement

In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting “0.25” for “0.5” each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 90-364, title I, §103(e)(4), June 28, 1968, 82 Stat. 264; Pub. L. 91-172, title IX, §943(a), Dec. 30, 1969, 83 Stat. 727; Pub. L. 92-9, §3(j)(1), Apr. 1, 1971, 85 Stat. 22; Pub. L. 94-455, title XIX, §1904(b)(10)(A)(v), Oct. 4, 1976, 90 Stat. 1817; Pub. L. 97-248, title III, §318(a), (b), Sept. 3, 1982, 96 Stat. 610; Pub. L. 98-369, div. A, title IV, §412(b)(8), July 18, 1984, 98 Stat. 792; Pub. L. 99-514, title XV, §1502(a), (b), Oct. 22, 1986, 100 Stat. 2741; Pub. L. 100-203, title X, §10301(b)(6), Dec. 22, 1987, 101 Stat. 1330-429; Pub. L. 101-239, title VII, §7741(a), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 104-168, title III, §303(b)(2), title XIII, §1301(a), July 30, 1996, 110 Stat. 1458, 1475; Pub. L.

105-206, title III, §3303(a), July 22, 1998, 112 Stat. 742.)

AMENDMENTS

1998—Subsec. (h). Pub. L. 105-206 added subsec. (h).

1996—Subsec. (a)(3). Pub. L. 104-168, §303(b)(2), substituted “21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds \$100,000)” for “10 days of the date of the notice and demand therefor”.

Subsec. (g). Pub. L. 104-168, §1301(a), added subsec. (g).

1989—Subsec. (f). Pub. L. 101-239 added subsec. (f).

1987—Subsec. (e). Pub. L. 100-203 substituted “section 6654 or 6655” for “section 6154 or 6654”.

1986—Subsec. (c)(1). Pub. L. 99-514, §1502(b), amended par. (1) generally, striking out the designation “(A)” before “With respect to”, inserting “(or fraction thereof)”, and striking out subpar. (B) which read as follows: “With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) (determined without regard to the last sentence of such subsection) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.”

Subsecs. (d), (e). Pub. L. 99-514, §1502(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (d). Pub. L. 98-369 in amending subsec. (d) generally, substituted in heading “estimated tax” for “declarations of estimated tax”, struck out provisions making section inapplicable to any failure to file a declaration of estimated tax required by section 6015 or to any failure to pay any estimated tax required to be paid by section 6153, and made section inapplicable to any failure to pay any estimated tax required to be paid by section 6654.

1982—Subsec. (a). Pub. L. 97-248, §318(a), inserted provision that, in the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under par. (1) shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.

Subsec. (c)(1)(A). Pub. L. 97-248, §318(b)(1), inserted provision that in any case described in last sentence of subsec. (a), the amount of the addition under par. (1) of subsec. (a) shall not be reduced under first sentence of this subpar. below the amount provided in such last sentence.

Subsec. (c)(1)(B). Pub. L. 97-248, §318(b)(2), inserted “(determined without regard to the last sentence of such subsection)” after “paragraph (1) of subsection (a)”.

1976—Subsec. (e). Pub. L. 94-455 struck out subsec. (e) which related to certain interest equalization tax returns.

1971—Subsec. (e). Pub. L. 92-9 added subsec. (e).

1969—Subsec. (a). Pub. L. 91-172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b). Pub. L. 91-172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 91-172 added subsec. (c), redesignated former subsec. (c) as (d) and struck out reference to section 6016 of this title and provided that this section would not be applicable for failure to pay any estimated tax required under section 6153 or 6154 of this title.

1968—Subsec. (c). Pub. L. 90-364 struck out reference to section 6016.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3303(b), July 22, 1998, 112 Stat. 742, provided that: “The amendment made by this section [amending this section] shall apply for purposes

of determining additions to the tax for months beginning after December 31, 1999.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 303(b)(2) of Pub. L. 104-168 applicable in case of any notice and demand given after Dec. 31, 1996, see section 303(c) of Pub. L. 104-168, set out as a note under section 6601 of this title.

Section 1301(b) of Pub. L. 104-168 provided that: “The amendment made by subsection (a) [amending this section] shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7741(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1502(c) of Pub. L. 99-514 provided that:

“(1) SUBSECTION (a).—The amendments made by subsection (a) [amending this section] shall apply—

“(A) to failures to pay which begin after December 31, 1986, and

“(B) to failures to pay which begin on or before December 31, 1986, if after December 31, 1986—

“(i) notice (or renote) under section 6331(d) of the Internal Revenue Code of 1954 [now 1986] is given with respect to such failure, or

“(ii) notice and demand for immediate payment of the underpayment is made under the last sentence of section 6331(a) of such Code.

In the case of a failure to pay described in subparagraph (B), paragraph (2) of section 6651(d) of such Code (as added by subsection (a)) shall be applied by taking into account the first notice (or renote) after December 31, 1986.

“(2) SUBSECTION (b).—The amendment made by subsection (b) [amending this section] shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98-369, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 318(c) of Pub. L. 97-248 provided that: “The amendments made by this section [amending this section] shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.”

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3(j)(3) of Pub. L. 92-9 provided that: “The amendments made by this subsection [amending this section and section 6680 of this title] shall apply with respect to returns required to be filed on or after the date of the enactment of this Act [Apr. 1, 1971].”

EFFECTIVE DATE OF 1969 AMENDMENT

Section 943(d) of Pub. L. 91-172 provided that: “The amendments made by subsections (a) [amending this section] and (c) [amending sections 3121, 5684, and 6653 of this title] shall apply with respect to returns the

date prescribed by law (without regard to any extension of time) for filing of which is after December 31, 1969, and with respect to notices and demands for payment of tax made after December 31, 1969. The amendment made by subsection (b) [amending section 6656 of this title] shall apply with respect to deposits the time for making of which is after December 31, 1969.”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, see section 103(f) of Pub. L. 90-364, set out as a note under section 243 of this title.

ILLEGAL TAX PROTESTER DESIGNATION

Pub. L. 105-206, title III, §3707, July 22, 1998, 112 Stat. 778, provided that:

“(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

“(1) shall not designate taxpayers as illegal tax protesters (or any similar designation); and

“(2) in the case of any such designation made on or before the date of the enactment of this Act [July 22, 1998]—

“(A) shall remove such designation from the individual master file; and

“(B) shall disregard any such designation not located in the individual master file.

“(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

“(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act [July 22, 1998], except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.”

CROSS REFERENCES

Civil proceedings, limitations on assessment and collection, see section 6501 of this title.

Classes of returns within section—

Distilled spirits, wines and beer, see sections 5061, 5143 of this title.

Estate tax, see section 6018 of this title.

Gift tax, see section 6019 of this title.

Income tax, tax not computed by taxpayer, see section 6014 of this title.

Joint returns of income tax by husband and wife, see section 6013 of this title.

Machine guns and certain other firearms, see section 5842 of this title.

Persons required to make returns of income, see section 6012 of this title.

Self-employment tax, see section 6017 of this title.

Tobacco, cigars, cigarettes, etc., see section 5703 of this title.

Criminal proceedings—

Period of limitations on criminal prosecutions, see section 6531 of this title.

Willful failure to file return, see section 7203 of this title.

General requirement of return, see section 6011 of this title.

Other penalties precluded by imposition of penalty under this section—

Penalties relating to payment and collection of liquor taxes, see section 5684 of this title.

Penalties under chapter 52, relating to tobacco, cigars, cigarettes, etc., see section 5761 of this title.

Place for filing returns, see section 6091 of this title.

Preparation of returns—

Examination of books and witnesses, see section 7602 of this title.

Returns prepared for or executed by Secretary, see section 6020 of this title.

Requirement of return and notice or regulations requiring special returns, see section 6001 of this title.

Signing and verifying of returns, see section 6061 et seq. of this title.

Time for filing returns—

Generally, see section 6071 of this title.

Estate and gift tax, see section 6075 of this title.

Extension, see section 6081 of this title.

Income tax, see section 6072 of this title.

When joint return of husband and wife deemed filed for purposes of this section, see section 6013 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3121, 5684, 5761, 6013, 6404, 6601, 6658, 6665, 6751, 7518 of this title; title 30 section 932; title 46 App. section 1177.

§ 6652. Failure to file certain information returns, registration statements, etc.

(a) Returns with respect to certain payments aggregating less than \$10

In the case of each failure to file a statement of a payment to another person required under the authority of—

(1) section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), or

(2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(b) Failure to report tips

In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) Returns by exempt organizations and by certain trusts

(1) Annual returns under section 6033

(A) Penalty on organization

In the case of—

(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting “\$100” for “\$20” and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

(B) Managers

(i) In general

The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) Failure to comply with demand

If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply \$10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed \$5,000.

(C) Public inspection of annual returns

In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed \$10,000.

(D) Public inspection of applications for exemption

In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues.

(2) Returns under section 6034 or 6043(b)

(A) Penalty on organization or trust

In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to

any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

(B) Managers

The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed \$5,000.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(4) Other special rules

(A) Treatment as tax

Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) Joint and several liability

If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) Person

For purposes of this subsection, the term “person” means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(d) Annual registration and other notification by pension plan

(1) Registration

In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed \$5,000.

(2) Notification of change of status

In the case of failure to file a notification required under section 6057(b) (relating to notifi-

cation of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed \$1,000.

(e) Information required in connection with certain plans of deferred compensation, etc.

In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$25 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed \$15,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(Y).

(f) Returns required under section 6039C

(1) In general

In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) Amount of penalty

For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be \$25 for each day during which such failure continues.

(3) Limitation

The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

(A) \$25,000, or

(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

(g) Information required in connection with deductible employee contributions

In the case of failure to make a report required by section 219(f)(4) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$25 for each participant with respect to whom there was a failure to file such information, multiplied by the number of years during which such failure continues, but the total amount imposed under this subsection on any person for failure to file shall not exceed \$10,000. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(h) Failure to give notice to recipients of certain pension, etc., distributions

In the case of each failure to provide notice as required by section 3405(e)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000.

(i) Failure to give written explanation to recipients of certain qualifying rollover distributions

In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(j) Failure to file certification with respect to certain residential rental projects

In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to \$100 for each such failure.

(k)¹ Failure to make reports required under section 1202

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person

¹ See 1993 Amendment note below.

failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting “\$100” for “\$50”. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(l) Failure to file return with respect to certain corporate transactions

In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to \$500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed \$100,000.

(m) Alcohol and tobacco taxes

For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 85-866, title I, § 85, Sept. 2, 1958, 72 Stat. 1664; Pub. L. 87-834, § 19(d), Oct. 16, 1962, 76 Stat. 1057; Pub. L. 88-272, title II, § 221(b)(2), Feb. 26, 1964, 78 Stat. 74; Pub. L. 89-97, title III, § 313(e)(2)(B), (3), July 30, 1965, 79 Stat. 385; Pub. L. 89-212, § 2(e), Sept. 29, 1965, 79 Stat. 859; Pub. L. 91-172, title I, § 101(d)(4), Dec. 30, 1969, 83 Stat. 522; Pub. L. 93-406, title II, § 1031(b)(1)(A), (B)(i), Sept. 2, 1974, 88 Stat. 945, 946; Pub. L. 94-455, title XII, § 1207(e)(3)(B), (C), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1708, 1834; Pub. L. 96-167, § 7(b)(1), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 96-223, title I, § 101(d)(2)(A), Apr. 2, 1980, 94 Stat. 251; Pub. L. 96-499, title XI, § 1123(b), Dec. 5, 1980, 94 Stat. 2689; Pub. L. 96-603, § 1(d)(2), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 97-34, title III, § 311(f), title VII, § 723(a)(1), (3), (4), Aug. 13, 1981, 95 Stat. 281, 343, 344; Pub. L. 97-248, title III, §§ 309(b)(2), 315(a), (b), Sept. 3, 1982, 96 Stat. 595, 605, 606; Pub. L. 97-448, title II, § 201(i)(2), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98-67, title I, § 105(b)(1), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98-369, div. A, title I, §§ 145(b)(1), (2), 146(b)(1), (2), 148(b)(1), (2), 149(b)(1), 155(b)(2)(A), title IV, § 491(d)(50), title V, § 531(b)(4)(B), title VII, § 714(j)(3), July 18, 1984, 98 Stat. 685, 686, 688, 689, 693, 852, 882, 963; Pub. L. 98-397, title II, § 207(b), Aug. 23, 1984, 98 Stat. 1450; Pub. L. 98-611, § 1(d)(2), Oct. 31, 1984, 98 Stat. 3177; Pub. L. 98-612, § 1(b)(2), Oct. 31, 1984, 98 Stat. 3181; Pub. L. 99-514, title XI, § 1151(b), title XIII, § 1301(g), title XV, § 1501(d)(1)(A), title XVII, § 1702(b), title XVIII, §§ 1810(f)(9), 1811(c)(2), Oct. 22, 1986, 100 Stat. 2502, 2656, 2740, 2774, 2828, 2833; Pub. L. 100-203, title X, §§ 10502(d)(11), 10704(a), Dec. 22, 1987, 101 Stat. 1330-444, 1330-461; Pub. L. 100-647, title I, §§ 1011B(a)(10), 1017(b), 1018(u)(36),

title III, § 3021(a)(10), Nov. 10, 1988, 102 Stat. 3484, 3575, 3592, 3630; Pub. L. 101-140, title II, § 203(a)(1), Nov. 8, 1989, 103 Stat. 830; Pub. L. 101-239, title VII, §§ 7208(b)(2), 7841(d)(5), Dec. 19, 1989, 103 Stat. 2338, 2428; Pub. L. 102-318, title V, § 522(b)(2)(F), July 3, 1992, 106 Stat. 314; Pub. L. 103-66, title XIII, § 13113(c), Aug. 10, 1993, 107 Stat. 429; Pub. L. 104-168, title XIII, §§ 1314(a), (b), July 30, 1996, 110 Stat. 1480; Pub. L. 104-188, title I, §§ 1455(c), (d)(2), 1704(s), Aug. 20, 1996, 110 Stat. 1818, 1887; Pub. L. 105-34, title XII, § 1281(a), (b), title XVI, § 1602(d)(2)(B), Aug. 5, 1997, 111 Stat. 1037, 1094; Pub. L. 105-277, div. J, title I, § 1004(b)(2)(B), (C), Oct. 21, 1998, 112 Stat. 2681-890.)

CODIFICATION

Pub. L. 101-140, § 203(a)(1), amended this section to read as if the amendments made by section 1151(b) of Pub. L. 99-514 (enacting subsec. (l)) had not been enacted. Subsequent to enactment by Pub. L. 99-514, subsec. (l) was amended by Pub. L. 100-203, Pub. L. 100-647, and Pub. L. 101-239. See 1989, 1988, and 1987 Amendment notes below.

AMENDMENTS

1998—Subsec. (c)(1)(C). Pub. L. 105-277, § 1004(b)(2)(B), substituted “section 6104(d) with respect to any annual return” for “subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns)”.

Subsec. (c)(1)(D). Pub. L. 105-277, § 1004(b)(2)(C), substituted “section 6104(d) with respect to any exempt status application materials (as defined in such section)” for “section 6104(e)(2) (relating to public inspection of applications for exemption)”.

1997—Subsec. (e). Pub. L. 105-34, § 1602(d)(2)(B), substituted “section 6724(d)(2)(Y)” for “section 6724(d)(2)(X)”.

Subsec. (g). Pub. L. 105-34, § 1281(a), inserted at end “No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.”

Subsec. (k). Pub. L. 105-34, § 1281(b), inserted at end “No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.”

1996—Subsec. (c)(1)(A). Pub. L. 104-168 in concluding provisions, substituted “\$20” for “\$10” and “\$10,000” for “\$5,000” and inserted at end “In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting ‘\$100’ for ‘\$20’ and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.”

Subsec. (c)(1)(C). Pub. L. 104-188, § 1704(s)(1), substituted “\$20” for “\$10” and “\$10,000” for “\$5,000”.

Subsec. (c)(1)(D). Pub. L. 104-188, § 1704(s)(2), substituted “\$20” for “\$10”.

Subsec. (e). Pub. L. 104-188, § 1455(d)(2), inserted at end “This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).”

Subsec. (i). Pub. L. 104-188, § 1455(c), substituted “\$100” and “\$50,000” for “the \$10” and “\$5,000”, respectively.

1993—Subsec. (k). Pub. L. 103-66, which directed amendment of section by adding subsec. (k) before the last subsection, was executed by adding subsec. (k) after subsec. (j) to reflect the probable intent of Congress.

1992—Subsec. (h). Pub. L. 102-318 substituted “3405(e)(10)(B)” for “3405(d)(10)(B)”.

1989—Subsec. (k). Pub. L. 101-239, § 7841(d)(5)(B), redesignated the subsec. (k), relating to alcohol and tobacco taxes, as (l).

Pub. L. 101-239, § 7841(d)(5)(A), redesignated the subsection relating to information with respect to includ-

ible employee benefits as (k), see Codification note above.

Pub. L. 101-140 amended this section to read as if amendments by Pub. L. 99-514, §1151(b), had not been enacted, see Codification note above and 1986 Amendment note below.

Subsec. (l). Pub. L. 101-239, §7208(b)(2), added subsec. (l) and redesignated former subsec. (l) as (m).

Pub. L. 101-239, §7841(d)(5)(B), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (l).

Subsec. (m). Pub. L. 101-239, §7208(b)(2), redesignated subsec. (l) as (m).

1988—Subsec. (j). Pub. L. 100-647, §1017(b), amended subsec. (j) as it existed prior to its repeal by Pub. L. 100-203, §10502(d)(11), by inserting “(and the corresponding provision of section 4041(d)(1))” after “section 4041(a)(1)”, see 1987 Amendment note below.

Subsec. (k)(2)(B). Pub. L. 100-647, §3021(a)(10), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3) thereof with respect to the employee to whom such failure relates.” See Codification note above.

Pub. L. 100-647, §1011B(a)(10), substituted “subsection (g)(3)(C)(i)” for “subsection (g)(3)”. See Codification note above.

Subsec. (k)(4). Pub. L. 100-647, §1018(u)(36), substituted “or part II of subchapter B of this chapter” for “or section 6678”. See Codification note above.

1987—Subsec. (c). Pub. L. 100-203, §10704(a), amended subsec. (c) generally, revising and restating as pars. (1) to (4) provisions of former pars. (1) to (3).

Subsec. (j). Pub. L. 100-203, §10502(d)(11), struck out subsec. (j), as added by section 1702(b) of Pub. L. 99-514, which related to failure to give written notice to certain sellers of diesel fuel.

Subsecs. (k), (l). Pub. L. 100-203, §10502(d)(11), redesignated subsec. (l), relating to information with respect to includible employee benefits, as (k), and directed the redesignation of a nonexistent subsec. (m) as (l). See Codification note above.

1986—Subsec. (a). Pub. L. 99-514, §1501(d)(1)(A), redesignated subsec. (b) as (a), substituted “Returns with respect to certain payments aggregating less than \$10” for “Other returns” in heading, and struck out former subsec. (a) which provided penalties for failure to file returns relating to information at source, payments of dividends, etc. and certain transfers of stock.

Pub. L. 99-514, §1811(c)(2), inserted “(other than by subsection (d) of such section)” in par. (3)(A)(ii).

Subsecs. (b) to (f). Pub. L. 99-514, §1501(d)(1)(A)(i), redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b) redesignated (a).

Subsec. (g). Pub. L. 99-514, §1501(d)(1)(A)(i), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 99-514, §1810(f)(9)(C), struck out “etc.” after “Returns” in heading.

Subsec. (g)(1). Pub. L. 99-514, §1810(f)(9)(A), in amending par. (1) generally, struck out “(A)” after “In the case of each failure”, and struck out “(B) to furnish a statement required by section 6039C(b)(3),” before “on the date required”.

Subsec. (g)(3). Pub. L. 99-514, §1810(f)(9)(B), in amending par. (3) generally, designated former subpar. (B) of par. (3) as the entire paragraph, struck out former subpar. (A) setting a limitation of \$25,000 with respect to each subsection for failure to meet the requirements of subsection (a) or (b) of section 6039C, struck out former subpar. (B) heading “For failure to meet requirements of section 6039C(c)” and in text substituted “requirements of section 6039C” for “requirements of subsection (c) of section 6039C” and inserted “(A)” before “\$25,000” and “(B)” before “5 percent”.

Subsecs. (h), (i). Pub. L. 99-514, §1501(d)(1)(A)(i), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 99-514, §1702(b), added subsec. (j) relating to failure to give written notice to certain

sellers of diesel fuel, and redesignated former subsec. (j), relating to alcohol and tobacco taxes, as (k).

Pub. L. 99-514, §1301(g), added subsec. (j) relating to failure to file certification with respect to certain residential projects.

Pub. L. 99-514, §1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Former subsec. (j), relating to failure to give written explanation to recipients of certain qualifying rollover distributions, redesignated (i). Such subsec. (j), relating to alcohol and tobacco taxes, was subsequently redesignated as subsec. (k) by section 1301(g) of Pub. L. 99-514, and also by section 1702(b) of Pub. L. 99-514, both of which added a new subsec. (j), see above.

Subsec. (k). Pub. L. 99-514, §1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Subsequently, such subsec. (j) was redesignated as subsec. (k) by section 1301(g) of Pub. L. 99-514, and also by section 1702(b) of Pub. L. 99-514.

Subsecs. (l), (m). Pub. L. 99-514, §1151(b), directed the redesignation of a nonexistent subsec. (l) as (m), and added a new subsec. (l) relating to information with respect to includible employee benefits.

1984—Subsec. (a)(1)(B)(v). Pub. L. 98-369, §145(b)(1), added cl. (v).

Subsec. (a)(1)(B)(vi). Pub. L. 98-369, §146(b)(1), added cl. (vi).

Subsec. (a)(1)(B)(vii). Pub. L. 98-369, §148(b)(1), added cl. (vii).

Subsec. (a)(1)(B)(viii). Pub. L. 98-369, §149(b)(1), added cl. (viii).

Subsec. (a)(1)(B)(ix). Pub. L. 98-369, §155(b)(2)(A), added cl. (ix).

Subsec. (a)(3)(A)(iii). Pub. L. 98-369, §148(b)(2), substituted “, 6050I, or 6050J” for “or 6050I”.

Pub. L. 98-369, §146(b)(2), substituted “, 6050H or 6050I” for “or section 6050H”.

Pub. L. 98-369, §145(b)(2), inserted “or section 6050H” after “section 6041A(b)”.

Subsec. (f). Pub. L. 98-611, §1(d)(2), and Pub. L. 98-612, §1(b)(2), made identical amendments, substituting “6039D (relating to returns and records with respect to certain fringe benefit plans)” for “125(h) (relating to information with respect to cafeteria plans)”.

Pub. L. 98-369, §531(b)(4)(B)(i), which directed the amendment of subsec. (f) by striking out “or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans)” and inserting in lieu thereof “, 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 125(h) (relating to information with respect to cafeteria plans)”, was executed by substituting the quoted phrase for “or 6047 (relating to information relating to certain trusts and annuity plans)”, as the probable intent of Congress.

Pub. L. 98-369, §531(b)(4)(B)(ii), inserted “; etc.” in heading.

Pub. L. 98-369, §491(d)(50), struck out “and bond purchase” after “trusts and annuity”.

Subsec. (i). Pub. L. 98-369, §714(j)(3), added subsec. (i). Former subsec. (i), relating to alcohol and tobacco taxes, redesignated (j).

Subsec. (j). Pub. L. 98-397, §207(b), added subsec. (j). Former subsec. (j), relating to alcohol and tobacco taxes, redesignated (k).

Pub. L. 98-369, §714(j)(3), redesignated former subsec. (i), relating to alcohol and tobacco taxes, as (j).

Subsec. (k). Pub. L. 98-397, §207(b), redesignated subsec. (j), relating to alcohol and tobacco taxes, as (k).

1983—Subsec. (a)(1)(A). Pub. L. 98-67, §105(b)(1)(B), struck out cls. (ii), (iii), and (iv), redesignated cls. (v) and (vi) as (ii) and (iii), respectively, and in cl. (iii), as so redesignated, struck out “6042(e), 6044(f), 6049(e), or” before “6051(d)”.

Subsec. (a)(2), (3). Pub. L. 98-67, §105(b)(1)(A), (C), added par. (2), redesignated former par. (2) as (3), and in par. (3), as so redesignated, inserted references to paragraph (2) in provisions preceding subpar. (A) and in provisions of subpar. (A) preceding cl. (i).

Subsec. (a). Pub. L. 97-448, which directed that “or” be struck out at end of subpar. (F) of par. (1), “or” be

inserted at end of par. (2), a new par. (3) be added, and that in provision following par. (3), “paragraph (2) or (3)” be substituted for “paragraph (2)”, was executed by striking out “or” at end of subpar. (A)(vi) of par. (1), inserting “or” at end of subpar. (B)(iv) of par. (1), redesignating par. (3) as subpar. (C) and adding such subpar. (C), to par. (1), and in provision following subpar. (C) substituting “subparagraph (B) or (C)” for “subparagraph (B)”, to reflect the probable intent of Congress and the intervening amendment of subsec. (a) by section 315(a) of Pub. L. 97-248 which redesignated former par. (1) as subpar. (A), former subpars. (A) to (F) as cls. (i) to (vi), and former par. (2) as subpar. (B), and in provision following subpar. (B) as so redesignated, substituted “subparagraph (B)” for “paragraph (2)”.

1982—Subsec. (a). Pub. L. 97-248, §315(a), designated existing provisions as par. (1) with a heading “In general”, redesignated former par. (1) as subpar. (A), in subpar. (A) as so redesignated struck out “aggregate” before “amount”, redesignated former subpars. (A) through (F) as cls. (i) through (vi), respectively, in cls. (ii) and (iii) as so redesignated struck out “aggregating \$10 or more” after “dividends”, in cl. (iv) as so redesignated substituted “(a)” for “(a)(1)” and struck out “aggregating \$10 or more” after “interest”, in cl. (vi) as so redesignated inserted “6042(e), 6044(f), 6049(e), or” before “6051(d)”, redesignated former par. (2) as subpar. (B), in subpar. (B) as so redesignated designated from “section 6052(a)” through the end of the parenthesis as cl. (iii) and struck out “with respect to group-term life insurance on the life of an employee” thereafter, added cls. (i), (ii), and (iv), in text after cl. (iv) substituted “subparagraph (A)” for “paragraph (1)”, “subparagraph (B)” for “paragraph (2)”, “\$50 for each such failure” for “\$10 for each such failure”, and “shall not exceed \$50,000” for “shall not exceed \$25,000”, and added par. (2).

Subsec. (b). Pub. L. 97-248, §309(b)(2), struck out pars. (3) and (4) which referred to section 6049(a)(2) and section 6049(a)(3), respectively, as sources of authority for the requirement of filing a statement of payment to another person.

Subsec. (f). Pub. L. 97-248, §315(b), substituted “\$25” and “\$15,000” for “\$10” and “\$5,000”, respectively.

1981—Subsec. (a). Pub. L. 97-34, §723(a)(4), inserted in heading “information at source,” before “payments of dividends”.

Subsec. (a)(1). Pub. L. 97-34, §723(a)(1), added subpars. (A), (E), and (F), and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (b). Pub. L. 97-34, §723(a)(3), substituted provisions relating to failure to file required statement of payment to another person under authority of section 6042(a)(2), 6044(a)(2), or 6049(a)(2) or (3), and imposition of penalties with a maximum of \$1,000 for all failures during the calendar year, for provisions relating to failure to file required statement of payment to another person under authority of section 6041, 6042(a)(2), 6044(a)(2), 6049(a)(2) or (3), 6050A(a) or (b), 6050C, 6051(d), or 6053(b), and imposition of penalties with a maximum of \$1,000 for all failures during the calendar year.

Subsecs. (h), (i). Pub. L. 97-34, §311(f), added subsec. (h) and redesignated former subsec. (h) as (i).

1980—Subsec. (b). Pub. L. 96-223 inserted reference to statement required by section 6050C (relating to information regarding windfall profit tax on crude oil).

Subsec. (d)(3). Pub. L. 96-603 substituted in heading “returns” for “reports” and in text “failure to comply” for “failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply”, “failing to meet such requirements” for “failing so to file or meet the publicity requirement”, and “failure with respect” for “failure to file or comply with the requirements of section 6104(d) with regard”.

Subsecs. (g), (h). Pub. L. 96-499 added subsec. (g) and redesignated former subsec. (g) as (h).

1979—Subsec. (a). Pub. L. 96-167 inserted “or” after “\$10 or more,” in par. (1), struck out par. (2) relating to failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, redesignated par. (3) as (2), and in closing

provision substituted “return referred to in paragraph (2)” for “return referred to in paragraph (2) or (3)”.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§1207(e)(3)(B), (C), 1906(b)(13)(A), inserted “in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),” after “income tax withheld,” and “or section 6050A(b) (relating to statements furnished by certain fishing boat operators),” after “respect to tips,” and struck out “or his delegate” after “Secretary”.

Subsecs. (d) to (f). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1974—Pub. L. 93-406, §1031(b)(1)(B)(i), inserted “, registration statements, etc.” in section catchline.

Subsecs. (e) to (g). Pub. L. 93-406, §1031(b)(1)(A), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1969—Subsecs. (d), (e). Pub. L. 91-172 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (b). Pub. L. 89-97, §313(e)(2)(B), inserted “and in the case of each failure to furnish a statement required by section 6053(b) (relating to statements furnished by employers with respect to tips),” after “income tax withheld”.

Subsec. (c). Pub. L. 89-212 inserted “or which are compensation (as defined in section 3231(e))” and “or section 3201 (as the case may be)”.

Pub. L. 89-97, §313(e)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89-97, §313(e)(3), redesignated former subsec. (c) as (d).

1964—Subsec. (a). Pub. L. 88-272 provided a penalty for failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, and by section 6052(a) with respect to group-term life insurance on the life of an employee.

1962—Subsec. (a). Pub. L. 87-834 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-834 redesignated former subsec. (a) as (b), and substituted “section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10), section 6049(a)(2) (relating to payments of interest aggregating less than \$10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld)” for “section 6042(1) (relating to payments of corporate dividends), section 6044 (relating to patronage dividends), or section 6051(d) (relating to information returns with respect to income tax withheld)”. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-834 redesignated former subsec. (b) as (c).

1958—Subsec. (a). Pub. L. 85-866 substituted “section 6042(1)” for “section 6042” and “(upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so file the statement, \$1 for each such statement not so filed” for “by the person failing to file the statement, upon notice and demand by the Secretary or his delegate and in the same manner as tax, \$1 for each such statement not filed”, deleted “section 6045 (relating to returns of brokers)” after “patronage dividends” and inserted “on the date prescribed therefor (determined with regard to any extension of time for filing)” after “income tax withheld”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105-277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1281(e) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this sec-

tion and sections 6683 and 7519 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by section 1602(d)(2)(B) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 1455(c), (d)(2) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

Section 1314(c) of Pub. L. 104-168 provided that: “The amendments made by this section [amending this section] shall apply to returns for taxable years ending on or after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102-318, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENTS

Amendment by section 7208(b)(2) of Pub. L. 101-239 applicable to transactions after Mar. 31, 1990, see section 7208(b)(4) of Pub. L. 101-239, set out as a note under section 6043 of this title.

Amendment by Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1011B(a)(10), 1017(b), 1018(u)(36) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 3021(a)(10) of Pub. L. 100-647 effective as if included in the amendments by section 1151 of Pub. L. 99-514, see section 3021(d)(1) of Pub. L. 100-647, set out as a note under section 129 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10502(d)(11) of Pub. L. 100-203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100-203, set out as a note under section 40 of this title.

Section 10704(d) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 6685 and 7207 of this title] shall apply—

“(1) to returns for years beginning after December 31, 1986, and

“(2) on and after the date of the enactment of this Act [Dec. 22, 1987] in the case of applications submitted to the Internal Revenue Service—

“(A) after July 15, 1987, or

“(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(b) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k)

of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1301(g) of Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Amendment by section 1501(d)(1)(A) of Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1702(b) of Pub. L. 99-514 applicable to sales after first calendar quarter beginning more than 60 days after Oct. 22, 1986, see section 1702(c) of Pub. L. 99-514, set out as a note under section 4041 of this title.

Amendment by sections 1810(f)(9) and 1811(c)(2) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-612 effective Jan. 1, 1985, see section 1(d)(2) of Pub. L. 98-612.

Amendment by Pub. L. 98-611 effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98-611, set out as a note under section 127 of this title.

Amendment by Pub. L. 98-397 applicable to distributions after Dec. 31, 1984, see section 302(c) of Pub. L. 98-397, set out as a note under section 1001 of Title 29, Labor.

Amendment by section 145(b)(1), (2) of Pub. L. 98-369 applicable to amounts received after Dec. 31, 1984, see section 145(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050H of this title.

Amendment by section 146(b)(1), (2) of Pub. L. 98-369 applicable to amounts received after Dec. 31, 1984, see section 146(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050I of this title.

Amendment by section 148(b)(1), (2) of Pub. L. 98-369 applicable with respect to acquisitions of property and abandonments of property after Dec. 31, 1984, see section 148(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050J of this title.

Amendment by section 149(b)(1) of Pub. L. 98-369 applicable with respect to exchanges after Dec. 31, 1984, see section 149(d) of Pub. L. 98-369, set out as an Effective Date note under section 6050K of this title.

Amendment by section 155(b)(2)(A) of Pub. L. 98-369 applicable to contributions made after Dec. 31, 1984, in taxable years ending after such date, see section 155(d)(1) of Pub. L. 98-369, set out as an Effective Date note under section 6050L of this title.

Amendment by section 491(d)(50) of Pub. L. 98-369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as a note under section 62 of this title.

Amendment by section 531(b)(4)(B) of Pub. L. 98-369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98-369, set out as an Effective Date note under section 132 of this title.

Amendment by section 714(j)(3) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

Section 203(a), (b) of title II of Pub. L. 97-448, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—Except as provided in subsection (b), any amendment made by this title [amend-

ing this section and sections 44D [now 29], 46, 48, 193, 613A, 4988, 4989, 4991-4997, 6015, 6154, 6654, 6655, and 6678 of this title, enacting provisions set out as notes under section 4996 of this title, and amending a provision set out as a note under section 44E of this title] shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 [Pub. L. 96-223] to which such amendment relates.

“(b) EXCEPTIONS.—

“(1) DEFINITION OF INDEPENDENT PRODUCER.—The amendment made by section 201(d)(1) [amending section 4992 of this title] shall take effect on January 1, 1983.

“(2) PENALTY PROVISION.—The amendments made by section 201(i) [amending this section and sections 4997 and 6678 of this title] shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act [Jan. 12, 1983].

“(3) AMENDMENTS TO SECTION 613A.—

“(A) The amendment made by section 202(d)(1) [amending section 613A of this title] shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to periods after December 31, 1979.

“(B) The amendment made by section 202(d)(2) [amending section 613A of this title] shall apply to bulk sales after September 18, 1982.

“(4) NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1986 by reason of the amendment made by section 201(h)(2)(A) of this Act [amending section 4996 of this title] before the date on which regulations with respect to such amendment are published in the Federal Register.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 309(b)(2) of Pub. L. 97-248 applicable to amounts paid (or treated as paid) after Dec. 31, 1982, see section 309(c) of Pub. L. 97-248, set out as a note under section 6049 of this title.

Section 315(d) of Pub. L. 97-248 provided that: “The amendments made by this section [amending this section and section 6678 of this title] shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 311(f) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97-34, set out as a note under section 219 of this title.

Section 723(c) of Pub. L. 97-34 provided that: “The amendments made by this section [amending this section and sections 6041 and 6678 of this title] shall apply to returns and statements required to be furnished after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96-603, set out as a note under section 6033 of this title.

Amendment by Pub. L. 96-499, applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as an Effective Date note under section 897 of this title.

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 7(c) of Pub. L. 96-167 provided that: “The amendments made by this section [amending this section and sections 6039 and 6678 of this title] shall apply with respect to calendar years beginning after 1979.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(e)(3)(B), (C) of Pub. L. 94-455 applicable to calendar years beginning after Oct. 4, 1976, see section 1207(f)(4) of Pub. L. 94-455, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as an Effective Date note under section 6057 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(2)(B) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89-212 effective only with respect to tips received after 1965, see section 6 of Pub. L. 89-212, set out as a note under section 3201 of this title.

Amendment by Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as an Effective Date note under section 6053 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88-272, set out as an Effective Date note under section 79 of this title.

Amendment by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1963, except for par. (2) of subsec. (a) which shall apply to stock transferred pursuant to options exercised on or after Jan. 1, 1964, see section 221(e) of Pub. L. 88-272, set out as a note under section 421 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87-834, set out as a note under section 6042 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan

amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

CROSS REFERENCES

Information concerning—

Persons subject to special provisions, see section 6031 et seq. of this title.
Transactions with other persons, see section 6041 et seq. of this title.
Wages paid employees, see section 6051 of this title.
Penalties under chapter 52, relating to tobacco, cigars, cigarettes, precluded by imposition of penalty under this section, see section 5761 of this title.
Tobacco, cigars, cigarettes, etc., criminal penalties for failing to furnish information or furnishing false information, see section 5762 of this title.
Willful failure to supply information, crime respecting, see section 7203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 142, 219, 6033, 6034, 6047, 6057, 6058 of this title.

§ 6653. Failure to pay stamp tax

Any person (as defined in section 6671(b)) who—

- (1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or
- (2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 822; Pub. L. 85-866, title I, § 86, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 91-172, title I, § 101(j)(50), title IX, § 943(c)(6), Dec. 30, 1969, 83 Stat. 531, 729; Pub. L. 91-679, § 2, Jan. 12, 1971, 84 Stat. 2063; Pub. L. 93-406, title II, § 1016(a)(18), Sept. 2, 1974, 88 Stat. 931; Pub. L. 96-223, title I, § 101(f)(8), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97-34, title V, § 501(b), title VII, § 722(b)(1), Aug. 13, 1981, 95 Stat. 326, 342; Pub. L. 97-248, title III, § 325(a), Sept. 3, 1982, 96 Stat. 616; Pub. L. 97-448, title I, §§ 105(a)(1)(D), 107(a)(3), Jan. 12, 1983, 96 Stat. 2384, 2391; Pub. L. 98-67, title I, § 106, Aug. 5, 1983, 97 Stat. 382; Pub. L. 98-369, div. A, title I, § 179(b)(3), July 18, 1984, 98 Stat. 718; Pub. L. 99-44, § 1(b), May 24, 1985, 99 Stat. 77; Pub. L. 99-514, title XV, § 1503(a), (b), (c)(2), (3), (d)(1), Oct. 22, 1986, 100 Stat. 2742, 2743; Pub. L. 100-647, title I, § 1015(b)(2)(A), (B), (3), Nov. 10, 1988, 102 Stat. 3569; Pub. L. 101-239, title VII, § 7721(c)(1), Dec. 19, 1989, 103 Stat. 2399.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “Failure to pay stamp tax” for “Additions to tax for negligence and

fraud” in section catchline and amended text generally, substituting a single par. for former subsecs. (a) to (g).

1988—Subsec. (a)(1). Pub. L. 100-647, § 1015(b)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

“(A) 5 percent of the underpayment, and

“(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of such underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).”

Subsec. (b)(1). Pub. L. 100-647, § 1015(b)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

“(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

“(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.”

Subsec. (g). Pub. L. 100-647, § 1015(b)(3), inserted at end “If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a).”

1986—Pub. L. 99-514, § 1503(d)(1), substituted “Additions to tax for negligence and fraud” for “Failure to pay tax” in section catchline.

Subsec. (a). Pub. L. 99-514, § 1503(a), added subsec. (a) and struck out former subsec. (a) which added percentage to tax due for underpayment of taxes where negligence or intentional disregard of rules and regulations with respect to income, gift, or windfall profit taxes was involved, and also provided additional interest penalty for portion of underpayment attributable to negligence, etc.

Subsec. (b). Pub. L. 99-514, § 1503(b), added subsec. (b) and struck out former subsec. (b) which added percentage to tax due for underpayment of taxes where fraud was involved, and also provided for additional interest penalty, but stated that there would be no negligence addition where there was addition for fraud, and concluded with special rule for joint returns.

Subsec. (d). Pub. L. 99-514, § 1503(c)(2), substituted “portion of the underpayment which is attributable to fraud” for “same underpayment”.

Subsec. (f). Pub. L. 99-514, § 1503(c)(3), struck out “or intentional disregard of rules and regulations (but without intent to defraud)” after “underpayment due to negligence”.

Subsec. (g). Pub. L. 99-514, § 1503(b), amended subsec. (g) generally, substituting provisions relating to special rule for amounts shown on information returns for provisions relating to special rule in case of interest or dividend payments, and struck out provision that penalty was to apply only to portion of underpayment due to failure to include interest or dividend payment.

1985—Subsec. (h). Pub. L. 99-44 repealed Pub. L. 98-369, § 179(b)(3), which added subsec. (h), and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered as if section 179(b)(3) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (h). Pub. L. 98-369 added subsec. (h) which provided for a special rule in the case of under-

payment attributable to failure to meet the substantiation requirements of section 274(d) of this title. See 1985 Amendment note above.

1983—Subsec. (a)(2)(B). Pub. L. 97-448, §107(a)(3), inserted “(or, if earlier, the date of the payment of the tax)” after “assessment of the tax”.

Subsec. (f). Pub. L. 97-448, §105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97-34, as (f) and substituted “unrecognized gain” for “unrealized gain” in heading.

Subsec. (g). Pub. L. 98-67 added subsec. (g).

Pub. L. 97-448, §105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97-34, as (f).

1982—Subsec. (b). Pub. L. 97-248 designated first sentence of existing provisions as par. (1) with heading “In general”, struck out second sentence which provided that in the case of income taxes and gift taxes, the amount under this subsec. shall be in lieu of any amount determined under subsec. (a), added pars. (2) and (3), designated last sentence as par. (4) with heading “Special rule for joint returns”, and in par. (4) as so designated substituted “of the spouse” for “of a spouse”.

1981—Subsec. (a). Pub. L. 97-34, §722(b)(1), designated existing provisions as par. (1), inserted heading, struck out “(relating to income taxes and gift taxes)”, and added par. (2) after “subtitle B”.

Subsec. (g). Pub. L. 97-34, §501(b), added subsec. (g).

1980—Subsec. (a). Pub. L. 96-223 substituted “, gift, or windfall profit taxes” for “or gift taxes” in heading, and in text substituted “,” for “or” before “by chapter 12” and inserted “, or by chapter 45 (relating to windfall profit tax)” before “is due to negligence”.

1974—Subsec. (c)(1). Pub. L. 93-406 substituted “certain excise” for “chapter 42” in heading and text.

1971—Subsec. (b). Pub. L. 91-679 inserted sentence making subsection inapplicable, in the case of a joint return under section 6013 of this title, with respect to the tax of a spouse unless some part of the underpayment is due to the fraud of such spouse.

1969—Subsec. (c)(1). Pub. L. 91-172, §101(j)(50), inserted reference to chapter 42 taxes in heading and text.

Subsec. (d). Pub. L. 91-172, §943(c)(6), inserted “or pay tax” after “such return”.

1958—Subsec. (c)(1). Pub. L. 85-866, inserted “on or” after “such return was filed”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(b)(2)(A), (B) of Pub. L. 100-647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100-647, set out as a note under section 6013 of this title.

Amendment by section 1015(b)(3) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1503(e) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section and section 6222 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.”

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-44 effective as if included in the amendments made by section 179(b) of Pub. L. 98-369, see section 6(a) of Pub. L. 99-44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98-369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by Pub. L. 98-67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as a note under section 31 of this title.

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 325(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 501(b) of Pub. L. 97-34 applicable to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date, and applicable when so elected with respect to property held on June 23, 1981, see section 508 of Pub. L. 97-34, set out as an Effective Date note under section 1092 of this title.

Section 722(b)(2) of Pub. L. 97-34 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91-679 applicable to all taxable years to which this title applies, see section 3 of Pub. L. 91-679, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(50) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 943(c)(6) of Pub. L. 91-172 applicable with respect to tax returns the date prescribed by law for filing of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out subsec. (h) of this section as added by section 179(b)(3)

of Pub. L. 98-369 to have no force and effect, see section 1(c) of Pub. L. 99-44, set out as a note under section 274 of this title.

CROSS REFERENCES

Burden of proof in Tax Court fraud cases, see section 7454 of this title.

Failure to collect and pay over tax, or attempt to evade or defeat tax, section as inapplicable, see section 6672 of this title.

Penalties precluded by imposition of penalties under this section—

Liquor taxes, see section 5684 of this title.

Tobacco, cigars, and cigarettes under chapter 52, see section 5761 of this title.

Willful failure to pay tax, crime respecting, see section 7203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 5761, 6601, 6672 of this title.

§ 6654. Failure by individual to pay estimated income tax

(a) Addition to the tax

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

- (1) the underpayment rate established under section 6621,
(2) to the amount of the underpayment,
(3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

- (A) the required installment, over
(B) the amount (if any) of the installment paid on or before the due date for the installment.

(2) Period of underpayment

The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

- (A) the 15th day of the 4th month following the close of the taxable year, or
(B) with respect to any portion of the underpayment, the date on which such portion is paid.

(3) Order of crediting payments

For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) Number of required installments; due dates

For purposes of this section—

(1) Payable in 4 installments

There shall be 4 required installments for each taxable year.

(2) Time for payment of installments

Table with 2 columns: In the case of the following required installments, and The due date is: 1st April 15

Table with 2 columns: In the case of the following required installments: and The due date is: 2nd June 15, 3rd September 15, 4th January 15 of the following taxable year.

(d) Amount of required installments

For purposes of this section—

(1) Amount

(A) In general

Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment

For purposes of subparagraph (A), the term "required annual payment" means the lesser of—

- (i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or
(ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

(C) Limitation on use of preceding year's tax

(i) In general

If the adjusted gross income shown on the return of the individual for the preceding taxable year beginning in any calendar year exceeds \$150,000, clause (ii) of subparagraph (B) shall be applied by substituting the applicable percentage for "100 percent". For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

Table with 2 columns: If the preceding taxable year begins in: and The applicable percentage is: 1998 105, 1999 or 2000 106, 2001 112, 2002 or thereafter 110.

This clause shall not apply in the case of a preceding taxable year beginning in calendar year 1997.

(ii) Separate returns

In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting "\$75,000" for "\$150,000".

(iii) Special rule

In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

(2) Lower required installment where annualized income installment is less than amount determined under paragraph (1)

(A) In general

In the case of any required installment, if the individual establishes that the annual-

ized income installment is less than the amount determined under paragraph (1)—

(i) the amount of such required installment shall be the annualized income installment, and

(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

(B) Determination of annualized income installment

In the case of any required installment, the annualized income installment is the excess (if any) of—

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(C) Special rules

For purposes of this paragraph—

(i) Annualization

The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

(ii) Applicable percentage

In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90.

(iii) Adjusted self-employment income

The term “adjusted self-employment income” means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

(D) Treatment of subpart F and section 936 income

(i) In general

Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(ii) Prior year safe harbor

If a taxpayer elects to have this clause apply to any taxable year—

(I) clause (i) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (i) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(e) Exceptions

(1) Where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than \$1,000.

(2) Where no tax liability for preceding taxable year

No addition to tax shall be imposed under subsection (a) for any taxable year if—

(A) the preceding taxable year was a taxable year of 12 months,

(B) the individual did not have any liability for tax for the preceding taxable year, and

(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

(3) Waiver in certain cases

(A) In general

No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

(B) Newly retired or disabled individuals

No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

(i) the taxpayer—

(I) retired after having attained age 62,

or

(II) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

(ii) such underpayment was due to reasonable cause and not to willful neglect.

(f) Tax computed after application of credits against tax

For purposes of this section, the term “tax” means—

(1) the tax imposed by chapter 1 (other than any increase in such tax by reason of section 143(m)), plus

- (2) the tax imposed by chapter 2, minus
- (3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages).

(g) Application of section in case of tax withheld on wages

(1) In general

For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(2) Separate application

The taxpayer may apply paragraph (1) separately with respect to—

- (A) wage withholding, and
- (B) all other amounts withheld for which credit is allowed under section 31.

(h) Special rule where return filed on or before January 31

If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

(i) Special rules for farmers and fishermen

For purposes of this section—

(1) In general

If an individual is a farmer or fisherman for any taxable year—

- (A) there shall be only 1 required installment for the taxable year,
- (B) the due date for such installment shall be January 15 of the following taxable year,
- (C) the amount of such installment shall be equal to the required annual payment determined under subsection (d)(1)(B) by substituting “66½ percent” for “90 percent” and without regard to subparagraph (C) of subsection (d)(1), and
- (D) subsection (h) shall be applied—
 - (i) by substituting “March 1” for “January 31”, and
 - (ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

(2) Farmer or fisherman defined

An individual is a farmer or fisherman for any taxable year if—

- (A) the individual’s gross income from farming or fishing (including oyster farming) for the taxable year is at least 66½ percent of the total gross income from all sources for the taxable year, or
- (B) such individual’s gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66½

percent of the total gross income from all sources shown on such return.

(j) Special rules for nonresident aliens

In the case of a nonresident alien described in section 6072(c):

(1) Payable in 3 installments

There shall be 3 required installments for the taxable year.

(2) Time for payment of installments

The due dates for required installments under this subsection shall be determined under the following table:

In the case of the following required installments:	The due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

(3) Amount of required installments

(A) First required installment

In the case of the first required installment, subsection (d) shall be applied by substituting “50 percent” for “25 percent” in subsection (d)(1)(A).

(B) Determination of applicable percentage

The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

In the case of the following required installments:	The applicable percentage is:
1st	45
2nd	67.5
3rd	90.

(k) Fiscal years and short years

(1) Fiscal years

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(l) Estates and trusts

(1) In general

Except as otherwise provided in this subsection, this section shall apply to any estate or trust.

(2) Exception for estates and certain trusts

With respect to any taxable year ending before the date 2 years after the date of the decedent’s death, this section shall not apply to—

- (A) the estate of such decedent, or
- (B) any trust—
 - (i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and
 - (ii) to which the residue of the decedent’s estate will pass under his will (or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

(3) Exception for charitable trusts and private foundations

This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

(4) Special rule for annualizations

In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting “ending before the date 1 month before the due date for the installment” for “ending before the due date for the installment”.

(m) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 823; Pub. L. 87-682, §1(a)(4), Sept. 25, 1962, 76 Stat. 575; Pub. L. 89-368, title I, §§102(b)(1)-(3), 103(a), Mar. 15, 1966, 80 Stat. 62-64; Pub. L. 91-172, title III, §301(b)(13), Dec. 30, 1969, 83 Stat. 586; Pub. L. 92-5, title II, §203(b)(7), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92-336, title II, §203(b)(7), July 1, 1972, 86 Stat. 420; Pub. L. 93-66, title II, §203(b)(7), (d), July 9, 1973, 87 Stat. 153; Pub. L. 93-233, §5(b)(7), (d), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93-625, §7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(a)(35), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 95-30, title I, §102(b)(16), May 23, 1977, 91 Stat. 139; Pub. L. 95-600, title IV, §421(e)(9), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-34, title VI, §601(a)(6)(A), title VII, §725(b), (c)(5), Aug. 13, 1981, 95 Stat. 336, 346; Pub. L. 97-248, title II, §207(d)(7), formerly §207(c)(7), title III, §§307(a)(14), 308(a), 328(a), Sept. 3, 1982, 96 Stat. 420, 590, 591, 618, renumbered §207(d)(7), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-448, title I, §§106(a)(4)(C), 107(c)(1), title II, §201(j)(3), Jan. 12, 1983, 96 Stat. 2390, 2391, 2396; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title IV, §411, July 18, 1984, 98 Stat. 788; Pub. L. 99-514, title XIV, §1404(a), title XV, §§1511(c)(14), 1541(a), (b), title XVIII, §1841, Oct. 22, 1986, 100 Stat. 2713, 2745, 2751, 2852; Pub. L. 100-418, title I, §1941(b)(6)(A), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100-647, title I, §1014(d)(1), (2), title IV, §4005(g)(5), Nov. 10, 1988, 102 Stat. 3560, 3651; Pub. L. 101-239, title VII, §7811(j)(5), (6), Dec. 19, 1989, 103 Stat. 2411, 2412; Pub. L. 102-164, title IV, §403(a), (b), Nov. 15, 1991, 105 Stat. 1062, 1064; Pub. L. 103-66, title XIII, §13214(a), (b), Aug. 10, 1993, 107 Stat. 475; Pub. L. 103-465, title VII, §711(b), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 105-34, title X, §1091(a), title XII, §1202(a), Aug. 5, 1997, 111 Stat. 962, 994; Pub. L. 105-277, div. J, title II, §2003(a), Oct. 21, 1998, 112 Stat. 2681-901.)

AMENDMENTS

1998—Subsec. (d)(1)(C)(i). Pub. L. 105-277 in table substituted items assigning applicable percentages of 105 for 1998 and 106 for 1999 or 2000 for item assigning applicable percentage of 105 for 1998, 1999, or 2000.

1997—Subsec. (d)(1)(C)(i). Pub. L. 105-34, §1091(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds \$150,000, clause (ii) of subparagraph (B) shall be applied by substituting ‘110 percent’ for ‘100 percent’.”

Subsec. (e)(1). Pub. L. 105-34, §1202(a), substituted “\$1,000” for “\$500”.

1994—Subsec. (d)(2)(D). Pub. L. 103-465 added subpar. (D).

1993—Subsec. (d)(1)(C) to (F). Pub. L. 103-66, §13214(a), added subpar. (C) and struck out former subpars. (C) to (F) which related to limitation on use of preceding year’s tax, modified adjusted gross income for current year, qualified pass-thru item, and other definitions and special rules, respectively.

Subsec. (j)(3)(A). Pub. L. 103-66, §13214(b)(1), struck out before period at end “and subsection (d)(1)(C)(iii) shall not apply”.

Subsec. (l)(4). Pub. L. 103-66, §13214(b)(2), substituted “subsection (d)(2)(B)(i)” for “paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)”.

1991—Subsec. (d)(1)(C) to (F). Pub. L. 102-164, §403(a), added subpars. (C) to (F).

Subsec. (i)(1)(C). Pub. L. 102-164, §403(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting ‘66½ percent’ for ‘90 percent’, and”.

Subsec. (j)(3)(A). Pub. L. 102-164, §403(b)(2), inserted before period at end “and subsection (d)(1)(C)(iii) shall not apply”.

Subsec. (l)(4). Pub. L. 102-164, §403(b)(3), substituted “paragraphs (l)(C)(iv) and (2)(B)(i) of subsection (d)” for “subsection (d)(2)(B)(i)”.

1989—Subsec. (l)(1). Pub. L. 101-239, §7811(j)(5), substituted “this section shall” for “this subsection shall”.

Subsec. (l)(2)(B)(ii). Pub. L. 101-239, §7811(j)(6), inserted before period at end “(or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)”.

1988—Subsec. (f)(1). Pub. L. 100-647, §4005(g)(5), inserted “(other than any increase in such tax by reason of section 143(m))” after “chapter 1”.

Subsec. (f)(3). Pub. L. 100-418 amended par. (3) generally. Prior to amendment par. (3) read as follows: “the sum of—

“(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

Subsec. (l). Pub. L. 100-647, §1014(d)(2), substituted “Estates and trusts” for “Trusts and certain estates” in heading and amended text generally. Prior to amendment, text read as follows: “This section shall apply to—

“(1) any trust, and

“(2) any estate with respect to any taxable year ending 2 or more years after the date of the death of the decedent’s death.”

Pub. L. 100-647, §1014(d)(1), made clarifying amendment to directory language of Pub. L. 99-514, §1404(a), to reflect prior redesignation of subsec. (k) as (l) by section 1841 of Pub. L. 99-514, see 1986 Amendment note below.

1986—Subsec. (a)(1). Pub. L. 99-514, §1511(c)(14), substituted “the underpayment rate established under section 6621” for “the applicable annual rate established under section 6621”.

Subsec. (d)(1)(B)(i). Pub. L. 99-514, §1541(a), substituted “90 percent” for “80 percent” in two places.

Subsec. (d)(2)(C)(ii). Pub. L. 99-514, §1541(b)(1), in table of applicable percentages increased applicable percentages from “20” to “22.5”, from “40” to “45”, from “60” to “67.5”, and from “80” to “90”, respectively.

Subsec. (i)(1)(C). Pub. L. 99-514, §1541(b)(2), substituted “90 percent” for “80 percent”.

Subsec. (j). Pub. L. 99-514, §1841, added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3)(B). Pub. L. 99-514, §1541(b)(3), which directed the amendment of the table in subpar. (B) by substituting “45” for “40”, “65.5” for “60”, and “90” for “80”, could not be executed because the higher figures appear in the text as enacted by section 1841 of Pub. L. 99-514.

Subsec. (k). Pub. L. 99-514, §1841, redesignated former subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 99-514, §1404(a), as amended by Pub. L. 100-647, §1014(d)(1), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: “This section shall not apply to any estate or trust.”

Pub. L. 99-514, §1841, redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 99-514, §1841, redesignated former subsec. (l) as (m).

1984—Subsec. (a). Pub. L. 98-369 amended subsec. (a) generally, setting out the exception provision as initial phrase, previously set out as second phrase, substituting “subsection (d)” for “this section”; and substituting “determined by applying—” and provisions designated cls. (1) to (3) for provisions reading “determined at an annual rate established under section 6621 upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c))”.

Subsec. (b). Pub. L. 98-369 amended subsec. (b) generally, substituting provisions relating to amount and period of underpayment for provisions relating only to amount of underpayment.

Subsec. (c). Pub. L. 98-369 amended subsec. (c) generally, substituting provisions relating to number of required installments and due dates for provisions respecting period of underpayment. See subsec. (b)(2) of this section.

Subsec. (d). Pub. L. 98-369 amended subsec. (d) generally, substituting provisions relating to amount of required installments for provisions designated “Exception” and describing conditions for nonimposition of an addition to the tax with respect to any underpayment of any installment.

Subsec. (e). Pub. L. 98-369 amended subsec. (e) generally, substituting provisions relating to exceptions for provisions relating to application of section in case of tax withheld on wages. See subsec. (g) of this section.

Subsec. (f). Pub. L. 98-369 amended subsec. (f) generally, substituting provisions relating to tax computed after application of credits against tax for provisions relating to exception where tax is small amount. See subsec. (e)(1) of this section.

Subsec. (g). Pub. L. 98-369 amended subsec. (g) generally, substituting provisions relating to application of section in case of tax withheld on wages for provisions relating to tax computed after application of credits against tax. See subsec. (f) of this section.

Subsec. (h). Pub. L. 98-369 amended subsec. (h) generally, substituting provisions relating to special rule for returns filed on or before January 31 for provisions relating to exception for no tax liability for preceding taxable year. See subsec. (e)(2) of this section.

Subsec. (i). Pub. L. 98-369 amended subsec. (i) generally, substituting provisions relating to special rules for farmers and fishermen for provisions relating to short taxable year. See subsec. (j)(2) of this section.

Subsecs. (j) to (l). Pub. L. 98-369, in amending section generally, added subsecs. (j) to (l).

1983—Subsec. (e)(1). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Subsec. (f)(1). Pub. L. 97-448, §107(c)(1), inserted “, reduced by the credit allowable under section 31,” before “is less than”.

Subsec. (g)(3)(B). Pub. L. 97-448, §201(j)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 or 6430 as an overpayment of the tax imposed by section 4986”.

Pub. L. 97-448, §106(a)(4)(C), inserted “or 6430” after “section 6429”.

1982—Subsec. (e)(1). Pub. L. 97-248, §§307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld at source on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (g). Pub. L. 97-248, §328(a)(2), substituted “(f), and (h)” for “and (f)”.

Subsec. (g)(1). Pub. L. 97-248, §201(d)(7), formerly §201(c)(7), substituted “section 55” for “section 55 or 56”.

Subsec. (g)(3). Pub. L. 97-248, §§307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (g)(3) is amended by inserting “, interest, dividends, and patronage dividends” after “tax withheld at source on wages”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsecs. (h), (i). Pub. L. 97-248, §328(a)(1), added subsec. (h) and redesignated former subsec. (h) as (i).

1981—Subsec. (f). Pub. L. 97-34, §725(b), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 97-34, §601(a)(6)(A), inserted “the sum of—” after “(3)”, designated former par. (3) as subpar. (A), and added subpar. (B).

Subsecs. (g), (h). Pub. L. 97-34, §601(a)(6)(A), 725(b), (c)(5), redesignated former subsec. (f) as (g), inserted reference to subsec. (f) in introductory text, and “the sum of—” after “(3)”, designated former par. (3) as subpar. (A), and added subpar. (B). Former subsec. (g) redesignated (h).

1978—Subsec. (f)(1). Pub. L. 95-600 substituted “section 55 or 56” for “section 56”.

1977—Subsec. (d)(2)(A). Pub. L. 95-30 substituted provisions directing that the placement of taxable income on an annualized basis be accomplished under regulations prescribed by the Secretary for provisions which had spelled out in detail the formula under which taxable income would be placed on an annualized basis.

1976—Subsec. (g). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (h). Pub. L. 94-455, §1906(a)(35), struck out subsec. (h) which provided that this section shall apply to taxable years beginning after Dec. 31, 1954 and that section 294(d) of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before Jan. 1, 1955.

1975—Subsec. (a). Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

1973—Subsec. (d)(2)(B)(ii). Pub. L. 93-233, §5(b)(7), effective with respect to taxable years beginning after 1973, substituted “\$13,200” for “\$12,600”.

Pub. L. 93-233, §5(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 5(e) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92-336 (set out as 1973 Amendment note below), substituting “\$13,200” for “\$12,600”. See, also, 1973 Amendment note below.

Pub. L. 93-66, §203(b)(7), effective with respect to taxable years beginning after 1973, substituted “\$12,600” for “\$12,000”.

Pub. L. 93-66, §203(d), applicable only with respect to remuneration paid after, and taxable years beginning

after, 1973 (as provided in section 203(e) of Pub. L. 93-66, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92-336 (set out as 1972 Amendment note below, substituting "\$12,600" for "\$12,000". See, also, such 1972 Amendment note below.

1972—Subsec. (d)(2)(B)(ii). Pub. L. 92-336, §203(b)(7)(A) substituted "\$10,800" for "\$9,000".

Pub. L. 92-336, §203(b)(7)(B), effective with respect to taxable years beginning after 1973, substituted "\$12,000" for "\$10,800".

Pub. L. 92-336, §203(b)(7)(C), effective with respect to taxable years beginning after 1974, substituted "(I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II)" for "\$12,000 over".

1971—Subsec. (d)(2)(B)(ii). Pub. L. 92-5 substituted "\$9,000" for "\$6,600".

1969—Subsec. (f)(1). Pub. L. 91-172 inserted "(other than by section 56)" after "chapter 1".

1966—Subsec. (a). Pub. L. 89-368, §102(b)(1), inserted "and the tax under chapter 2" after "chapter 1".

Subsec. (b). Pub. L. 89-368, §103(a), substituted "80 percent" for "70 percent" whenever appearing.

Subsec. (d). Pub. L. 89-368, §§102(b)(2), 103(a), inserted requirement that, for purposes of applying the annualization exception, the tax on adjusted self-employment income be included in determining if the net earnings from self-employment for the taxable year equal or exceed \$400, inserted definition of "adjusted self-employment income", inserted a requirement that, for purposes of determining the applicability of the 90 percent exception, the tax on actual self-employment income be included, and substituted "80 percent" for "70 percent" wherever appearing.

Subsec. (f). Pub. L. 89-368, §102(b)(3), inserted tax imposed by chapter 2 to definition of "tax".

1962—Subsecs. (b), (d)(1)(C). Pub. L. 87-682 inserted "or fishing" after "from farming" wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title II, §2003(b), Oct. 21, 1998, 112 Stat. 2681-902, provided that: "The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1999."

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1091(b) of Pub. L. 105-34 provided that: "The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1997."

Section 1202(b) of Pub. L. 105-34 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997."

EFFECTIVE DATE OF 1994 AMENDMENT

Section 711(c) of Pub. L. 103-465 provided that: "The amendments made by this section [amending this section and section 6655 of this title] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994."

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13214(c) of Pub. L. 103-66 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993."

EFFECTIVE DATE OF 1991 AMENDMENT

Section 403(c) of Pub. L. 102-164 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1991."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of

the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1014(d)(1), (2) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 4005(g)(5) of Pub. L. 100-647 applicable to financing provided, and mortgage credit certificates issued, after Dec. 31, 1990, with certain exceptions, see section 4005(h)(3) of Pub. L. 100-647, set out as a note under section 143 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 100-203, title X, §10303(a), Dec. 22, 1987, 101 Stat. 1330-430, provided that: "Notwithstanding section 1541(c) of the Tax Reform Act of 1986 [section 1541(c) of Pub. L. 99-514, set out below], the amendments made by section 1541 of such Act [amending this section] shall apply only to taxable years beginning after December 31, 1987."

Amendment by section 1404(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(14) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Section 1541(c) of Pub. L. 99-514 provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986." [See section 10303(a) of Pub. L. 100-203, set out above.]

Amendment by section 1841 of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 414(a) of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—The amendments made by sections 411 and 412 [amending this section and sections 871, 1403, 6012, 6020, 6201, 6362, 6601, 6651, 7203, 7216, and 7701 of this title and repealing sections 6015, 6073, and 6153 of this title] shall apply with respect to taxable years beginning after December 31, 1984.

"(2) WAIVER AUTHORITY.—The provisions of paragraph (3) of section 6654(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by section 411) shall also apply with respect to underpayments for taxable years beginning in 1984."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 106(a)(4)(C) of Pub. L. 97-448 effective Jan. 1, 1982, see section 106(a)(4)(E)(ii) of Pub. L. 97-448, set out as an Effective Date note under section 6430 of this title.

Amendment by title I of Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

Amendment by title II of Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act

of 1980, Pub. L. 96-223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97-448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 201(d)(7) of Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

Section 328(c) of Pub. L. 97-248 provided that: “The amendments made by this section [amending this section and sections 6015, 6073, and 6153 of this title] shall apply to taxable years beginning after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 601(c)(1), (2) of Pub. L. 97-34 provided that: “(1) Except as provided in paragraph (2), subsection (a) [amending this section and sections 6429 and 6655 of this title] shall take effect on January 1, 1981.

“(2) The amendments made by paragraph (6) of subsection (a) [amending this section and section 6655 of this title] shall take effect on January 1, 1980.”

Amendment by section 725(b), (c)(5) of Pub. L. 97-34 applicable to estimated tax for taxable years beginning after Dec. 31, 1980, see section 725(d) of Pub. L. 97-34, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95-600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93-66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92-336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of

Pub. L. 91-172, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 102(d) of Pub. L. 89-368 provided that: “The amendments made by subsections (a) [amending section 6015 of this title], (b) [amending this section and sections 1403, 6211, and 7701 of this title], and (c) [amending section 1402 of this title] shall apply with respect to taxable years beginning after December 31, 1966.”

Section 103(b) of Pub. L. 89-368 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1966.”

EFFECTIVE DATE OF 1962 AMENDMENT

Section 2 of Pub. L. 87-682 provided that: “The amendments made by the first section of this Act [amending this section and sections 6015, 6073, and 6153 of this title] shall apply only with respect to taxable years beginning after December 31, 1962.”

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

Pub. L. 105-206, §1(c), July 22, 1998, 112 Stat. 685, provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act [July 22, 1998] to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].”

Section 1(d) of Pub. L. 105-34 provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before January 1, 1998, for any payment the due date of which is before January 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].”

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

Pub. L. 104-188, title I, §1102, Aug. 20, 1996, 110 Stat. 1758, provided that: “No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act [Aug. 20, 1996] to the extent such underpayment was created or increased by any provision of this title [title I (§§1101-1954) of Pub. L. 104-188, see Tables for classification].”

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

Section 13001(d) of Pub. L. 103-66 provided that: “No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this chapter [chapter 1 (§§13001-13444) of title XIII of Pub. L. 103-66, see Tables for classification].”

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of this

title, see section 12011(c)(2) of Pub. L. 101-508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Apr. 16, 1989, with respect to any underpayment to the extent that such underpayment was created or increased by any provision of title I (§§ 1001-1019) or II (§§ 2001-2006) of Pub. L. 100-647, see section 1019(b) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 1 of this title.

**PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989**

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

Section 1543 of Pub. L. 99-514 provided that: "No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) for any period before April 16, 1987 (March 16, 1987, in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent such underpayment was created or increased by any provision of this Act [Pub. L. 99-514, see Tables for classification]."

WAIVER OF ESTIMATED TAX PENALTIES

No addition to tax to be made under this section for any period before Apr. 16, 1985, with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of Pub. L. 98-369, div. A, see section 1879(a) of Pub. L. 99-514, set out as a note under section 6655 of this title.

INCREASE IN SECTION 31 CREDIT FOR TAXABLE YEARS WHICH INCLUDE ANY PORTION OF PERIOD JULY 1, 1983, TO DECEMBER 31, 1983

For purposes of determining the amount of any addition to tax under this section with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of this title for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, to be increased by an amount equal to 10 percent of the aggregate amount of payments (1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and (2) which (but for the repeal of sections 3451 to 3456 of this title) would have been subject to withholding under sections 3451 to 3456 of this title (determined without regard to any exemption described in former section 3452 of this title, see section 102(d) of Pub. L. 98-67, set out as a note under section 3451 of this title.

ESTIMATED TAX UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 303 of Pub. L. 95-30, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to failure to pay estimated income tax) for any period before April 16, 1977 (March 16, 1977, in the case of a taxpayer subject to section 6655), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94-455]."

WAIVER OF PENALTY FOR UNDERPAYMENT OF 1971 ESTIMATED INCOME TAX

Pub. L. 92-178, title II, § 207, Dec. 10, 1971, 85 Stat. 512, provided that subsec. (a) of this section did not apply to any taxable year beginning after Dec. 31, 1970 and ending before Jan. 1, 1972, if the gross income for such taxable year did not exceed \$10,000 for a single individual other than head of household or a married individual filing separately, or if the gross income did not exceed \$20,000 for a head of household, a surviving spouse, or married individuals filing jointly, or if the taxpayer had income from sources other than wages in excess of \$200 or \$400 in case of a joint return.

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration, or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91-172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimated tax before the first installment date, this section, and sections 6015, 6154, and 6655 of this title shall be applied without regard to amendments made by Pub. L. 91-172, see section 946(b) of Pub. L. 91-172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with first installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of "installment date", see Pub. L. 91-53, § 5(c), Aug. 7, 1969, 83 Stat. 95.

CROSS REFERENCES

Willful failure to pay estimated income tax, crime respecting, see section 7203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 167, 460, 3510, 6201, 6601, 6621, 6622, 6651, 6658, 6665, 6751, 7203 of this title; title 42 section 430.

§ 6655. Failure by corporation to pay estimated income tax

(a) Addition to tax

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

(1) the underpayment rate established under section 6621,

(2) to the amount of the underpayment,

(3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

(A) the required installment, over

required installments:	percentage is:
1st.....	25
2nd.....	50
3rd.....	75
4th.....	100.

(iii) Modified alternative minimum taxable income

The term “modified alternative minimum taxable income” has the meaning given to such term by section 59A(b).

(C) Election for different annualization periods

(i) If the taxpayer makes an election under this clause—

(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting “2 months” for “3 months”,

(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting “4 months” for “3 months”,

(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting “7 months” for “6 months”, and

(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting “10 months” for “9 months”.

(ii) If the taxpayer makes an election under this clause—

(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting “5 months” for “3 months”,

(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting “8 months” for “6 months”, and

(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting “11 months” for “9 months”.

(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year.

(3) Determination of adjusted seasonal installment

(A) In general

In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

(i) 100 percent of the amount determined under subparagraph (C), over

(ii) the aggregate amount of all prior required installments for the taxable year.

(B) Limitation on application of paragraph

This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

(C) Determination of amount

The amount determined under this subparagraph for any installment shall be determined in the following manner—

(i) take the taxable income for all months during the taxable year preceding the filing month,

(ii) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

(iii) determine the tax on the amount determined under clause (ii), and

(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(D) Definitions and special rules

For purposes of this paragraph—

(i) Base period percentage

The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

(ii) Filing month

The term “filing month” means the month in which the installment is required to be paid.

(iii) Reorganization, etc.

The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(4) Treatment of subpart F and section 936 income

(A) In general

Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(B) Prior year safe harbor

(i) In general

If a taxpayer elects to have this subparagraph apply for any taxable year—

(I) subparagraph (A) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(ii) Special rule for noncontrolling shareholder

(I) In general

If a taxpayer making the election under clause (i) is a noncontrolling shareholder of a corporation, clause (i)(II) shall be applied with respect to items of such corporation by substituting “100 percent” for “115 percent”.

(II) Noncontrolling shareholder

For purposes of subclause (I), the term “noncontrolling shareholder” means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation.

(f) Exception where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than \$500.

(g) Definitions and special rules**(1) Tax**

For purposes of this section, the term “tax” means the excess of—

(A) the sum of—

- (i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,
- (ii) the tax imposed by section 55,
- (iii) the tax imposed by section 59A, plus
- (iv) the tax imposed by section 887, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

(2) Large corporation**(A) In general**

For purposes of this section, the term “large corporation” means any corporation if such corporation (or any predecessor corporation) had taxable income of \$1,000,000 or more for any taxable year during the testing period.

(B) Rules for applying subparagraph (A)**(i) Testing period**

For purposes of subparagraph (A), the term “testing period” means the 3 taxable years immediately preceding the taxable year involved.

(ii) Members of controlled group

For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the \$1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

(iii) Certain carrybacks and carryovers not taken into account

For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

(3) Certain tax-exempt organizations

For purposes of this section—

(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting “5th month” for “3rd month”, subsection (e)(2)(A) shall be applied by substituting “2 months” for “3 months” in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply. In the case of a private foundation, subsection (c)(2) shall be applied by substituting “May 15” for “April 15”.

(4) Application of section to certain taxes imposed on S corporations

In the case of an S corporation, for purposes of this section—

(A) The following taxes shall be treated as imposed by section 11:

- (i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).
- (ii) The tax imposed by section 1375(a).
- (iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

(B) Paragraph (2) of subsection (d) shall not apply.

(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

“(ii) the sum of—

“(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

“(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.”

(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be).

(h) Excessive adjustment under section 6425**(1) Addition to tax**

If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the exces-

sive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

(2) Excessive amount

For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

(i) Fiscal years and short years

(1) Fiscal years

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(j) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 825; Pub. L. 88-272, title I, §122(c), Feb. 26, 1964, 78 Stat. 28; Pub. L. 90-364, title I, §103(c), (d)(2), (e)(1), June 28, 1968, 82 Stat. 262, 264; Pub. L. 93-625, §7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XIX, §1906(b)(3)(A)-(C)(i), (13)(A), Oct. 4, 1976, 90 Stat. 1833, 1834; Pub. L. 95-600, title III, §301(b)(20)(B), Nov. 6, 1978, 92 Stat. 2824; Pub. L. 96-499, title XI, §1111(a), (b), Dec. 5, 1980, 94 Stat. 2681, 2682; Pub. L. 97-34, title VI, §601(a)(6)(B), title VII, §731(a), (b), Aug. 13, 1981, 95 Stat. 336, 346, 347; Pub. L. 97-248, title II, §234(a), (c), (d), Sept. 3, 1982, 96 Stat. 503, 504; Pub. L. 97-448, title II, §201(j)(4), Jan. 12, 1983, 96 Stat. 2396; Pub. L. 99-499, title V, §516(b)(4)(D), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99-514, title VII, §701(d)(3), title XV, §1511(c)(15), Oct. 22, 1986, 100 Stat. 2342, 2745; Pub. L. 100-203, title X, §10301(a), Dec. 22, 1987, 101 Stat. 1330-424; Pub. L. 100-418, title I, §1941(b)(6)(B), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100-647, title II, §2004(r), title V, §5001(a), Nov. 10, 1988, 102 Stat. 3609, 3660; Pub. L. 101-239, title VII, §§7209(a), 7822(a), Dec. 19, 1989, 103 Stat. 2338, 2424; Pub. L. 101-508, title XI, §11704(a)(28), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 102-227, title II, §201(a), (b), Dec. 11, 1991, 105 Stat. 1689; Pub. L. 102-244, §3(a), Feb. 7, 1992, 106 Stat. 4; Pub. L. 102-318, title V, §512(a), (b), July 3, 1992, 106 Stat. 300; Pub. L. 103-66, title XIII, §13225(a), (b), Aug. 10, 1993, 107 Stat. 486; Pub. L. 103-465, title VII, §711(a), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 104-188, title I, §1703(h), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-34, title XIV, §1461(a), Aug. 5, 1997, 111 Stat. 1057.)

AMENDMENTS

1997—Subsec. (g)(3). Pub. L. 105-34 inserted at end “In the case of a private foundation, subsection (c)(2) shall be applied by substituting ‘May 15’ for ‘April 15’.”

1996—Subsec. (g)(3). Pub. L. 104-188, §1703(h), in closing provisions, substituted “, subsection (e)(2)(A) shall

be applied by substituting ‘2 months’ for ‘3 months’ in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.” for “, and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A) shall be applied by substituting ‘2 months’ for ‘3 months’ and in clause (i)(I), by substituting ‘4 months’ for ‘5 months’ in clause (i)(II), by substituting ‘7 months’ for ‘8 months’ in clause (i)(III), and by substituting ‘10 months’ for ‘11 months’ in clause (i)(IV).”

1994—Subsec. (e)(4). Pub. L. 103-465 added par. (4).

1993—Subsec. (d)(1)(B)(i). Pub. L. 103-66, §13225(a)(1), substituted “100 percent” for “91 percent” in two places.

Subsec. (d)(2). Pub. L. 103-66, §13225(a)(2)(A)(ii), substituted “100 percent” for “91 percent” in heading.

Subsec. (d)(3). Pub. L. 103-66, §13225(a)(2)(A)(i), struck out heading and text of par. (3). Text read as follows: “In the case of any taxable year beginning after June 30, 1992, and before 1997—

“(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting ‘97 percent’ for ‘91 percent’ each place it appears, and

“(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting ‘24.25’, ‘48.50’, ‘72.75’, and ‘97’ for ‘22.75’, ‘45.50’, ‘68.25’, and ‘91.00’, respectively.”

Subsec. (e)(2)(A)(i)(II). Pub. L. 103-66, §13225(b)(1)(A), struck out “or for the first 5 months” after “3 months”.

Subsec. (e)(2)(A)(i)(III). Pub. L. 103-66, §13225(b)(1)(B), struck out “or for the first 8 months” after “6 months”.

Subsec. (e)(2)(A)(i)(IV). Pub. L. 103-66, §13225(b)(1)(C), struck out “or for the first 11 months” after “9 months”.

Subsec. (e)(2)(B)(ii). Pub. L. 103-66, §13225(a)(2)(B), in table, substituted applicable percentages of 25, 50, 75, and 100 for 22.75, 45.50, 68.25, and 91.00, respectively, in 1st, 2nd, 3rd, and 4th installments.

Subsec. (e)(2)(C). Pub. L. 103-66, §13225(b)(2), added subpar. (C).

Subsec. (e)(3)(A)(i). Pub. L. 103-66, §13225(a)(2)(C), substituted “100 percent” for “91 percent”.

Subsec. (g)(3). Pub. L. 103-66, §13225(b)(3), substituted “and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)” for “and subsection (e)(2)(A)” in last sentence.

1992—Subsec. (d)(1)(B)(i). Pub. L. 102-318, §512(a)(1), substituted “91 percent” for “90 percent” in two places.

Subsec. (d)(2). Pub. L. 102-318, §512(a)(2), substituted “91 percent” for “90 percent” in heading.

Subsec. (d)(3). Pub. L. 102-318, §512(a)(3), added par. (3) and struck out former par. (3) which related to temporary increase in amount of installment method based on current tax year for taxable years beginning after 1991 and before 1997.

Subsec. (d)(3)(A). Pub. L. 102-244, amended table generally, substituting a single entry “1993 through 1996 95” for former arrangement under which years after 1992 were covered by two table entries: “1993 or 1994 94” and “1995 or 1996 95”.

Subsec. (e)(2)(B)(ii). Pub. L. 102-318, §512(b)(1), in table, substituted applicable percentages of 22.75, 45.50, 68.25, and 91.00 for 22.5, 45, 67.5, and 90, respectively, in 1st, 2nd, 3rd and 4th installments.

Subsec. (e)(3)(A)(i). Pub. L. 102-318, §512(b)(2), substituted “91 percent” for “90 percent”.

1991—Subsec. (d)(3). Pub. L. 102-227, §201(a), added par. (3).

Subsec. (e)(1). Pub. L. 102-227, §201(b), substituted “paragraphs (2) and (3) of subsection (d)” for “subsection (d)(2)”.

1990—Subsec. (g)(3). Pub. L. 101-508 inserted a period at end of last sentence.

1989—Subsec. (e)(1). Pub. L. 101-239, §7822(a), substituted “under subsection (d)(1)” for “under section (d)(1)”.

Subsec. (g)(4). Pub. L. 101-239, §7209(a), added par. (4).

1988—Subsec. (e)(1). Pub. L. 100-647, §5001(a), struck out at end “A reduction shall be treated as recaptured for purposes of subparagraph (B) if 90 percent of the reduction is recaptured.”

Subsec. (g)(1)(B). Pub. L. 100-418 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the sum of—

“(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

“(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).”

Subsec. (g)(3). Pub. L. 100-647, §2004(r), inserted last sentence, and struck out former last sentence which read as follows: “In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting ‘5th month’ for ‘3rd month.’”

1987—Pub. L. 100-203 amended section generally, revising and restating as subsecs. (a) to (j) provisions of former subsecs. (a) to (i).

1986—Subsec. (a)(1). Pub. L. 99-514, §1511(c)(15), substituted “the underpayment rate established under section 6621” for “the rate established under section 6621”.

Subsec. (f)(1). Pub. L. 99-514, §701(d)(3), amended par. (1) generally, restating existing provisions in subpar. (A) and adding subpar. (B).

Pub. L. 99-499 amended subsec. (f)(1), as amended by the Tax Reform Act of 1986 (Pub. L. 99-514), by striking out “plus” at end of subpar. (A), substituting “plus” for “over” at end of subpar. (B), and adding subpar. (C).

1983—Subsec. (f)(2)(B). Pub. L. 97-448 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 as an overpayment of the tax imposed by section 4986”. Notwithstanding directory language that amendment be made to subsec. (e)(2)(B), the amendment was executed to subsec. (f)(2)(B) to reflect the probable intent of Congress, the intervening redesignation of subsec. (e) as (f) by Pub. L. 97-248, and the retrospective effect of the amendment as provided by section 203(a), (b) of Pub. L. 97-448, set out as an Effective Date of 1983 Amendment note under section 4988 of this title.

1982—Subsec. (a). Pub. L. 97-248, §234(c), in heading substituted “Addition to tax” for “Addition to the tax”, in provisions preceding par. (1) inserted reference to subsec. (e) as an exception and struck out “estimated” before “tax”, designated existing provisions as par. (1), and in par. (1) as so designated struck out parenthetical reference to subsecs. (b) and (c) for determination of the amount of the underpayment and the period of the underpayment, respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 97-248, §234(a)(1), substituted “90” for “80” wherever appearing.

Subsec. (d)(3)(A). Pub. L. 97-248, §234(a)(2), substituted “90” for “80”.

Subsec. (e). Pub. L. 97-248, §234(d)(1), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97-248, §234(d), redesignated former subsec. (e) as (f) and substituted references to subsecs. (e) and (i) for references to subsec. (h). Former subsec. (f) redesignated (g).

Subsecs. (g) to (i). Pub. L. 97-248, §234(d)(1), redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

1981—Subsec. (e)(2). Pub. L. 97-34, §601(a)(6)(B), inserted “the sum of—”, designated existing provisions as subpar. (A), inserted at end of subpar. (A) “, plus”, and added subpar. (B).

Subsec. (h). Pub. L. 97-34, §731(a), (b), substituted in heading “minimum percentage” for “at least 60 percent” and provisions of par. (1) respecting minimum percentage, for provisions respecting in the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of the tax shown on the return for the taxable year, or if no return was filed, the tax for such year.

1980—Subsec. (e). Pub. L. 96-499, §1111(b), substituted “subsections (b), (d), and (h)” for “subsections (b) and (d)”.

Subsec. (h). Pub. L. 96-499, §1111(a), added subsec. (h).

1978—Subsec. (e). Pub. L. 95-600 struck out provisions relating to the corporation’s temporary estimated tax exemption.

1976—Subsec. (e)(1)(B). Pub. L. 94-455, §1906(b)(3)(A), struck out in cl. (ii) “after December 31, 1967, and” after “taxable year beginning” and struck out cl. (iii) which related to the case of a taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1972, the amount of the corporation’s transitional exemption for such year.

Subsec. (e)(2)(B). Pub. L. 94-455, §1906(b)(3)(B), substituted “clause (ii)” for “clauses (ii) and (iii)”.

Subsec. (e)(3), (4). Pub. L. 94-455, §1906(b)(3)(C)(i), redesignated par. (4) as (3). Former par. (3), which related to the computation of a corporation’s transitional exemption, was struck out.

Subsec. (f). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1975—Subsecs. (a), (g)(1). Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

1968—Subsec. (b)(1). Pub. L. 90-364, §103(c)(1), substituted “80 percent” for “70 percent”.

Subsec. (d)(1). Pub. L. 90-364, §103(e)(1), struck out “reduced by \$100,000” after “The tax shown on the return of the corporation for the preceding taxable year”.

Subsec. (d)(3)(A). Pub. L. 90-364, §103(c)(1), substituted “80 percent” for “70 percent”.

Subsec. (e). Pub. L. 90-364, §103(c)(2), designated existing provisions as par. (1) under a heading “In general”, in such redesignated par. (1) substituted “For purposes of subsections (b) and (d)” for “For purposes of subsections (b), (d)(2), and (d)(3)” in introductory text, redesignated as subpar. (A) former par. (1) and as subpar. (B) former par. (2), struck out reference to \$100,000 as one factor in the sum required for redesignated subpar. (B) and added cls. (ii) and (iii), and added pars. (2), (3), and (4) under headings “Temporary estimated tax exemption”, “Transitional exemption”, and “Special rule for subsection (d)(1) and (2)” respectively.

Subsec. (g). Pub. L. 90-364, §103(d)(2), added subsec. (g).

1964—Subsec. (c)(2). Pub. L. 88-272, §122(c)(1), substituted “any installment date” and “such installment date” for “the 15th day of the 12th month”.

Subsec. (d)(3). Pub. L. 88-272, §122(c)(2), redesignated cls. (A)(i) and (ii) as (A)(iii) and (iv), respectively, added cls. (A)(i) and (ii), and substituted “(3, 5, 6, 8, 9)” for “(6 or 8, or 9)” in subpar. (B)(ii).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1461(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 applicable for purposes of determining underpayments of estimated tax for taxable years beginning after Dec. 31, 1994, see section 711(c) of Pub. L. 103-465, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13225(c) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this sec-

tion] shall apply to taxable years beginning after December 31, 1993.”

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 512(c) of Pub. L. 102-318 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after June 30, 1992.”

Section 3(b) of Pub. L. 102-244 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1992.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 201(c) of Pub. L. 102-227 provided that: “The amendments made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1991.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7209(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1989.”

Amendment by section 7822(a) of Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 2004(r) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Section 5001(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply to installments required to be made after December 31, 1988.”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100-203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 701(d)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by section 1511(c)(15) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96-223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97-448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 234(e) of Pub. L. 97-248 provided that: “The amendments made by this section [amending this sec-

tion and sections 832, 6081, 6152, and 6164 of this title] shall apply to taxable years beginning after December 31, 1982.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 601(a)(6)(B) of Pub. L. 97-34 effective Jan. 1, 1980, see section 601(c)(2) of Pub. L. 97-34, set out as a note under section 6654 of this title.

Section 731(c) of Pub. L. 97-34 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 1111(c) of Pub. L. 96-499 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1980.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(b)(3)(A)-(C)(i) of Pub. L. 94-455 effective with respect to taxable years after Dec. 31, 1976, see section 1906(d)(2) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90-364, see section 103(f) of Pub. L. 90-364, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

No addition to tax to be made under this section with respect to any underpayment of an installment required to be paid on or before the 30th day after July 22, 1998, to the extent such underpayment was created or increased by any provision of Pub. L. 105-206, see section 1(c) of Pub. L. 105-206, set out as a note under section 6654 of this title.

No addition to tax to be made under this section for any period before Jan. 1, 1998, for any payment the due date of which is before Jan. 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of Pub. L. 105-34, see section 1(d) of Pub. L. 105-34, set out as a note under section 6654 of this title.

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

No addition to tax to be made under this section with respect to any underpayment of an installment required to be paid before Aug. 20, 1996, to the extent such underpayment was created or increased by any provision of title I (§§1101-1954) of Pub. L. 104-188, see section

1102 of Pub. L. 104-188, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

No addition to tax to be made under this section for any period before Apr. 16, 1994 (Mar. 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of chapter 1 (§§13001-13444) of title XIII of Pub. L. 103-66, see section 13001(d) of Pub. L. 103-66, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of this title, see section 12011(c)(2) of Pub. L. 101-508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1990 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1990

Section 11307 of Pub. L. 101-508 provided that: "No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part [part I (§§11301-11307) of subtitle C of title XI of Pub. L. 101-508, see Tables for classification]."

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(d)(3) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Mar. 16, 1989, with respect to any underpayment to the extent such underpayment was created or increased by any provision of title I (§§1001 to 1019) or II (§§2001 to 2006) of Pub. L. 100-647, see section 1019(b) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 1 of this title.

CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987

Section 10303(b)(2) of Pub. L. 100-203 provided that:
 "(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

"(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

"(C) LARGE CORPORATION.—For purposes of this subsection, the term 'large corporation' has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act [Dec. 22, 1987])."

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

No addition to tax to be made under this section for any period before Mar. 16, 1987, with respect to any underpayment, to the extent such underpayment was created or increased by any provision of Pub. L. 99-514, see section 1543 of Pub. L. 99-514, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES

Section 1879(a) of Pub. L. 99-514 provided that: "No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 [now 1986] (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A]."

UNDERPAYMENTS OF ESTIMATED TAX FOR 1984

Pub. L. 98-369, div. A, title II, subtitle A, §218, July 18, 1984, 98 Stat. 766, which provided that no addition to the tax shall be made under section 6655 of this title with respect to any underpayment of an installment required to be paid before July 18, 1984, to the extent such underpayment was created or increased by any provision of this subtitle, and such underpayment was paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after July 18, 1984, was repealed by Pub. L. 99-514, title XVIII, §1824, Oct. 22, 1986, 100 Stat. 2846.

WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

Section 803(g) of Pub. L. 94-455, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If—

"(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as it existed before the date of enactment of this Act [Oct. 4, 1976]) apply for such taxable year, and

"(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flow-through of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate, then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year."

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration, or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91-172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimated tax before the first installment date, this section, and sections 6015, 6154,

and 6654 of this title shall be applied without regard to amendments made by Pub. L. 91-172, see section 946(b) of Pub. L. 91-172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of "installment date", see Pub. L. 93-53, §5(c), Aug. 7, 1969, 83 Stat. 95.

ESTIMATED TAX OF LIFE INSURANCE COMPANIES FOR 1958

Pub. L. 86-69, June 25, 1959, §3(h), 73 Stat. 140, provided that in the case of a taxpayer subject to tax under section 811 of this title, as in effect before June 25, 1959, no additional tax was to be payable under this section with respect to estimated tax for a taxable year beginning in 1958.

CROSS REFERENCES

Willful failure to pay estimated income tax, crime respecting, see section 7203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 167, 338, 460, 585, 809, 847, 1446, 6201, 6425, 6601, 6622, 6651, 6658, 6665, 6751, 7203, 7704 of this title.

§ 6656. Failure to make deposit of taxes

(a) Underpayment of deposits

In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

(b) Definitions

For purposes of subsection (a)—

(1) Applicable percentage

(A) In general

Except as provided in subparagraph (B), the term "applicable percentage" means—

- (i) 2 percent if the failure is for not more than 5 days,
- (ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and
- (iii) 10 percent if the failure is for more than 15 days.

(B) Special rule

In any case where the tax is not deposited on or before the earlier of—

- (i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or
- (ii) the day on which notice and demand for immediate payment is given under sec-

tion 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

(2) Underpayment

The term "underpayment" means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

(c) Exception for first-time depositors of employment taxes

The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

- (1) such person meets the requirements referred to in section 7430(c)(4)(A)(ii),
- (2) such failure—

(A) occurs during the first quarter that such person was required to deposit any employment tax; or

(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and

- (3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term "employment taxes" means the taxes imposed by subtitle C.

(d) Authority to abate penalty where deposit sent to Secretary

The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(e) Designation of periods to which deposits apply

(1) In general

A person may, with respect to any deposit of tax to be reported on such person's return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.

(2) Time for making designation

A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 91-172, title IX, §943(b), Dec. 30, 1969, 83 Stat. 728; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title VII, §724(a), (b)(1), (3), Aug. 13, 1981, 95 Stat. 344, 345; Pub. L. 99-509, title VIII, §8001(a), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 101-239, title VII, §7742(a), Dec. 19, 1989, 103 Stat. 2405; Pub. L. 104-168, title III, §304(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1458, 1464; Pub. L. 105-206, title III, §3304(a)-(c), July 22, 1998, 112 Stat. 742.)

AMENDMENT OF SUBSECTION (e)(1)

Pub. L. 105-206, title III, §3304(c), (d), July 22, 1998, 112 Stat. 742, provided that, applicable

to deposits required to be made after Dec. 31, 2001, subsection (e)(1) of this section is amended to read as follows:

(1) *In general*

A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-206, §3304(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and”.

Subsec. (e). Pub. L. 105-206, §3304(a), added subsec. (e).
1996—Subsec. (c). Pub. L. 104-168, §304(a), added subsec. (c).

Subsec. (c)(1). Pub. L. 104-168, §701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

Subsec. (d). Pub. L. 104-168, §304(a), added subsec. (d).

1989—Pub. L. 101-239 substituted “taxes” for “taxes or overstatement of deposits” as section catchline and amended text generally, revising substance and structure.

1986—Subsec. (a). Pub. L. 99-509 substituted “10 percent” for “5 percent”.

1981—Pub. L. 97-34, §724(b)(1), inserted “or overstatement of deposits” after “taxes” in section catchline.

Subsec. (a). Pub. L. 97-34, §724(b)(3), substituted “Underpayment of deposits” for “Penalty” in heading.

Subsec. (b). Pub. L. 97-34, §724(a), substituted provisions relating to conditions for imposition of penalties for overstated deposit claims and definition of “overstated deposit claim”, for provisions relating to imposition of penalties after due date for return.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Subsec. (a). Pub. L. 91-172 substituted provisions imposing a penalty of five percent for the failure to deposit on the date prescribed any amount of tax imposed by this title, for provisions imposing a penalty of one percent of the amount of underpayment each month but not to exceed six percent in the aggregate.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3304(d), July 22, 1998, 112 Stat. 742, provided that:

“(1) **IN GENERAL.**—The amendments made by this section [amending this section] shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act [July 22, 1998].

“(2) **APPLICATION TO CURRENT LIABILITIES.**—The amendment made by subsection (c) [amending this section] shall apply to deposits required to be made after December 31, 2001.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 304(b) of Pub. L. 104-168 provided that: “The amendment made by subsection (a) [amending this section] shall apply to deposits required to be made after the date of the enactment of this Act [July 30, 1996].”

Amendment by section 701(c)(3) of Pub. L. 104-168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104-168, set out as a note under section 6404 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7742(c) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section] shall apply to deposits required to be made after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 8001(b) of Pub. L. 99-509 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 21, 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 724(c) of Pub. L. 97-34 provided that: “The amendments made by this section [amending this section and sections 5684 and 5761 of this title] shall apply to returns filed after the date of the enactment of this Act [Aug. 13, 1981].”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to deposits the time for making of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 5761 of this title.

§ 6657. **Bad checks**

If any check or money order in payment of any amount receivable under this title is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such check, upon notice and demand by the Secretary, in the same manner as tax, an amount equal to 2 percent of the amount of such check, except that if the amount of such check is less than \$750, the penalty under this section shall be \$15 or the amount of such check, whichever is the lesser. This section shall not apply if the person tendered such check in good faith and with reasonable cause to believe that it would be duly paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title V, §5071(a), Nov. 10, 1988, 102 Stat. 3681.)

AMENDMENTS

1988—Pub. L. 100-647 substituted “2” for “1”, “\$750” for “\$500”, and “\$15” for “\$5”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5071(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply to checks or money orders received after the date of the enactment of this Act [Nov. 10, 1988].”

§ 6658. **Coordination with title 11**

(a) **Certain failures to pay tax**

No addition to the tax shall be made under section 6651, 6654, or 6655 for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

(2) if—

(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

(B)(i) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

(ii) the date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) Exception for collected taxes

Subsection (a) shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States.

(Added Pub. L. 96-589, §6(e)(1), Dec. 24, 1980, 94 Stat. 3408.)

PRIOR PROVISIONS

A prior section 6658, act Aug. 16, 1954, ch. 736, 68A Stat. 826, authorized inclusion as part of the tax a 25 percent penalty in cases of violations or attempted violations of section 6851 of this title, prior to repeal by Pub. L. 96-167, §6(a), Dec. 29, 1979, 93 Stat. 1276.

EFFECTIVE DATE

Section effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

[§§ 6659 to 6661. Repealed. Pub. L. 101-239, title VII, §7721(c)(2), Dec. 19, 1989, 103 Stat. 2399]

Section 6659, added Pub. L. 97-34, title VII, §722(a)(1), Aug. 13, 1981, 95 Stat. 341; amended Pub. L. 97-448, title I, §107(a)(1), (2), Jan. 12, 1983, 96 Stat. 2391; Pub. L. 98-369, div. A, title I, §155(c)(1), title VII, §721(x)(4), July 18, 1984, 98 Stat. 693, 971, related to additions to tax in case of valuation overstatements for purposes of the income tax.

A prior section 6659 was renumbered section 6662 of this title.

Section 6659A, added Pub. L. 99-514, title XI, §1138(a), Oct. 22, 1986, 100 Stat. 2486, related to additions to tax in case of overstatements of pension liabilities.

Section 6660, added Pub. L. 98-369, div. A, title I, §155(c)(2)(A), July 18, 1984, 98 Stat. 694; amended Pub. L. 99-514, title XVIII, §§1811(d), 1899A(57), Oct. 22, 1986, 100 Stat. 2833, 2961, related to additions to tax in case of valuation understatements for purposes of estate or gift taxes.

A prior section 6660 was renumbered section 6662 of this title.

Section 6661, added Pub. L. 97-248, title III, §323(a), Sept. 3, 1982, 96 Stat. 613; amended Pub. L. 97-354, §5(a)(42), Oct. 19, 1982, 96 Stat. 1697; Pub. L. 98-369, div. A, title VII, §714(h)(3), July 18, 1984, 98 Stat. 962; Pub. L. 99-509, title VIII, §8002(a), (c), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99-514, title XV, §1504(a), Oct. 22, 1986, 100 Stat. 2743, related to substantial understatements of liability.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

PART II—ACCURACY-RELATED AND FRAUD PENALTIES

Sec.	
6662.	Imposition of accuracy-related penalty.
6663.	Imposition of fraud penalty.
6664.	Definitions and special rules.

AMENDMENTS

1989—Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395, added part heading and analysis of sections.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5761, 6013, 6034A, 6037, 6222, 6241, 6242, 6601, 6672, 7519 of this title.

§ 6662. Imposition of accuracy-related penalty

(a) Imposition of penalty

If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

(b) Portion of underpayment to which section applies

This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

- (1) Negligence or disregard of rules or regulations.
- (2) Any substantial understatement of income tax.
- (3) Any substantial valuation misstatement under chapter 1.
- (4) Any substantial overstatement of pension liabilities.
- (5) Any substantial estate or gift tax valuation understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663.

(c) Negligence

For purposes of this section, the term “negligence” includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term “disregard” includes any careless, reckless, or intentional disregard.

(d) Substantial understatement of income tax

(1) Substantial understatement

(A) In general

For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

- (i) 10 percent of the tax required to be shown on the return for the taxable year, or
- (ii) \$5,000.

(B) Special rule for corporations

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting “\$10,000” for “\$5,000”.

(2) Understatement

(A) In general

For purposes of paragraph (1), the term “understatement” means the excess of—

- (i) the amount of the tax required to be shown on the return for the taxable year, over
- (ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

(B) Reduction for understatement due to position of taxpayer or disclosed item

The amount of the understatement under subparagraph (A) shall be reduced by that

portion of the understatement which is attributable to—

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) any item if—

(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.

For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.

(C) Special rules in cases involving tax shelters

(i) In general

In the case of any item of a taxpayer other than a corporation which is attributable to a tax shelter—

(I) subparagraph (B)(ii) shall not apply, and

(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

(ii) Subparagraph (B) not to apply to corporations

Subparagraph (B) shall not apply to any item of a corporation which is attributable to a tax shelter.

(iii) Tax shelter

For purposes of this subparagraph, the term "tax shelter" means—

(I) a partnership or other entity,

(II) any investment plan or arrangement, or

(III) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

(D) Secretarial list

The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

(i) for which the Secretary believes there is not substantial authority, and

(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.

(e) Substantial valuation misstatement under chapter 1

(1) In general

For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

(B)(i) the price for any property or services (or for the use of property) claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of \$5,000,000 or 10 percent of the taxpayer's gross receipts.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

(3) Net section 482 transfer price adjustment

For purposes of this subsection—

(A) In general

The term "net section 482 transfer price adjustment" means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the price for any property or services (or for the use of property).

(B) Certain adjustments excluded in determining threshold

For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

(ii) Any portion of the net increase in taxable income referred to in subpara-

graph (A) which is attributable to a re-determination of price where such price was not determined in accordance with such a specific pricing method if—

(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(C) Special rule

If the regular tax (as defined in section 55(c)) imposed by chapter 1 on the taxpayer is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of this paragraph.

(D) Coordination with reasonable cause exception

For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.

(f) Substantial overstatement of pension liabilities

(1) In general

For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds \$1,000.

(g) Substantial estate or gift tax valuation understatement

(1) In general

For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 50 percent or less of the amount determined to be the correct amount of such valuation.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds \$5,000.

(h) Increase in penalty in case of gross valuation misstatements

(1) In general

To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting “40 percent” for “20 percent”.

(2) Gross valuation misstatements

The term “gross valuation misstatements” means—

(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

(i) “400 percent” for “200 percent” each place it appears,

(ii) “25 percent” for “50 percent”, and

(iii) in paragraph (1)(B)(ii)—

(I) “\$20,000,000” for “\$5,000,000”, and

(II) “20 percent” for “10 percent”.

(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting “400 percent” for “200 percent”, and

(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting “25 percent” for “50 percent”.

(Added Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395; amended Pub. L. 101-508, title XI, §11312(a), (b), Nov. 5, 1990, 104 Stat. 1388-454, 1388-455; Pub. L. 103-66, title XIII, §§13236(a)-(d), 13251(a), Aug. 10, 1993, 107 Stat. 505, 506, 531; Pub. L. 103-465, title VII, §744(a), (b), Dec. 8, 1994, 108 Stat. 5011; Pub. L. 105-34, title X, §1028(c), Aug. 5, 1997, 111 Stat. 928.)

PRIOR PROVISIONS

A prior section 6662, acts Aug. 16, 1954, ch. 736, 68A Stat. 827, §6659; May 14, 1960, Pub. L. 86-470, §1, 74 Stat. 132; Dec. 30, 1969, Pub. L. 91-172, title I, §101(j)(51), 83 Stat. 531; Sept. 2, 1974, Pub. L. 93-406, title II, §1016(a)(19), 88 Stat. 931; renumbered §6660, Aug. 13, 1981, Pub. L. 97-34, title VII, §722(a)(1), 95 Stat. 341; renumbered §6662, Sept. 3, 1982, Pub. L. 97-248, title III, §323(a), 96 Stat. 613, directed that additions be treated as tax and set procedure for assessing certain additions to tax, prior to repeal by Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395, applicable to returns the due date for which (determined without re-

gard to extensions) is after Dec. 31, 1989. See section 6665 of this title.

AMENDMENTS

1997—Subsec. (d)(2)(B). Pub. L. 105-34, § 1028(c)(1), inserted concluding provisions.

Subsec. (d)(2)(C)(iii). Pub. L. 105-34, § 1028(c)(2), substituted “a significant purpose” for “the principal purpose” in concluding provisions.

1994—Subsec. (d)(2)(C)(i). Pub. L. 103-465, § 744(b)(1), substituted “In the case of any item of a taxpayer other than a corporation which is” for “In the case of any item” in introductory provisions.

Subsec. (d)(2)(C)(ii). Pub. L. 103-465, § 744(a), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (d)(2)(C)(iii). Pub. L. 103-465, § 744(a), (b)(2), redesignated cl. (ii) as (iii) and substituted “this subparagraph” for “clause (i)” in introductory provisions.

1993—Subsec. (d)(2)(B)(i). Pub. L. 103-66, § 13251(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “any item with respect to which the relevant facts affecting the item’s tax treatment are adequately disclosed in the return or in a statement attached to the return.”

Subsec. (e)(1)(B)(ii). Pub. L. 103-66, § 13236(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the net section 482 transfer price adjustment for the taxable year exceeds \$10,000,000.”

Subsec. (e)(3)(B). Pub. L. 103-66, § 13236(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: “For purposes of determining whether the \$10,000,000 threshold requirement of paragraph (1)(B)(ii) is met, there shall be excluded—

“(i) any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if it is shown that there was a reasonable cause for the taxpayer’s determination of such price and that the taxpayer acted in good faith with respect to such price, and

“(ii) any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any of such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.”

Subsec. (e)(3)(D). Pub. L. 103-66, § 13236(c), added subpar. (D).

Subsec. (h)(2)(A)(iii). Pub. L. 103-66, § 13236(d), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “\$20,000,000” for “\$10,000,000”.

1990—Subsec. (b)(3). Pub. L. 101-508, § 11312(b)(1), amended par. (3) generally, substituting “misstatement” for “overstatement”.

Subsec. (e). Pub. L. 101-508, § 11312(a), substituted “misstatement” for “overstatement” in heading and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

“(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds \$5,000 (\$10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).”

Subsec. (h)(2)(A). Pub. L. 101-508, § 11312(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting ‘400 percent’ for ‘200 percent’.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to items with respect to transactions entered into after Aug. 5, 1997, see section 1028(e)(2) of Pub. L. 105-34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 744(c) of Pub. L. 103-465 provided that: “The amendments made by this section [amending this section] shall apply to items related to transactions occurring after the date of the enactment of this Act [Dec. 8, 1994].”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13236(e) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.”

Section 13251(b) of Pub. L. 103-66 provided that: “The amendment made by this section [amending this section] shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11312(c) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE

Part applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 461, 1274, 6015, 6694, 7525 of this title.

§ 6663. Imposition of fraud penalty

(a) Imposition of penalty

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

(b) Determination of portion attributable to fraud

If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

(c) Special rule for joint returns

In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6662 of this title.

§ 6664. Definitions and special rules

(a) Underpayment

For purposes of this part, the term “underpayment” means the amount by which any tax imposed by this title exceeds the excess of—

- (1) the sum of—
 - (A) the amount shown as the tax by the taxpayer on his return, plus
 - (B) amounts not so shown previously assessed (or collected without assessment), over
- (2) the amount of rebates made.

For purposes of paragraph (2), the term “rebate” means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made.

(b) Penalties applicable only where return filed

The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

(c) Reasonable cause exception

(1) In general

No penalty shall be imposed under this part with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(2) Special rule for certain valuation overstatements

In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply unless—

(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

(3) Definitions

For purposes of this subsection—

(A) Charitable deduction property

The term “charitable deduction property” means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(B) Qualified appraiser

The term “qualified appraiser” means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

(C) Qualified appraisal

The term “qualified appraisal” means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6662 of this title.

PART III—APPLICABLE RULES

Sec. 6665. Applicable rules.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398, added part heading and analysis.

§ 6665. Applicable rules

(a) Additions treated as tax

Except as otherwise provided in this title—

(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

(2) any reference in this title to “tax” imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

(b) Procedure for assessing certain additions to tax

For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year.

(Added Pub. L. 101-239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2399.)

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5134, 5684, 5761 of this title.

Subchapter B—Assessable Penalties

- Part I. General provisions.
- II. Failure to comply with certain information reporting requirements.

AMENDMENTS

1989—Pub. L. 101-239, title VII, § 7711(b)(5), Dec. 19, 1989, 103 Stat. 2393, substituted “Failure to comply with certain information reporting requirements” for “Failure to file certain information returns or statements” in item for part II.

PART I—GENERAL PROVISIONS

- Sec. 6671. Rules for application of assessable penalties.
- 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
- 6673. Sanctions and costs awarded by courts.
- 6674. Fraudulent statement or failure to furnish statement to employee.
- 6675. Excessive claims with respect to the use of certain fuels.

Sec.
 [6676. Repealed.]
 6677. Failure to file information with respect to certain foreign trusts.
 [6678. Repealed.]
 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.
 [6680, 6681. Repealed.]
 6682. False information with respect to withholding.
 6683. Failure of foreign corporation to file return of personal holding company tax.
 6684. Repeated liability for tax under chapter 42.¹
 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations.
 6686. Failure to file returns or supply information by DISC or FSC.
 [6687. Repealed.]
 6688. Assessable penalties with respect to information required to be furnished under section 7654.
 6689. Failure to file notice of redetermination of foreign tax.
 6690. Fraudulent statement or failure to furnish statement to plan participant.
 [6691. Reserved.]
 6692. Failure to file actuarial report.
 6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions.
 6694. Understatement of taxpayer's liability by income tax return preparer.
 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.
 6696. Rules applicable with respect to sections 6694 and 6695.
 6697. Assessable penalties with respect to liability for tax of regulated investment companies.
 6698. Failure to file partnership return.
 [6698A, 6699. Repealed.]
 6700. Promoting abusive tax shelters, etc.
 6701. Penalties for aiding and abetting understatement of tax liability.
 6702. Frivolous income tax return.
 6703. Rules applicable to penalties under sections 6700, 6701, and 6702.
 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d).
 6705. Failure by broker to provide notice to payors.
 6706. Original issue discount information requirements.
 6707. Failure to furnish information regarding tax shelters.
 6708. Failure to maintain lists of investors in potentially abusive tax shelters.
 6709. Penalties with respect to mortgage credit certificates.
 6710. Failure to disclose that contributions are nondeductible.
 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government.
 6712. Failure to disclose treaty-based return positions.
 6713. Disclosure or use of information by preparers of returns.
 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions.
 6715. Dyed fuel sold for use or used in taxable use, etc.

AMENDMENTS

1997—Pub. L. 105-34, title II, §211(e)(2)(D), Aug. 5, 1997, 111 Stat. 812, substituted "certain tax-favored" for "individual retirement" in item 6693.

¹ So in original. Does not conform to section catchline.

1996—Pub. L. 104-188, title I, §§1703(n)(9)(B), 1901(c)(3), Aug. 20, 1996, 110 Stat. 1877, 1908, substituted "information" for "information returns" in item 6677 and redesignated item 6714, relating to dyed fuel sold for use or used in taxable use, etc., as item 6715.

1993—Pub. L. 103-66, title XIII, §13242(b)(2), Aug. 10, 1993, 107 Stat. 521, added item 6714 "Dyed fuel sold for use or used in taxable use, etc."

Pub. L. 103-66, title XIII, §13173(c)(2), Aug. 10, 1993, 107 Stat. 457, added item 6714 "Failure to meet disclosure requirements applicable to quid pro quo contributions".

1989—Pub. L. 101-239, title VII, §§7711(b)(4), 7731(c), 7816(v)(2), Dec. 19, 1989, 103 Stat. 2393, 2401, 2423, substituted "Sanctions and costs awarded by courts" for "Damages assessable for instituting proceedings before the Tax Court primarily for delay, etc." in item 6673, struck out items 6676 "Failure to supply identifying numbers" and 6687 "Failure to supply information with respect to place of residence", and redesignated item 6712 "Disclosure or use of information by preparers of returns" as 6713.

1988—Pub. L. 100-647, title I, §1011(b)(4)(B)(ii), Nov. 10, 1988, 102 Stat. 3457, substituted "penalties relating to" for "overstatement of" in item 6693.

Pub. L. 100-647, title VI, §6242(c), Nov. 10, 1988, 102 Stat. 3749, added item 6712 "Disclosure or use of information by preparers of returns".

Pub. L. 100-647, title I, §1012(aa)(5)(C)(ii), Nov. 10, 1988, 102 Stat. 3533, added item 6712 "Failure to disclose treaty-based return positions".

1987—Pub. L. 100-203, title X, §§10701(c)(2), 10704(b)(2), 10705(b), Dec. 22, 1987, 101 Stat. 1330-459, 1330-463, 1330-464, substituted "Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations" for "Assessable penalties with respect to private foundation annual returns" in item 6685 and added items 6710 and 6711.

1986—Pub. L. 99-514, title VI, §667(b)(2), title XI, §§1102(d)(2)(C), 1171(b)(7)(B), title XV, §1501(d)(3), (4), title XVIII, §§1848(e)(3), 1862(d)(3), Oct. 22, 1986, 100 Stat. 2306, 2416, 2513, 2740, 2858, 2884, inserted analysis of parts comprising subchapter B, inserted heading for Part I, struck out item 6678 "Failure to furnish certain statements", inserted "; overstatement of designated nondeductible contributions" in item 6693, substituted "regulated investment companies" for "qualified investment entities" in item 6697, struck out item 6699 "Assessable penalties relating to tax credit employee stock ownership plan", substituted "section 6047(d)" for "section 6047(e)" in item 6704, and redesignated item 6708, relating to penalties with respect to mortgage credit certificates, as 6709.

1984—Pub. L. 98-369, div. A, title I, §§41(c)(2), 141(c)(2), title VIII, §801(d)(15)(B), July 18, 1984, 98 Stat. 556, 680, 997, added items 6686, 6706, and 6707.

Pub. L. 98-369, div. A, title VI, §612(d)(2), July 18, 1984, 98 Stat. 912, added item 6708 "Penalties with respect to mortgage credit certificates".

Pub. L. 98-369, div. A, title I, §142(c)(2), July 18, 1984, 98 Stat. 682, added item 6708 "Failure to maintain lists of investors in potentially abusive tax shelters".

1983—Pub. L. 98-67, title I, §104(c)(2), Aug. 5, 1983, 97 Stat. 379, added item 6705.

Pub. L. 97-424, title V, §515(b)(11)(D), Jan. 6, 1983, 96 Stat. 2182, struck out "or lubricating oil" after "certain fuels" in item 6675.

1982—Pub. L. 97-248, title II, §292(d)(2)(B), title III, §§320(b), 322(b), 324(b), 326(b), 334(c)(2), 340(b)(3), title IV, §405(c)(3), Sept. 3, 1982, 96 Stat. 574, 612, 613, 616, 617, 627, 634, 670, as amended by Pub. L. 97-448, title III, §306(c)(2)(B), Jan. 12, 1983, 96 Stat. 2406, substituted "primarily for delay, etc." for "merely for delay." in item 6673, substituted "returns, etc., with respect to foreign corporations or foreign partnerships" for "returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock" in item 6679, and added items 6700 to 6704.

1981—Pub. L. 97-34, title VII, §721(c), Aug. 13, 1981, 95 Stat. 341, struck out "allowances based on itemized deductions" after "withholding" in item 6682.

1980—Pub. L. 96-603, §§1(e)(3), 2(d)(2), Dec. 28, 1980, 94 Stat. 3505, 3510, substituted “returns” for “reports” in item 6685 and added item 6689.

Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299, repealed Pub. L. 94-455, § 2005(e)(4), and Pub. L. 95-600, § 702(r)(1)(C), and the amendments made thereby, which resulted in striking out item 6698A “Failure to file information with respect to carryover basis property”, which had been added as item 6694 in 1976 and redesignated as item 6698 in 1978. Pub. L. 96-222, §§107(a)(2)(E), 201, redesignated item 6698 as 6698A, effective as if included in Pub. L. 95-600.

Pub. L. 96-222, title I, §§101(a)(7)(L)(v)(X), 107(a)(2)(E), Apr. 1, 1980, 94 Stat. 201, 223, redesignated item 6698, relating to failure to file information with respect to carry-over basis property, as 6698A and substituted “tax credit employee stock ownership plan” for “ESOP” in item 6699.

1978—Pub. L. 95-600, title VII, § 701(r)(1)(C), Nov. 6, 1978, 92 Stat. 2938, which redesignated item 6694 “Failure to file information with respect to carryover basis property” as item 6698, was repealed by Pub. L. 96-223, § 401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 95-600, title I, § 141(c)(2), title II, § 211(b), title III, § 362(d)(9), Nov. 6, 1978, 92 Stat. 2794, 2818, 2852, substituted “qualified investment entities” for “real estate investment trusts” in item 6697, and added item 6698 “Failure to file partnership return” and item 6699 “Assessable penalties relating to ESOP”.

1976—Pub. L. 94-455, title XX, § 2005(e)(4), Oct. 4, 1976, 90 Stat. 1878, which added item 6694 “Failure to file information with respect to carryover basis property”, was repealed by Pub. L. 96-223, § 401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 94-455, title XII, § 1203(i)(3), title XVI, § 1601(b)(2), title XIX, § 1904(b)(10)(A)(vi)(II), (D)(ii), (E)(ii), Oct. 4, 1976, 90 Stat. 1694, 1746, 1817, struck out item 6680 “Failure to file interest equalization tax returns”, item 6681 “False equalization tax certificates” and item 6689 “Failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements” and added item 6694 “Understatement of taxpayer’s liability by income tax return preparer” and items 6695 to 6697.

1974—Pub. L. 93-406, title II, §§1016(b)(3), 1031(b)(2)(B), 1033(d), 2002(h)(4), Sept. 2, 1974, 88 Stat. 932, 946, 948, 971, substituted “6688” for “6687” as section number in item relating to assessable penalties with respect to information required to be furnished under section 7654, and added items 6690, 6692, and 6693.

1973—Pub. L. 93-17, § 3(d)(3)(B), Apr. 10, 1973, 87 Stat. 17, added item 6689.

1972—Pub. L. 92-606, § 1(f)(7), Oct. 31, 1972, 86 Stat. 1497, added item 6687 relating to assessable penalties with respect to information required to be furnished under section 7654.

Pub. L. 92-512, title I, § 144(b)(2), Oct. 20, 1972, 86 Stat. 936, added item 6687 relating to failure to supply information with respect to place of residence.

1970—Pub. L. 91-258, title II, § 207(d)(13), May 21, 1970, 84 Stat. 249, substituted “fuels” for “gasoline” in item 6675.

1969—Pub. L. 91-172, title I, § 101(j)(60), Dec. 30, 1969, 83 Stat. 532, added items 6684 and 6685.

1966—Pub. L. 89-809, title I, § 104(h)(4)(B), Nov. 13, 1966, 80 Stat. 1560, added item 6683.

Pub. L. 89-368, title I, § 101(e)(4)(B), Mar. 15, 1966, 80 Stat. 62, added item 6682.

1965—Pub. L. 89-44, title II, § 202(c)(3)(B), June 21, 1965, 79 Stat. 139, inserted “or lubricating oil” after “certain gasoline” in item 6675.

1964—Pub. L. 88-563, § 6(c)(1), Sept. 2, 1964, 78 Stat. 847, added items 6680 and 6681.

1962—Pub. L. 87-834, §§7(i)(3), 19(g)(2), 20(d)(3), Oct. 16, 1962, 76 Stat. 989, 1058, 1063, added items 6677 to 6679.

1961—Pub. L. 87-397, § 1(c)(2), Oct. 5, 1961, 75 Stat. 829, added item 6676.

1956—Act June 29, 1956, ch. 462, title II, § 208(e)(8), 70 Stat. 397, substituted “Excessive claims with respect to the use of certain gasoline” for “Excessive claims for gasoline used on farms” in item 6675.

Act Apr. 2, 1956, ch. 160, § 4(g), 70 Stat. 91, added item 6675.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6166 of this title.

§ 6671. Rules for application of assessable penalties

(a) Penalty assessed as tax

The penalties and liabilities provided by this subchapter shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this title to “tax” imposed by this title shall be deemed also to refer to the penalties and liabilities provided by this subchapter.

(b) Person defined

The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

CROSS REFERENCES

Failure to pay stamp tax, additions to tax for, see section 6653 of this title.

Notice and demand for tax, see section 6303 of this title.

Payment on notice and demand, see section 6155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 999, 6653 of this title.

§ 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax

(a) General rule

Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. No penalty shall be imposed under section 6653 or part II of subchapter A of chapter 68 for any offense to which this section is applicable.

(b) Preliminary notice requirement

(1) In general

No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as

determined under section 6212(b) or in person that the taxpayer shall be subject to an assessment of such penalty.

(2) Timing of notice

The mailing of the notice described in paragraph (1) (or, in the case of such a notice delivered in person, such delivery) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

(3) Statute of limitations

If a notice described in paragraph (1) with respect to any penalty is mailed or delivered in person before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

(A) the date 90 days after the date on which such notice was mailed or delivered in person, or

(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

(4) Exception for jeopardy

This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.

(c) Extension of period of collection where bond is filed

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

(B) files a claim for refund of the amount so paid, and

(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Suit must be brought to determine liability for penalty

If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims)¹ for the

determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

(3) Bond

The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

(4) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(5) Jeopardy collection

If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty.

(d) Right of contribution where more than 1 person liable for penalty

If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

(1) an action for collection of such penalty brought by the United States, or

(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty.

(e) Exception for voluntary board members of tax-exempt organizations

No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

(1) is solely serving in an honorary capacity,

(2) does not participate in the day-to-day or financial operations of the organization, and

(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 95-628, §9(a), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 101-239, title VII, §§7721(c)(9), 7737(a), Dec. 19, 1989, 103 Stat. 2400, 2404; Pub. L. 104-168, title IX, §§901(a), 903(a), 904(a), July 30, 1996, 110 Stat. 1465-1467; Pub. L. 105-206, title III, §3307(a), (b), July 22, 1998, 112 Stat. 744.)

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c)(2), and the United States Court of Customs and Patent Appeals

¹ See References in Text note below.

were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97-164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-206, § 3307(a), inserted “or in person” after “section 6212(b)”.

Subsec. (b)(2). Pub. L. 105-206, § 3307(b)(1), inserted “(or, in the case of such a notice delivered in person, such delivery)” after “paragraph (1)”.

Subsec. (b)(3). Pub. L. 105-206, § 3307(b)(2), inserted “or delivered in person” after “mailed” in introductory provisions and in subpar. (A).

1996—Subsecs. (b), (c). Pub. L. 104-168, § 901(a), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 104-168, § 903(a), added subsec. (d).

Subsec. (e). Pub. L. 104-168, § 904(a), added subsec. (e).

1989—Subsec. (a). Pub. L. 101-239, § 7721(c)(9), inserted “or part II of subchapter A of chapter 68” after “under section 6653”.

Subsec. (b)(1). Pub. L. 101-239, § 7737(a), inserted at end “Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

1978—Pub. L. 95-628 designated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3307(c), July 22, 1998, 112 Stat. 744, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 901(b) of Pub. L. 104-168 provided that: “The amendment made by subsection (a) [amending this section] shall apply to proposed assessments made after June 30, 1996.”

Section 903(b) of Pub. L. 104-168 provided that: “The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(9) of Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

Section 7737(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section and sections 6694 and 6703 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 9(c) of Pub. L. 95-628 provided that: “The amendments made by this section [amending this section and sections 7103 and 7421 of this title] shall apply with respect to penalties assessed more than 60 days after the date of the enactment of this Act [Nov. 10, 1978].”

PUBLIC INFORMATION TO ENSURE EMPLOYEE AWARENESS OF RESPONSIBILITIES AND LIABILITIES UNDER TAX DEPOSITORY SYSTEM

Section 904(b) of Pub. L. 104-168 provided that:

“(1) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate (hereafter in this subsection referred to as the ‘Secretary’) shall take such actions as may be appropriate to ensure that employees are

aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

“(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

“(B) the development of a special information packet.

“(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

“(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.”

CROSS REFERENCES

Liability for taxes withheld or collected, see sections 3403 and 7501 of this title.

Willful failure to collect or pay over tax, punishment for, see section 7202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6050C, 6103, 6331, 7103, 7421, 7501 of this title; title 20 section 1099c.

§ 6673. Sanctions and costs awarded by courts

(a) Tax court proceedings

(1) Procedures instituted primarily for delay, etc.

Whenever it appears to the Tax Court that—

(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

(B) the taxpayer’s position in such proceeding is frivolous or groundless, or

(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of \$25,000.

(2) Counsel’s liability for excessive costs

Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct, or

(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys’ fees in the same manner as such an award by a district court.

(b) Proceedings in other courts

(1) Claims under section 7433

Whenever it appears to the court that the taxpayer’s position in the proceedings before

the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of \$10,000.

(2) Collection of sanctions and costs

In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(3) Sanctions and costs awarded by a court of appeals

In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments. Any such sanctions, penalties, or costs may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title II, §292(b), (d)(2)(A), Sept. 3, 1982, 96 Stat. 574; Pub. L. 99-514, title XV, §1552(a), Oct. 22, 1986, 100 Stat. 2753; Pub. L. 100-647, title VI, §6241(b), Nov. 10, 1988, 102 Stat. 3748; Pub. L. 101-239, title VII, §7731(a), Dec. 19, 1989, 103 Stat. 2400.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “Sanctions and costs awarded by courts” for “Damages assessable for instituting proceedings before the Court primarily for delay, etc.” in section catchline and amended text generally, making changes in substance and structure of subsecs. (a) and (b).

1988—Pub. L. 100-647 struck out “Tax” after “before the” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1986—Pub. L. 99-514 substituted “, that the taxpayer’s position in such proceeding is frivolous or groundless, or that the taxpayer unreasonably failed to pursue available administrative remedies” for “or that the taxpayer’s position in such proceedings is frivolous or groundless”.

1982—Pub. L. 97-248, §292(d)(2)(A), substituted “primarily for delay, etc.” for “merely for delay” after “Tax Court” in section catchline.

Subsec. (a). Pub. L. 97-248, §292(b), substituted “or maintained by the taxpayer primarily for delay or that the taxpayer’s position in such proceedings is frivolous or groundless, damages in an amount not in excess of \$5,000” for “by the taxpayer merely for delay, damages in an amount not in excess of \$500” in first sentence.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7731(d) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section and section 7482 of this title] shall apply to posi-

tions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6241(d) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting section 7433 of this title and amending this section] shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1552(b) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to any action or proceeding in the Tax Court commenced after Dec. 31, 1982, or pending in the Tax Court on the day 120 days after July 18, 1984, see section 292(e)(2) of Pub. L. 97-248, as amended, set out as an Effective Date note under section 7430 of this title.

CROSS REFERENCES

Assessment of deficiency found by Tax Court, see section 6215 of this title.

Reports and decisions of Tax Court, see section 7459 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6215, 7459 of this title.

§ 6674. Fraudulent statement or failure to furnish statement to employee

In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 89-97, title III, §313(e)(2)(C), July 30, 1965, 79 Stat. 385.)

AMENDMENTS

1965—Pub. L. 89-97 substituted “6051 or 6053(b)” for “6051” wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313 of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as a note under section 6053 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6051, 7204 of this title.

§ 6675. Excessive claims with respect to the use of certain fuels

(a) Civil penalty

In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms), 6421 (relating

to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

- (1) Two times the excessive amount; or
- (2) \$10.

(b) Excessive amount defined

For purposes of this section, the term “excessive amount” means in the case of any person the amount by which—

- (1) the amount claimed under section 6420, 6421, or 6427, as the case may be, for any period, exceeds
- (2) the amount allowable under such section for such period.

(c) Assessment and collection of penalty

For assessment and collection of penalty provided by subsection (a), see section 6206.

(Added Apr. 2, 1956, ch. 160, § 3, 70 Stat. 90; amended June 29, 1956, ch. 462, title II, § 208(d)(2), 70 Stat. 396; Pub. L. 89-44, title II, § 202(c)(3)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, § 207(d)(8), May 21, 1970, 84 Stat. 249; Pub. L. 95-618, title II, § 233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97-424, title V, § 515(b)(11)(A)-(C), Jan. 6, 1983, 96 Stat. 2182.)

AMENDMENTS

1983—Pub. L. 97-424, § 515(b)(11)(C), struck out “or lubricating oil” after “fuels” in section catchline.

Subsec. (a). Pub. L. 97-424, § 515(b)(11)(A), struck out “6424 (relating to lubricating oil used for certain nontaxable purposes),” after “systems;”.

Subsec. (b)(1). Pub. L. 97-424, § 515(b)(11)(B), struck out “6424,” after “6421.”

1978—Subsec. (a). Pub. L. 95-618 substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles”.

1970—Pub. L. 91-258, § 207(d)(8)(A), substituted “fuels” for “gasoline” in section catchline.

Subsec. (a). Pub. L. 91-258, § 207(d)(8)(B), inserted reference to section 6427 relating to fuels not used for taxable purposes.

Subsec. (b)(1). Pub. L. 91-258, § 207(d)(8)(C), inserted reference to section 6427.

1965—Pub. L. 89-44, § 202(c)(3)(A)(i), inserted “or lubricating oil” after “gasoline” in section catchline.

Subsec. (a). Pub. L. 89-44, § 202(c)(3)(A)(ii), inserted reference to claims made under section 6424.

Subsec. (b)(1). Pub. L. 89-44, § 202(c)(3)(A)(iii), inserted reference to amounts claimed under section 6424.

1956—Act June 29, 1956, § 208(d)(2)(A), substituted “with respect to the use of certain gasoline” for “for gasoline used on farms” in section catchline.

Subsec. (a). Act June 29, 1956, § 208(d)(2)(B), inserted reference to claims made under section 6421.

Subsec. (b). Act June 29, 1956, § 208(d)(2)(C), inserted reference to amounts claimed under section 6421.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6206, 6420, 6421, 6427, 6504 of this title.

[§ 6676. Repealed. Pub. L. 101-239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 87-397, § 1(b), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 91-172, title I, § 101(j)(52), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, § 1016(a)(20), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, § 316(a), Sept. 3, 1982, 96 Stat. 607; Pub. L. 98-67, title I, § 105(a), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98-369, div. A, title IV, § 422(c), July 18, 1984, 98 Stat. 798; Pub. L. 99-514, title XV, §§ 1501(b), 1523(b)(3), 1524(b), Oct. 22, 1986, 100 Stat. 2736, 2748, 2749; Pub. L. 100-647, title I, § 1015(g), Nov. 10, 1988, 102 Stat. 3570, related to failure to supply identifying numbers.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 6721 of this title.

§ 6677. Failure to file information with respect to certain foreign trusts

(a) Civil penalty

In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

- (1) is not filed on or before the time provided in such section, or
- (2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

(b) Special rules for returns under section 6048(b)

In the case of a return required under section 6048(b)—

- (1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

(2) subsection (a) shall be applied by substituting “5 percent” for “35 percent”.

(c) Gross reportable amount

For purposes of subsection (a), the term “gross reportable amount” means—

(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

(d) Reasonable cause exception

No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87-834, §7(g), Oct. 16, 1962, 76 Stat. 988; amended Pub. L. 91-172, title I, §101(j)(53), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(21), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title X, §1013(d)(2), Oct. 4, 1976, 90 Stat. 1616; Pub. L. 104-188, title I, §1901(b), Aug. 20, 1996, 110 Stat. 1907.)

AMENDMENTS

1996—Pub. L. 104-188, §1901(b), substituted “information” for “information returns” in section catchline and amended text generally, substituting present provisions for former provisions which related to civil penalty in subsec. (a) and nonapplicability of deficiency procedures in subsec. (b).

1976—Subsec. (a). Pub. L. 94-455 inserted “(or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)” after “transferred to a trust”.

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104-188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but only in the case of foreign trusts created after May 21, 1974 and transfer of property to foreign trusts after May 21, 1974, see section

1013(f)(1) of Pub. L. 94-455, set out as a note under section 679 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

§ 6678. Repealed. Pub. L. 99-514, title XV, § 1501(d)(2), Oct. 22, 1986, 100 Stat. 2740]

Section, added Pub. L. 87-834, §19(e), Oct. 16, 1962, 76 Stat. 1058; amended Pub. L. 88-272, title II, §§204(c)(2), 221(b)(3), Feb. 26, 1964, 78 Stat. 37, 75; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §7(b)(2), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 97-34, title VII, §723(a)(2), (b)(2), Aug. 13, 1981, 95 Stat. 343, 344; Pub. L. 97-248, title III, §§309(b)(3), 311(a)(2), 312(b), 314(b), 315(c), Sept. 3, 1982, 96 Stat. 595, 600, 602, 605, 607; Pub. L. 97-448, title II, §201(i)(3), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98-67, title I, §105(b)(2), Aug. 5, 1983, 97 Stat. 381; Pub. L. 98-369, div. A, title I, §§145(b)(3), 146(b)(3), 148(b)(3), 149(b)(2), (3), 155(b)(2)(B), title VII, §714(f), (q)(3), July 18, 1984, 98 Stat. 685, 686, 689, 690, 693, 961, 966; Pub. L. 99-514, title XVIII, §1811(c)(1), Oct. 22, 1986, 100 Stat. 2833, related to penalties for failure to furnish certain statements.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

§ 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships

(a) Civil penalty

(1) In general

In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$10,000, unless it is shown that such failure is due to reasonable cause.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$50,000.

(3) Reduced penalty for returns relating to foreign personal holding companies

In the case of a return required under section 6035, paragraph (1) shall be applied by sub-

stituting “\$1,000” for “\$10,000”, and paragraph (2) shall not apply.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87-834, §20(c), Oct. 16, 1962, 76 Stat. 1062; amended Pub. L. 91-172, title I, §101(j)(54), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93-406, title II, §1016(a)(22), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, §340(b)(1), (2), title IV, §405(b), (c)(2), Sept. 3, 1982, 96 Stat. 634, 670; Pub. L. 97-448, title III, §306(c)(2), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 105-34, title XI, §1143(b), Aug. 5, 1997, 111 Stat. 983.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$1,000, unless it is shown that such failure is due to reasonable cause.”

1983—Pub. L. 97-448 amended language of Pub. L. 97-248, §405(b), (c)(2), to clarify an ambiguity created by the conflicting language of §§340(b)(1), (2) and 405(b), (c)(2) of Pub. L. 97-248. See 1982 Amendment note below.

1982—Pub. L. 97-248, §340(b)(2), 405(c)(2), as amended by Pub. L. 97-448, §306(c)(2)(B), substituted “Failure to file returns, etc., with respect to foreign corporations or foreign partnerships” for “Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock” in section catchline.

Subsec. (a). Pub. L. 97-248, §§340(b)(1), 405(b), as amended by Pub. L. 97-448, §306(a)(2)(A), substituted “section 6035, 6046, or 6046A” for “section 6046”.

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to transfers and changes after Aug. 5, 1997, see section 1143(c) of Pub. L. 105-34, set out as a note under section 6046A of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 340(b)(1), (2) of Pub. L. 97-248 applicable to taxable years of foreign corporations beginning after Sept. 3, 1982, see section 340(c) of Pub. L. 97-248, set out as a note under section 6035 of this title.

Amendment by section 405(b), (c)(2) of Pub. L. 97-248 applicable with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after Sept. 3, 1982, see section 407(b) of Pub. L. 97-248, set out as an Effective Date note under section 6046A of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub.

L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6046A of this title.

[§ 6680. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(10)(A)(vi)(I), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88-563, §6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 91-128, §4(h)(1), Nov. 26, 1969, 83 Stat. 268; Pub. L. 92-9, §3(j)(2), Apr. 1, 1971, 85 Stat. 22, related to failure to file interest equalization tax returns.

[§ 6681. Repealed. Pub. L. 94-455, title XIX, § 1904(b)(10)(D)(i), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88-563, §6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 90-59, §4(d), July 1, 1967, 81 Stat. 155; Pub. L. 90-73, §2(d), Aug. 29, 1967, 81 Stat. 176; Pub. L. 92-9, §3(k)(1)-(3), Apr. 1, 1971, 85 Stat. 22, related to false equalization tax certificates.

EFFECTIVE DATE OF REPEAL

Section 1904(b)(10)(D)(iii) of Pub. L. 94-455 provided that: “The amendments made by this subparagraph [repealing this section] shall apply with respect to actions occurring after June 30, 1974.”

§ 6682. False information with respect to withholding

(a) Civil penalty

In addition to any criminal penalty provided by law, if—

(1) any individual makes a statement under section 3402 or section 3406 which results in a decrease in the amounts deducted and withheld under chapter 24, and

(2) as of the time such statement was made, there was no reasonable basis for such statement,

such individual shall pay a penalty of \$500 for such statement.

(b) Exception

The Secretary may waive (in whole or in part) the penalty imposed under subsection (a) if the taxes imposed with respect to the individual under subtitle A for the taxable year are equal to or less than the sum of—

(1) the credits against such taxes allowed by part IV of subchapter A of chapter 1, and

(2) the payments of estimated tax which are considered payments on account of such taxes.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 89-368, title I, §101(e)(4)(A), Mar. 15, 1966, 80 Stat. 61; amended Pub. L. 91-172, title

I, §101(j)(55), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93-406, title II, §1016(a)(23), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-34, title VII, §721(a), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97-248, title III, §§306(a), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98-67, title I, §§102(a), 107(a), Aug. 5, 1983, 97 Stat. 369, 382.)

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 98-67 inserted reference to section 3406 and repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (a)(1). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting “or section 3452(f)(1)(A)” after “section 3402”. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97-34 struck out “allowances based on itemized deductions” after “withholding” in section catchline.

Subsec. (a). Pub. L. 97-34 substituted provisions relating to imposition of penalty of \$500 for statement under section 3402 resulting in decreased amounts withheld under chapter 24 and no reasonable basis existed for making such statement at the time it was made, for provisions relating to imposition of penalty of \$50 for statement under section 3402(f)(1)(F) concerning amount of wages under chapter 24, or itemized deductions under section 3402(m), and provisions setting forth conditions for mitigation of such penalty.

Subsecs. (b), (c). Pub. L. 97-34 added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42.”

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 107(a) of Pub. L. 98-67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98-67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 721(d) of Pub. L. 97-34 provided that: “The amendments made by this section [amending sections 6682 and 7205 of this title] shall apply to acts and failures to act after December 31, 1981.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

§ 6683. Failure of foreign corporation to file return of personal holding company tax

Any foreign corporation which—

- (1) is a personal holding company for any taxable year, and
- (2) fails to file or to cause to be filed with the Secretary a true and accurate return of the tax imposed by section 541,

shall, in addition to other penalties provided by law, pay a penalty equal to 10 percent of the taxes imposed by chapter 1 (including the tax imposed by section 541) on such foreign corporation for such taxable year. No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.

(Added Pub. L. 89-809, title I, §104(h)(4)(A), Nov. 13, 1966, 80 Stat. 1560; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XII, §1281(c), Aug. 5, 1997, 111 Stat. 1037.)

AMENDMENTS

1997—Pub. L. 105-34 inserted at end “No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Aug. 5, 1997, see section 1281(e) of Pub. L. 105-34, set out as a note under section 6652 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(m) of Pub. L. 89-809, set out as an Effective Date of 1966 Amendment note under section 11 of this title.

§ 6684. Assessable penalties with respect to liability for tax under chapter 42

If any person becomes liable for tax under any section of chapter 42 (relating to private foundations and certain other tax-exempt organizations) by reason of any act or failure to act which is not due to reasonable cause and either—

- (1) such person has theretofore been liable for tax under such chapter, or
- (2) such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(Added Pub. L. 91-172, title I, §101(c), Dec. 30, 1969, 83 Stat. 519; amended Pub. L. 100-203, title X, §10712(c)(4), Dec. 22, 1987, 101 Stat. 1330-467.)

AMENDMENTS

1987—Pub. L. 100-203 inserted “and certain other tax-exempt organizations” after “private foundations” in parenthetical.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4948 of this title.

§ 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations

In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of \$5,000 with respect to each such return or application.

(Added Pub. L. 91-172, title I, §101(e)(4), Dec. 30, 1969, 83 Stat. 524; amended Pub. L. 96-603, §1(d)(4), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 100-203, title X, §10704(b)(1), Dec. 22, 1987, 101 Stat. 1330-462; Pub. L. 104-168, title XIII, §1313(b), July 30, 1996, 110 Stat. 1480; Pub. L. 105-277, div. J, title I, §1004(b)(2)(D), Oct. 21, 1998, 112 Stat. 2681-890.)

AMENDMENTS

1998—Pub. L. 105-277 struck out “or (e)” after “subsection (d)”.

1996—Pub. L. 104-168 substituted “\$5,000” for “\$1,000”.

1987—Pub. L. 100-203 substituted current section catchline for “Assessable penalties with respect to private foundation annual returns” and amended text generally. Prior to amendment, text read as follows: “In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations’ annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of \$1,000 with respect to each such return.”

1980—Pub. L. 96-603 substituted in section catchline “returns” for “reports”, and in text “required to comply” for “required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply”, “(relating to private foundations’ annual returns) and who fails to so comply with respect to any return” for “(relating to public inspection of private foundations’ annual reports) and who fails so to file or comply”, and “each such return” for “each such report or notice”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105-277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to requests made on or after 60th day after Secretary of the Treasury first issues regulations referred to in section 6104(e)(3) of this title, see section 1313(c) of Pub. L. 104-168, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to returns for years beginning after Dec. 31, 1986, and on and after Dec. 22, 1987, in case of applications submitted after July 15, 1987, or on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987, see section 10704(d) of Pub. L. 100-203, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of

Pub. L. 96-603, set out as a note under section 6033 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

§ 6686. Failure to file returns or supply information by DISC or FSC

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax) any person required to supply information or to file a return under section 6011(c) who fails to supply such information or file such return at the time prescribed by the Secretary, or who files a return which does not show the information required, shall pay a penalty of \$100 for each failure to supply information (but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000) or a penalty of \$1,000 for each failure to file a return, unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 92-178, title V, §504(d), Dec. 10, 1971, 85 Stat. 551; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title VIII, §801(d)(15)(A), July 18, 1984, 98 Stat. 997.)

AMENDMENTS

1984—Pub. L. 98-369 substituted “Failure to file returns or supply information by DISC or FSC” for “Failure of DISC to file returns” in section catchline, and in text substituted “section 6011(c)” for “section 6011(e)”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, set out as an Effective Date note under section 921 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92-178, set out as a note under section 991 of this title.

[§ 6687. Repealed. Pub. L. 101-239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 92-512, title I, §144(b)(1), Oct. 20, 1972, 86 Stat. 936, related to failure to supply information with respect to place of residence.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 6721 of this title.

§ 6688. Assessable penalties with respect to information required to be furnished under section 7654

In addition to any criminal penalty provided by law, any person described in section 7654(a) who is required by regulations prescribed under section 7654 to furnish information and who fails to comply with such requirement at the time

prescribed by such regulations unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay (upon notice and demand by the Secretary and in the same manner as tax) a penalty of \$100 for each such failure.

(Added Pub. L. 92-606, §1(c), Oct. 31, 1972, 86 Stat. 1496, §6687; renumbered §6688, Pub. L. 93-406, title II, §1016(b)(4), Sept. 2, 1974, 88 Stat. 932; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92-606, set out in part as a note under section 931 of this title.

§ 6689. Failure to file notice of redetermination of foreign tax

(a) Civil penalty

If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

- (1) 5 percent of the deficiency if the failure is for not more than 1 month, with
- (2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

(b) Foreign tax redetermination defined

For purposes of this section, the term “foreign tax redetermination” means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g).

(Added Pub. L. 96-603, §2(c)(2), Dec. 28, 1980, 94 Stat. 3509.)

PRIOR PROVISIONS

A prior section 6689, added Pub. L. 93-17, §3(d)(2), Apr. 10, 1973, 87 Stat. 16, related to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements, prior to repeal by Pub. L. 94-455, title XIX, §1904(b)(10)(E)(i), Oct. 4, 1976, 90 Stat. 1817.

EFFECTIVE DATE

For applicability of section with respect to employer contributions or accruals for taxable years beginning after Dec. 31, 1979, election to apply amendments retroactively with respect to foreign subsidiaries, allowance of prior deductions in case of certain funded branch plans, and time and manner for making elections, see section 2(e) of Pub. L. 96-603, set out as a note under section 404A of this title.

§ 6690. Fraudulent statement or failure to furnish statement to plan participant

Any person required under section 6057(e) to furnish a statement to a participant who willfully furnishes a false or fraudulent statement,

or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6057(e), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Added Pub. L. 93-406, title II, §1031(b)(2)(A), Sept. 2, 1974, 88 Stat. 946.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6057 of this title.

[§ 6691. Reserved]

§ 6692. Failure to file actuarial report

The plan administrator (as defined in section 414(g)) of each defined benefit plan to which section 412 applies who fails to file the report required by section 6059 at the time and in the manner required by section 6059, shall pay a penalty of \$1,000 for each such failure unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 93-406, title II, §1033(b), Sept. 2, 1974, 88 Stat. 948.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

§ 6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions

(a) Reports

(1) In general

If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause.

(2) Provisions

The provisions referred to in this paragraph are—

- (A) subsections (i) and (j) of section 408 (relating to individual retirement plans),
- (B) section 220(h) (relating to medical savings accounts),
- (C) section 529(d) (relating to qualified State tuition programs), and
- (D) section 530(h) (relating to education individual retirement accounts).

This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).

(b) Penalties relating to nondeductible contributions

(1) Overstatement of designated nondeductible contributions

Any individual who—

(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of \$100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

(2) Failure to file form

Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of \$50 for each such failure unless it is shown that such failure is due to reasonable cause.

(c) Penalties relating to simple retirement accounts

(1) Employer penalties

An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of \$50 for each day on which such failures continue.

(2) Trustee and issuer penalties

A trustee or issuer who fails—

(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of \$50 for each day on which such failures continue, or

(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of \$50 for each day on which such failures continue.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) does not apply to the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 93-406, title II, §2002(f), Sept. 2, 1974, 88 Stat. 967; amended Pub. L. 96-222, title I, §101(a)(10)(H), Apr. 1, 1980, 94 Stat. 203; Pub. L. 98-369, div. A, title I, §147(b), July 18, 1984, 98 Stat. 687; Pub. L. 99-514, title XI, §1102(d)(1), (2)(A), (B), Oct. 22, 1986, 100 Stat. 2416; Pub. L. 100-647, title I, §1011(b)(4)(A), (B)(i), Nov. 10, 1988, 102 Stat. 3456, 3457; Pub. L. 104-188, title I, §§1421(b)(4)(B), 1455(d)(3), Aug. 20, 1996, 110 Stat. 1796, 1818; Pub. L. 104-191, title III, §301(g), Aug. 21, 1996, 110 Stat. 2052; Pub. L. 105-34, title II, §§211(e)(2)(B), (C), 213(c), title XVI, §§1601(d)(1)(C)(ii), 1602(a)(4), Aug. 5, 1997, 111 Stat. 812, 816, 1087, 1094; Pub. L. 105-277, div. J, title IV, §4006(c)(4), Oct. 21, 1998, 112 Stat. 2681-913.)

AMENDMENTS

1998—Subsec. (a)(2)(C), (D), Pub. L. 105-277 substituted “section” for “Section”.

1997—Pub. L. 105-34, §211(e)(2)(C), substituted “certain tax-favored” for “individual retirement” in section catchline.

Subsec. (a), Pub. L. 105-34, §1602(a)(4), inserted concluding provisions.

Subsec. (a)(2)(C), Pub. L. 105-34, §211(e)(2)(B), added subpar. (C).

Subsec. (a)(2)(D), Pub. L. 105-34, §213(c), added subpar. (D).

Subsec. (c)(2), Pub. L. 105-34, §1601(d)(1)(C)(ii), inserted “and issuer” before “penalties” in heading and “or issuer” before “who fails” in introductory provisions.

1996—Subsec. (a), Pub. L. 104-191 inserted heading and amended text generally. Prior to amendment, text read as follows: “The person required by subsection (i) or (l) of section 408 to file a report regarding an individual retirement account or individual retirement annuity at the time and in the manner required by such subsection shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause. This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).”

Pub. L. 104-188, §1455(d)(3), inserted at end “This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).”

Subsecs. (c), (d), Pub. L. 104-188, §1421(b)(4)(B), added subsec. (c) and redesignated former subsec. (c) as (d).

1988—Pub. L. 100-647, §1011(b)(4)(B)(i), substituted “penalties relating to” for “overstatement of” in section catchline.

Subsec. (b), Pub. L. 100-647, §1011(b)(4)(A), substituted “Penalties relating to” for “Overstatement of designated” in heading and amended text generally. Prior to amendment, text read as follows: “Any individual who—

“(1) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

“(2) overstates the amount of such contributions made for such taxable year, shall pay a penalty of \$100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.”

1986—Pub. L. 99-514, §1102(d)(2)(B), inserted “; overstatement of designated nondeductible contributions” in section catchline.

Subsec. (b), Pub. L. 99-514, §1102(d)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c), Pub. L. 99-514, §1102(d)(1), (2)(A), redesignated former subsec. (b) as (c) and substituted “this section” for “subsection (a)”.

1984—Subsec. (a), Pub. L. 98-369 substituted “\$50” for “\$10”.

1980—Subsec. (a), Pub. L. 96-222 substituted “subsection (i) or (l) of section 408 to file” for “section 408(i) to file”, and “such subsection shall pay” for “section 408(i) shall pay”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 211(e)(2)(B), (C) of Pub. L. 105-34 effective Jan. 1, 1998, see section 211(f) of Pub. L. 105-34, set out as a note under section 529 of this title.

Amendment by section 213(c) of Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 213(f) of Pub. L. 105-34, set out as a note under section 26 of this title.

Amendment by section 1601(d)(1)(C)(ii) of Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

Amendment by section 1602(a)(4) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of

Pub. L. 104-191, set out as a note under section 62 of this title.

Amendment by section 1421(b)(4)(B) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104-188, set out as a note under section 72 of this title.

Amendment by section 1455(d)(3) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to contributions and distributions for taxable years beginning after Dec. 31, 1986, see section 1102(g) of Pub. L. 99-514, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to failures occurring after July 18, 1984, see section 147(d)(2) of Pub. L. 98-369, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 101(b)(1)(F) of Pub. L. 96-222 provided that: "The amendment made by subparagraph (I) of subsection (a)(10) [probably means subpar. (H) of subsec. (a)(10), which amended this section] shall apply with respect to failures occurring [sic] after the date of the enactment of this Act [Apr. 1, 1980]."

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93-406, set out as a note under section 4973 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 220, 408 of this title.

§ 6694. Understatement of taxpayer's liability by income tax return preparer

(a) Understatements due to unrealistic positions

If—

(1) any part of any understatement of liability with respect to any return or claim for re-

fund is due to a position for which there was not a realistic possibility of being sustained on its merits,

(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous,

such person shall pay a penalty of \$250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

(b) Willful or reckless conduct

If any part of any understatement of liability with respect to any return or claim for refund is due—

(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

(2) to any reckless or intentional disregard of rules or regulations by any such person,

such person shall pay a penalty of \$1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

(c) Extension of period of collection where preparer pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Preparer must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(d) Abatement of penalty where taxpayer's liability not understated

If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

(e) Understatement of liability defined

For purposes of this section, the term "understatement of liability" means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

(f) Cross reference

For definition of income tax return preparer, see section 7701(a)(36).

(Added Pub. L. 94-455, title XII, §1203(b)(1), Oct. 4, 1976, 90 Stat. 1689; amended Pub. L. 101-239, title VII, §§ 7732(a), 7737(a), Dec. 19, 1989, 103 Stat. 2402, 2404.)

CODIFICATION

Another section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94-455, §2005(d)(2), was renumbered section 6698 by Pub. L. 95-600, renumbered section 6698A by Pub. L. 96-222, and repealed by Pub. L. 96-223.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239, §7732(a), substituted "Understatements due to unrealistic positions" for "Negligent or intentional disregard of rules and regulations" in heading and amended text generally. Prior to amendment, text read as follows: "If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$100 with respect to such return or claim."

Subsec. (b). Pub. L. 101-239, §7732(a), substituted "Willful or reckless conduct" for "Willful understatement of liability" in heading and amended text generally. Prior to amendment, text read as follows: "If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer

with respect to such return or claim, such person shall pay a penalty of \$500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a)."

Subsec. (c)(1). Pub. L. 101-239, §7737(a), inserted at end "Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2)."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7732(b) of Pub. L. 101-239 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to documents prepared after December 31, 1989."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6503, 6511, 6696, 6701, 7407, 7421 of this title.

§ 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons**(a) Failure to furnish copy to taxpayer**

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(b) Failure to sign return

Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(c) Failure to furnish identifying number

Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of \$50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.

(d) Failure to retain copy or list

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of \$50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(e) Failure to file correct information returns

Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of \$50 for—

- (1) each failure to file a return as required under such section, and
- (2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

(f) Negotiation of check

Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of \$500 with respect to each such check. The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer.

(g) Failure to be diligent in determining eligibility for earned income credit

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of \$100 for each such failure.

(Added Pub. L. 94-455, title XII, §1203(f), Oct. 4, 1976, 90 Stat. 1692; amended Pub. L. 95-600, title VII, §701(cc)(1), Nov. 6, 1978, 92 Stat. 2923; Pub. L. 98-369, div. A, title I, §179(b)(2), July 18, 1984, 98 Stat. 718; Pub. L. 99-44, §1(b), May 24, 1985, 99 Stat. 77; Pub. L. 101-239, title VII, §7733(a)-(d), Dec. 19, 1989, 103 Stat. 2402, 2403; Pub. L. 105-34, title X, §1085(a)(2), Aug. 5, 1997, 111 Stat. 956.)

AMENDMENTS

1997—Subsec. (g). Pub. L. 105-34 added subsec. (g).

1989—Subsecs. (a) to (c). Pub. L. 101-239, §7733(a)-(c), substituted “\$50” for “\$25” and inserted at end “The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed \$25,000.”

Subsec. (e). Pub. L. 101-239, §7733(d), substituted “returns” for “return” in heading and amended text generally. Prior to amendment, text read as follows: “Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

“(1) \$100 for each failure to file a return as required under such section, and

“(2) \$5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$20,000.”

1985—Subsec. (b). Pub. L. 99-44 repealed Pub. L. 98-369, §179(b)(2), which amended subsec. (b), and provided that the Internal Revenue Code of 1954 [now 1986]

[this title] shall be applied and administered as if section 179(b)(2) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (b). Pub. L. 98-369 amended subsec. (b) generally, substituting provisions dealing with failure to inform taxpayer of certain recordkeeping requirements of section 274(d) of this title or to sign returns, for provisions dealing with failure to sign returns. See 1985 Amendment note above.

1978—Subsec. (f). Pub. L. 95-600 inserted provision relating to deposits by a bank.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1996, see section 1085(e)(1) of Pub. L. 105-34, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7733(e) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section] shall apply to documents prepared after December 31, 1989.”

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-44 effective as if included in the amendments made by section 179(b) of Pub. L. 98-369, see section 6(a) of Pub. L. 99-44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98-369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 701(cc)(3) of Pub. L. 95-600 provided that: “The amendments made by this subsection [amending this section and section 7701 of this title] shall apply to documents prepared after December 31, 1976.”

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out the amendment of subsec. (b) of this section by section 179(b)(2) of Pub. L. 98-369 to have no force and effect, see section 1(c) of Pub. L. 99-44, set out as a note under section 274 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6504, 6511, 6696, 7407 of this title.

§ 6696. Rules applicable with respect to sections 6694 and 6695**(a) Penalties to be additional to any other penalties**

The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695.

(c) Procedure for claiming refund

Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

(d) Periods of limitation**(1) Assessment**

The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

(2) Claim for refund

Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

(e) Definitions

For purposes of sections 6694 and 6695—

(1) Return

The term “return” means any return of any tax imposed by subtitle A.

(2) Claim for refund

The term “claim for refund” means a claim for refund of, or credit against, any tax imposed by subtitle A.

(Added Pub. L. 94-455, title XII, §1203(f), Oct. 4, 1976, 90 Stat. 1693.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6107, 6109, 6504, 6511 of this title.

§ 6697. Assessable penalties with respect to liability for tax of regulated investment companies**(a) Civil penalty**

In addition to any other penalty provided by law, any regulated investment company whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) shall pay a penalty in an amount equal to the amount of the interest (for which such company is liable) which is attributable solely to such increase.

(b) 50-percent limitation

The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 94-455, title XVI, §1601(b)(1), Oct. 4, 1976, 90 Stat. 1745; amended Pub. L. 95-600, title III, §362(b), Nov. 6, 1978, 92 Stat. 2851; Pub. L. 99-514, title VI, §667(a), Oct. 22, 1986, 100 Stat. 2305.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “regulated investment companies” for “real estate investment entities” in section catchline.

Subsec. (a). Pub. L. 99-514 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase.”

1978—Pub. L. 95-600 substituted “qualified investment entities” for “real estate investment trusts” in section catchline.

Subsec. (a). Pub. L. 95-600 substituted “qualified investment entity (as defined in section 860(b))” for “real estate investment trust”, “section 860(c)(1)(A)” for “section 859(b)(2)(A)”, and “(for which such entity is liable) which” for “for which such trust is liable that”.

Subsec. (b). Pub. L. 95-600 substituted “section 860(a)” for “section 859(a)”.

Subsec. (c). Pub. L. 95-600 reenacted subsec. (c) without change.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 669 of Pub. L. 99-514, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95-600, set out as an Effective Date note under section 860 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 860 of this title.

§ 6698. Failure to file partnership return**(a) General rule**

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month

For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

(1) \$50, multiplied by

(2) the number of persons who were partners in the partnership during any part of the taxable year

(c) Assessment of penalty

The penalty imposed by subsection (a) shall be assessed against the partnership.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 95-600, title II, §211(a), Nov. 6, 1978, 92 Stat. 2817.)

CODIFICATION

Another section 6698, formerly section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94-455, §2005(d)(2), was renumbered section 6698 by Pub. L. 95-600, renumbered section 6698A by Pub. L. 96-222, and repealed by Pub. L. 96-223.

EFFECTIVE DATE

Section 211(c) of Pub. L. 95-600 provided that: "The amendments made by this section [enacting this section] shall apply with respect to returns for taxable years beginning after December 31, 1978."

[§ 6698A. Repealed. Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94-455, title XX, §2005(d)(2), Oct. 4, 1976, 90 Stat. 1878, §6694; renumbered §6698 and amended Pub. L. 95-600, title VII, §702(r)(1)(A), (B), Nov. 6, 1978, 92 Stat. 2938; renumbered §6698A, Pub. L. 96-222, title I, §107(a)(2)(D), Apr. 1, 1980, 94 Stat. 223, related to failure of an executor to file information with respect to carryover basis property. Repeal was achieved by repealing section 2005(d)(2) of Pub. L. 94-455 and section 702(r)(1)(A), (B) of Pub. L. 95-600 and the amendments made by those sections.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

[§ 6699. Repealed. Pub. L. 99-514, title XI, § 1171(b)(7)(A), Oct. 22, 1986, 100 Stat. 2513]

Section, added Pub. L. 95-600, title I, §141(c)(1), Nov. 6, 1978, 92 Stat. 2794; amended Pub. L. 96-222, title I, §101(a)(7)(L)(iii)(VI), (v)(IX), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97-34, title III, §331(c)(3), (4), Aug. 13, 1981, 95 Stat. 293, 294; Pub. L. 97-448, title I, §103(g)(2)(B)-(D), Jan. 12, 1983, 96 Stat. 2379; Pub. L. 98-369, div. A, title IV, §491(e)(9), July 18, 1984, 98 Stat. 853; Pub. L. 99-514, title XVIII, §1847(b)(9), Oct. 22, 1986, 100 Stat. 2857, related to assessable penalties applicable to tax credit employee stock ownership plans.

EFFECTIVE DATE OF REPEAL

Repeal applicable to compensation paid or accrued after Dec. 31, 1986, in taxable years ending after such date, but this section to continue to apply with respect to credits under section 41 of this title attributable to compensation paid or accrued before Jan. 1, 1987 (or under section 38 of this title with respect to qualified investment before Jan. 1, 1983), see section 1171(c) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 38 of this title.

§ 6700. Promoting abusive tax shelters, etc.**(a) Imposition of penalty**

Any person who—

(1)(A) organizes (or assists in the organization of)—

- (i) a partnership or other entity,
- (ii) any investment plan or arrangement, or
- (iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

shall pay, with respect to each activity described in paragraph (1), a penalty equal to the \$1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated.

(b) Rules relating to penalty for gross valuation overstatements**(1) Gross valuation overstatement defined**

For purposes of this section, the term "gross valuation overstatement" means any statement as to the value of any property or services if—

(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

(2) Authority to waive

The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 97-248, title III, §320(a), Sept. 3, 1982, 96 Stat. 611; amended Pub. L. 98-369, div. A, title I, §143(a), July 18, 1984, 98 Stat. 682; Pub. L. 101-239, title VII, §7734(a), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239, §7734(a)(3), added concluding provision and struck out former concluding provision which read as follows: "shall pay a penalty equal to the greater of \$1,000 or 20 percent of the gross income derived or to be derived by such person from such activity."

Subsec. (a)(1)(B). Pub. L. 101-239, § 7734(a)(1), inserted “(directly or indirectly)” after “participates”.

Subsec. (a)(2). Pub. L. 101-239, § 7734(a)(2), inserted “or causes another person to make or furnish” after “makes or furnishes” in introductory provisions.

1984—Subsec. (a). Pub. L. 98-369 substituted “20 percent” for “10 percent”.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7734(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to activities after December 31, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 143(c) of Pub. L. 98-369 provided that: “The amendments made by this section [amending this section and section 7408 of this title] shall take effect on the day after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE

Section 320(c) of Pub. L. 97-248 provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6701, 6703, 7408, 7422 of this title; title 28 section 1509.

§ 6701. Penalties for aiding and abetting understatement of tax liability

(a) Imposition of penalty

Any person—

(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

(2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

(2) Corporations

If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

(3) Only 1 penalty per person per period

If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

(c) Activities of subordinates

(1) In general

For purposes of subsection (a), the term “procures” includes—

(A) ordering (or otherwise causing) a subordinate to do an act, and

(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

(2) Subordinate

For purposes of paragraph (1), the term “subordinate” means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) Taxpayer not required to have knowledge

Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) Certain actions not treated as aid or assistance

For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) Penalty in addition to other penalties

(1) In general

Except as provided by paragraphs (2) and (3), the penalty imposed by this section shall be in addition to any other penalty provided by law.

(2) Coordination with return preparer penalties

No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(3) Coordination with section 6700

No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(Added Pub. L. 97-248, title III, § 324(a), Sept. 3, 1982, 96 Stat. 615; amended Pub. L. 101-239, title VII, § 7735(a), (b), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101-239, § 7735(a)(1), struck out “in connection with any matter arising under the internal revenue laws” after “other document”.

Subsec. (a)(2). Pub. L. 101-239, § 7735(a)(2), inserted “(or has reason to believe)” after “who knows”.

Subsec. (a)(3). Pub. L. 101-239, § 7735(a)(3), substituted “would result” for “will result”.

Subsec. (f)(1). Pub. L. 101-239, § 7735(b)(2), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (f)(3). Pub. L. 101-239, § 7735(b)(1), added par. (3).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7735(c) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section] shall take effect on December 31, 1989.”

EFFECTIVE DATE

Section 324(c) of Pub. L. 97-248 provided that: “The amendments made by this section [enacting this sec-

tion] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6703, 7408, 7422 of this title; title 28 section 1509; title 31 section 330.

§ 6702. Frivolous income tax return

(a) Civil penalty

If—

(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

(2) the conduct referred to in paragraph (1) is due to—

(A) a position which is frivolous, or

(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of \$500.

(b) Penalty in addition to other penalties

The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.

(Added Pub. L. 97-248, title III, § 326(a), Sept. 3, 1982, 96 Stat. 617.)

EFFECTIVE DATE

Section 326(c) of Pub. L. 97-248 provided that: “The amendments made by this section [enacting this section] shall apply with respect to documents filed after the date of the enactment of this Act [Sept. 3, 1982].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6703 of this title.

§ 6703. Rules applicable to penalties under sections 6700, 6701, and 6702

(a) Burden of proof

In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

(c) Extension of period of collection where person pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under section 6700 or 6701 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final res-

olution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Person must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700 or 6701 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(Added Pub. L. 97-248, title III, § 322(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 101-239, title VII, §§ 7736(a), 7737(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101-239, § 7737(a), inserted at end “Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

Pub. L. 101-239, § 7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

Subsec. (c)(2). Pub. L. 101-239, § 7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7736(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns filed after December 31, 1989.”

EFFECTIVE DATE

Section 322(c) of Pub. L. 97-248 provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d)

(a) Liability for penalty

Any person who—

(1) has a duty to report or may have a duty to report any information under section 6047(d), and

(2) fails to keep such records as may be required by regulations prescribed under section 6047(d) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

(b) Amount of penalty

(1) In general

The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

(2) Maximum amount

The penalty under this section of any person for any calendar year shall not exceed \$50,000.

(c) Exceptions

(1) Reasonable cause

No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

(2) Inability to correct previous failure

No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

(3) Pre-1983 failures

No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure.

(Added Pub. L. 97-248, title III, §334(c)(1), Sept. 3, 1982, 96 Stat. 627; amended Pub. L. 99-514, title XVIII, §1848(e)(1), Oct. 22, 1986, 100 Stat. 2857.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “section 6047(d)” for “section 6047(e)” in section catchline and in subsec. (a).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 334(e)(3) of Pub. L. 97-248, set out as a note under section 3405 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6047 of this title.

§ 6705. Failure by broker to provide notice to payors

(a) In general

Any person required under section 3406(d)(2)(B) to provide notice to any payor who willfully fails to provide such notice to such payor shall pay a penalty of \$500 for each such failure.

(b) Penalty in addition to other penalties

Any penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98-67, title I, §104(c)(1), Aug. 5, 1983, 97 Stat. 379.)

EFFECTIVE DATE

Section effective with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as an Effective Date of 1983 Amendment note under section 31 of this title.

§ 6706. Original issue discount information requirements

(a) Failure to show information on debt instrument

In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of \$50 for each instrument with respect to which such a failure exists.

(b) Failure to furnish information to Secretary

Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed \$50,000 for such issue.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 98-369, div. A, title I, §41(c)(1), July 18, 1984, 98 Stat. 555.)

EFFECTIVE DATE

Section effective on day 30 days after July 18, 1984, see section 44(h) of Pub. L. 98-369, set out as a note under section 1271 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1275 of this title.

§ 6707. Failure to furnish information regarding tax shelters

(a) Failure to register tax shelter

(1) Imposition of penalty

If a person who is required to register a tax shelter under section 6111(a)—

(A) fails to register such tax shelter on or before the date described in section 6111(a)(1), or

(B) files false or incomplete information with the Secretary with respect to such registration,

such person shall pay a penalty with respect to such registration in the amount determined under paragraph (2) or (3), as the case may be. No penalty shall be imposed under the preceding sentence with respect to any failure which is due to reasonable cause.

(2) Amount of penalty

Except as provided in paragraph (3), the penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

- (A) 1 percent of the aggregate amount invested in such tax shelter, or
- (B) \$500.

(3) Confidential arrangements

(A) In general

In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

- (i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or
- (ii) \$10,000.

Clause (i) shall be applied by substituting “75 percent” for “50 percent” in the case of an intentional failure or act described in paragraph (1).

(B) Special rule for participants required to register shelter

In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

- (i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,
- (ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and
- (iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.

(b) Failure to furnish tax shelter identification number

(1) Sellers, etc.

Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6111(b)(1) shall pay a penalty of \$100 for each such failure.

(2) Failure to include number on return

Any person who fails to include an identification number on a return on which such number is required to be included under section 6111(b)(2) shall pay a penalty of \$250 for each such failure, unless such failure is due to reasonable cause.

(Added Pub. L. 98-369, div. A, title I, §141(b), July 18, 1984, 98 Stat. 680; amended Pub. L. 99-514, title XV, §§1532(a), 1533(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 105-34, title X, §1028(b), (d), Aug. 5, 1997, 111 Stat. 927, 928.)

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-34, §1028(d)(2), which directed the substitution of “paragraph (2) or (3), as the case may be” for “paragraph (2)” in subpar. (A) of par. (1), was executed by making the substitution in the concluding provisions of par. (1) to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 105-34, §1028(d)(1), substituted “Except as provided in paragraph (3), the penalty” for “The penalty”.

Subsec. (a)(3). Pub. L. 105-34, §1028(b), added par. (3). 1986—Subsec. (a)(2). Pub. L. 99-514, §1532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

“(A) \$500, or

“(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) \$10,000. The \$10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).”

Subsec. (b)(2). Pub. L. 99-514, §1533(a), substituted “\$250” for “\$50”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to any tax shelter, as defined in section 6111(d) of this title, interests in which are offered to potential participants after Secretary of the Treasury prescribes guidance with respect to meeting requirements added by amendments made by Pub. L. 105-34, §1028, see section 1028(e) of Pub. L. 105-34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1532(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to failures with respect to tax shelters interests in which are first offered for sale after the date of the enactment of this Act [Oct. 22, 1986].”

Section 1533(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to returns filed after the date of the enactment of this Act [Oct 22, 1986].”

EFFECTIVE DATE

Section applicable to tax shelters (within the meaning of section 6111 of this title), any interest in which is first sold to any investor after Aug. 31, 1984, see section 141(d) of Pub. L. 98-369, set out as a note under section 6111 of this title.

§ 6708. Failure to maintain lists of investors in potentially abusive tax shelters

(a) In general

Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of \$50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed \$100,000.

(b) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98-369, div. A, title I, §142(b), July 18, 1984, 98 Stat. 682; amended Pub. L.

99-514, title XV, §1534(a), Oct. 22, 1986, 100 Stat. 2750.)

CODIFICATION

Another section 6708 was renumbered section 6709 of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-514 substituted “\$100,000” for “\$50,000”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1534(b) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section] shall apply to failures occurring or continuing after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE

Section applicable to any interest which is first sold to any investor after Aug. 31, 1984, see section 142(d) of Pub. L. 98-369, set out as a note under section 6112 of this title.

§ 6709. Penalties with respect to mortgage credit certificates

(a) Negligence

If—

- (1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and
- (2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of \$1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

(b) Fraud

If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of \$10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

(c) Reports

Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of \$200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed \$2,000.

(d) Mortgage credit certificate

The term “mortgage credit certificate” has the meaning given to such term by section 25(c). (Added Pub. L. 98-369, div. A, title VI, §612(d)(1), July 18, 1984, 98 Stat. 912, §6708; renumbered §6709, Pub. L. 99-514, title XVIII, §1862(d)(2), Oct. 22, 1986, 100 Stat. 2884.)

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to

which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section applicable to interest paid or accrued after Dec. 31, 1984, on indebtedness incurred after Dec. 31, 1984, see section 612(g) of Pub. L. 98-369, set out as a note under section 25 of this title.

§ 6710. Failure to disclose that contributions are nondeductible

(a) Imposition of penalty

If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of \$1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed \$10,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(c) \$10,000 limitation not to apply where intentional disregard

If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

- (1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

- (A) \$1,000, or
- (B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

- (2) the \$10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

- (3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

(d) Day on which failure occurs

For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

- (1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,
- (2) by mail, shall be treated as occurring when the solicitation was mailed,
- (3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or
- (4) by telephone, shall be treated as occurring when the solicitation was made.

(Added Pub. L. 100-203, title X, §10701(b), Dec. 22, 1987, 101 Stat. 1330-458.)

EFFECTIVE DATE

Section applicable to solicitations after Jan. 31, 1988, see section 10701(d) of Pub. L. 100-203, set out as a note under section 6113 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6711 of this title.

§ 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government

(a) Imposition of penalty

If—

(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

(b) Amount of penalty

The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

(1) \$1,000, or

(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

(c) Definitions

For purposes of this section—

(1) Tax-exempt organization

The term “tax-exempt organization” means any organization which—

(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

(B) is a political organization (as defined in section 527(e)).

(2) Day on which failure occurs

The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d).

(Added Pub. L. 100-203, title X, §10705(a), Dec. 22, 1987, 101 Stat. 1330-463.)

EFFECTIVE DATE

Section 10705(c) of Pub. L. 100-203 provided that: “The amendments made by this section [enacting this section] shall apply to offers and solicitations after January 31, 1988.”

§ 6712. Failure to disclose treaty-based return positions

(a) General rule

If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to \$1,000 (\$10,000 in the case of a C corporation) on each such failure.

(b) Authority to waive

The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty imposed by law. (Added Pub. L. 100-647, title I, §1012(aa)(5)(B), Nov. 10, 1988, 102 Stat. 3532.)

CODIFICATION

Another section 6712 was renumbered section 6713 of this title.

EFFECTIVE DATE

Section applicable to taxable periods the due date for filing returns for which (without extension) occurs after Dec. 31, 1988, see section 1012(aa)(5)(D) of Pub. L. 100-647, set out as a note under section 6114 of this title.

§ 6713. Disclosure or use of information by preparers of returns

(a) Imposition of penalty

If any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall pay a penalty of \$250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed \$10,000.

(b) Exceptions

The rules of section 7216(b) shall apply for purposes of this section.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 100-647, title VI, §6242(a), Nov. 10, 1988, 102 Stat. 3749, §6712; renumbered §6713, Pub. L. 101-239, title VII, §7816(v)(1), Dec. 19, 1989, 103 Stat. 2423.)

EFFECTIVE DATE

Section 6242(d) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting this section and amending section 7216 of this title] shall apply to disclosures or uses after December 31, 1988.”

§ 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions

(a) Imposition of penalty

If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of \$10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed \$5,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 103-66, title XIII, §13173(b), Aug. 10, 1993, 107 Stat. 456.)

CODIFICATION

Another section 6714 was renumbered section 6715 of this title.

EFFECTIVE DATE

Section applicable to quid pro quo contributions made on or after Jan. 1, 1994, see section 13173(d) of Pub. L. 103-66, set out as a note under section 6115 of this title.

§ 6715. Dyed fuel sold for use or used in taxable use, etc.

(a) Imposition of penalty

If—

(1) any dyed fuel is sold or held for sale by any person for any use which such person knows or has reason to know is not a nontaxable use of such fuel,

(2) any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed, or

(3) any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel,

then such person shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be the greater of—

(A) \$1,000, or

(B) \$10 for each gallon of the dyed fuel involved.

(2) Multiple violations

In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1)(A) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

(c) Definitions

For purposes of this section—

(1) Dyed fuel

The term “dyed fuel” means any dyed diesel fuel or kerosene, whether or not the fuel was dyed pursuant to section 4082.

(2) Nontaxable use

The term “nontaxable use” has the meaning given such term by section 4082(b).

(d) Joint and several liability of certain officers and employees

If a penalty is imposed under this section on any business entity, each officer, employee, or

agent of such entity who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

(Added Pub. L. 103-66, title XIII, §13242(b)(1), Aug. 10, 1993, 107 Stat. 520, §6714; renumbered §6715, Pub. L. 104-188, title I, §1703(n)(9)(A), Aug. 20, 1996, 110 Stat. 1877; amended Pub. L. 105-34, title X, §1032(e)(11), Aug. 5, 1997, 111 Stat. 935.)

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105-34 inserted “or kerosene” after “diesel fuel”.

1996—Pub. L. 104-188 renumbered section 6714 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105-34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 4041 of this title.

PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

Sec. 6721. 6722. 6723. 6724.	Failure to file correct information returns. Failure to furnish correct payee statements. Failure to comply with other information reporting requirements. Waiver; definitions and special rules.
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AMENDMENTS

1989—Pub. L. 101-239, title VII, §7711(a), Dec. 19, 1989, 103 Stat. 2388, substituted “COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS” for “FILE CERTAIN INFORMATION RETURNS OR STATEMENTS” in part heading and substituted “correct” for “certain” in items 6721 and 6722 and “comply with other information reporting requirements” for “include correct information” in item 6723.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6050S of this title.

§ 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

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 771(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].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1060, 6047, 6724 of this title.

§ 6722. Failure to furnish correct payee statements

(a) General rule

In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of \$50 for each statement 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 \$100,000.

(b) Failures subject to penalty

For purposes of subsection (a), the failures described in this subsection are—

(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

(2) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

(c) Penalty in case of intentional disregard

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

(1) the penalty imposed under subsection (a) shall be \$100, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of

the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(2) in the case of any penalty determined under paragraph (1)—

(A) the \$100,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “correct” for “certain” in section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsec. (a) stating general rule and subsec. (b) relating to failure to notify partnership of exchange of partnership interest.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101-239, set out as a note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as a note under section 6721 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6047 of this title.

§ 6723. Failure to comply with other information reporting requirements

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of \$50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390.)

AMENDMENTS

1989—Pub. L. 101-239 substituted “comply with other information reporting requirements” for “include correct information” in section catchline and amended text generally, substituting a single par. for former subsec. (a) stating general rule, subsec. (b) relating to penalty in case of intentional disregard, and subsec. (c) relating to coordination with former section 6676 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101-239, set out as a note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec.

31, 1986, see section 1501(e) of Pub. L. 99-514, set out as a note under section 6721 of this title.

§ 6724. Waiver; definitions and special rules

(a) Reasonable cause waiver

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) Payment of penalty

Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) Special rule for failure to meet magnetic media requirements

No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns (more than 100 information returns in the case of a partnership having more than 100 partners).

(d) Definitions

For purposes of this part—

(1) Information return

The term “information return” means—

(A) any statement of the amount of payments to another person required by—

(i) section 6041(a) or (b) (relating to certain information at source),

(ii) section 6042(a)(1) (relating to payments of dividends),

(iii) section 6044(a)(1) (relating to payments of patronage dividends),

(iv) section 6049(a) (relating to payments of interest),

(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

(vi) section 6050N(a) (relating to payments of royalties),

(vii) section 6051(d) (relating to information returns with respect to income tax withheld),

(viii) section 6050R (relating to returns relating to certain purchases of fish), or

(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),

(B) any return required by—

(i) section 6041A(a) or (b) (relating to returns of direct sellers),

(ii) section 6045(a) or (d) (relating to returns of brokers),

(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

(iv) section 6050I(a) or (g)(1) (relating to cash received in trade or business, etc.),

(v) section 6050J(a) (relating to foreclosures and abandonments of security),

(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(ix) section 6050Q (relating to certain long-term care benefits),

(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),

(xi) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

(xii) section 6053(c)(1) (relating to reporting with respect to certain tips),

(xiii) subsection (b) or (e) of section 1060 (relating to reporting requirements of transferors and transferees in certain asset acquisitions),

(xiv) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels),

(xv) section 4101(d) (relating to information reporting with respect to fuels taxes),

(xvi) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss);¹ or

(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).²

(C) any statement of the amount of payments to another person required to be made to the Secretary under—

(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(2) Payee statement

The term “payee statement” means any statement required to be furnished under—

(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

(B) section 6039(a) (relating to information required in connection with certain options),

(C) section 6041(d) (relating to information at source),

(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

(F) section 6044(e) (relating to returns regarding payments of patronage dividends),

(G) section 6045(b) or (d) (relating to returns of brokers),

¹ So in original. The semicolon probably should be a comma.

² So in original. The period probably should be “, and”.

(H) section 6049(c) (relating to returns regarding payments of interest),

(I) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

(J) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

(K) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),

(L) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

(M) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

(N) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

(O) section 6050N(b) (relating to returns regarding payments of royalties),

(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(Q) section 6050Q(b) (relating to certain long-term care benefits),

(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

(S) section 6051 (relating to receipts for employees),

(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

(U) section 6053(b) or (c) (relating to reports of tips),

(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person,

(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person,

(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses)³ or

(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(3) Specified information reporting requirement

The term “specified information reporting requirement” means—

(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

(B) any requirement contained in the regulations prescribed under section 6109 that a person—

(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

(ii) furnish his TIN to another person, or

(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

(C) any requirement contained in the regulations prescribed under section 215 that a person—

(i) furnish his TIN to another person, or

(ii) include on his return the TIN of another person, and

(D) any requirement under section 6109(h) that—

(i) a person include on his return the name, address, and TIN of another person, or

(ii) a person furnish his TIN to another person.

(4) Required filing date

The term “required filing date” means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing).

(e) Special rule for certain partnership returns

If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2734; amended Pub. L. 100-418, title I, § 1941(b)(2)(M), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title I, §§ 1006(h)(3)(A), 1015(a), title III, § 3001(b)(1), (2), Nov. 10, 1988, 102 Stat. 3410, 3568, 3614; Pub. L. 101-239, title VII, §§ 7711(a), 7811(c)(3), 7813(a), Dec. 19, 1989, 103 Stat. 2391, 2407, 2412; Pub. L. 101-508, title XI, §§ 11212(e)(1), 11323(b)(2), (c)(2), Nov. 5, 1990, 104 Stat. 1388-432, 1388-465; Pub. L. 102-486, title XIX, § 1933(b), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103-66, title XIII, § 13252(b), Aug. 10, 1993, 107 Stat. 532; Pub. L. 103-322, title II, § 20415(b)(1), (2), Sept. 13, 1994, 108 Stat. 1833; Pub. L. 104-188, title I, §§ 1116(b)(2)(A), (B), 1455(a), 1615(a)(2)(B), 1702(b)(1), (c)(2), 1704(j)(3), 1901(c)(1), Aug. 20, 1996, 110 Stat. 1764, 1817, 1853, 1868, 1869, 1881, 1908; Pub. L. 104-191, title III, § 323(b), Aug. 21, 1996, 110 Stat. 2062; Pub. L. 105-34, title II, § 201(c)(2), title XII, §§ 1213(b), 1223(b), title XVI, § 1602(d)(2)(A), Aug. 5, 1997, 111 Stat. 805, 1001, 1019, 1094; Pub. L. 105-206, title VI, §§ 6004(a)(3), 6010(o)(4)(B), (C), 6012(b)(5), (d), July 22, 1998, 112 Stat. 792, 816, 819.)

CODIFICATION

Amendments to subsec. (d)(2) of this section by section 1901(c)(1) of Pub. L. 104-188 were executed before amendments by sections 1116(b)(2)(B) and 1455(a)(2) of Pub. L. 104-188, to reflect the probable intent of Congress.

³ So in original. There probably should be a comma.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-206, § 6012(d), inserted before period at end “(more than 100 information returns in the case of a partnership having more than 100 partners)”.

Subsec. (d)(1)(A). Pub. L. 105-206, § 6012(b)(5), made a technical amendment to directory language of Pub. L. 105-34, § 1213(b). See 1997 Amendment note below.

Subsec. (d)(1)(B)(x) to (xiv). Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xv). Pub. L. 105-206, § 6010(o)(4)(B), struck out “or” at end.

Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvi). Pub. L. 105-206, § 6010(o)(4)(B), which directed the substitution of “; or” for period at end, was executed by making the substitution for “, and” at end, to reflect the probable intent of Congress.

Pub. L. 105-206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105-34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvii). Pub. L. 105-206, § 6010(o)(4)(B), added cl. (xvii).

Subsec. (d)(2)(AA). Pub. L. 105-206, § 6010(o)(4)(C), which directed the addition of subpar. (AA) at the end of par. (2), was executed by adding subpar. (AA) after subpar. (Z) of par. (2), to reflect the probable intent of Congress.

1997—Subsec. (d)(1)(A)(ix). Pub. L. 105-34, § 1213(b), as amended by Pub. L. 105-206, § 6012(b)(5), added cl. (ix).

Subsec. (d)(1)(B)(x) to (xvi). Pub. L. 105-34, § 201(c)(2)(A), as amended by Pub. L. 105-206, § 6004(a)(3), added cl. (x) and redesignated former cls. (x) to (xv) as (xi) to (xvi), respectively.

Subsec. (d)(2)(R) to (Y). Pub. L. 105-34, § 1602(d)(2)(A), added subpars. (R) to (Y) and struck out former subpars. (R) to (X) which read as follows:

“(R) section 6051 (relating to receipts for employees),
“(S) section 6050R(c) (relating to returns relating to certain purchases of fish),

“(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

“(U) section 6053(b) or (c) (relating to reports of tips),
“(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

“(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

“(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

“(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.”

Subsec. (d)(2)(Z). Pub. L. 105-34, § 201(c)(2)(B), added subpar. (Z).

Subsec. (e). Pub. L. 105-34, § 1223(b), added subsec. (e). 1996—Subsec. (d)(1)(A)(viii). Pub. L. 104-188, § 1116(b)(2)(A), added cl. (viii).

Subsec. (d)(1)(B)(ix), (x). Pub. L. 104-191, § 323(b)(1), added cl. (ix) and redesignated former cl. (ix) as (x). Former cl. (x) redesignated (xi).

Subsec. (d)(1)(B)(xi). Pub. L. 104-191, § 323(b)(1), redesignated cl. (x) as (xi). Former cl. (xi) redesignated (xii).

Pub. L. 104-188, § 1702(b)(1), made technical amendment to directory language of Pub. L. 101-508, § 11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xii). Pub. L. 104-191, § 323(b)(1), redesignated cl. (xi) as (xii). Former cl. (xii) redesignated (xiii).

Pub. L. 104-188, § 1702(c)(2)(A), struck out “or” at end.

Pub. L. 104-188, § 1702(b)(1), made technical amendment to directory language of Pub. L. 101-508, § 11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xiii). Pub. L. 104-191, § 323(b)(1), redesignated cl. (xii) as (xiii). Former cl. (xiii) redesignated (xiv).

Pub. L. 104-188, § 1702(c)(2)(B), substituted “, or” for period at end.

Subsec. (d)(1)(B)(xiv), (xv). Pub. L. 104-191, § 323(b)(1), redesignated cls. (xiii) and (xiv) as (xiv) and (xv), respectively.

Subsec. (d)(1)(C). Pub. L. 104-188, § 1455(a)(1), which directed the amendment of par. (1) by inserting a new subpar. (C) after subpar. (B), was executed by making the insertion after subpar. (B)(xv), to reflect the probable intent of Congress.

Subsec. (d)(2)(Q). Pub. L. 104-191, § 323(b)(2), added subpar. (Q). Former subpar. (Q) redesignated (R).

Subsec. (d)(2)(R). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (Q) as (R). Former subpar. (R) redesignated (S).

Pub. L. 104-188, § 1116(b)(2)(B), added subpar. (R). Former subpar. (R) redesignated (S).

Subsec. (d)(2)(S). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T).

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), struck out “or” at end. See Codification note above.

Subsec. (d)(2)(T). Pub. L. 104-191, § 323(b)(2), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U).

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), substituted “, or” for period at end. See Codification note above.

Subsec. (d)(2)(U). Pub. L. 104-191, § 323(d)(1), redesignated subpar. (T), relating to section 6053(b) or (c), as (U).

Pub. L. 104-188, § 1455(a)(2), struck out “or” at end. See Codification note above.

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (T) as (U). Former subpar. (U) redesignated (V). See Codification note above.

Pub. L. 104-188, § 1901(c)(1), added subpar. (U). See Codification note above.

Subsec. (d)(2)(V). Pub. L. 104-188, § 1455(a)(2), substituted a comma for period at end.

Pub. L. 104-188, § 1116(b)(2)(B), redesignated subpar. (U) as (V).

Subsec. (d)(2)(W), (X). Pub. L. 104-188, § 1455(a)(2), added subpars. (W) and (X).

Subsec. (d)(3)(C). Pub. L. 104-188, § 1615(a)(2)(B), inserted “and” at end.

Subsec. (d)(3)(D). Pub. L. 104-188, § 1615(a)(2)(B), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: “the requirement of section 6109(e) that a person include the TIN of any dependent on his return, and”.

Subsec. (d)(3)(E). Pub. L. 104-188, § 1615(a)(2)(B), redesignated subpar. (E) as (D).

Pub. L. 104-188, § 1704(j)(3), substituted “section 6109(h)” for “section 6109(f)” in introductory provisions.

1994—Subsec. (d)(1)(B)(iv). Pub. L. 103-322, § 20415(b)(1), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “section 6050I(a) (relating to cash received in trade or business).”

Subsec. (d)(2)(K). Pub. L. 103-322, § 20415(b)(2), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: “section 6050I(e) (relating to returns relating to cash received in trade or business).”

1993—Subsec. (d)(1)(B)(viii) to (xiv). Pub. L. 103-66, § 13252(b)(1), which directed amendment of subsec. (d)(1)(B) by adding a new cl. (viii) after cl. (vii) and redesignating the following cls. accordingly, was executed by adding cl. (viii) and redesignating former cls. (viii), (ix), (x), (xi), (xii) (relating to section 4101(d)), and (xii) (relating to subpar. (C) of section 338(h)(10)) as (ix), (x), (xi), (xii), (xiii), and (xiv), respectively, to reflect the probable intent of Congress.

Subsec. (d)(2)(P) to (T). Pub. L. 103-66, §13252(b)(2), added subpar. (P) and redesignated former subpars. (P) through (S) as (Q) through (T), respectively.

1992—Subsec. (d)(3)(E). Pub. L. 102-486 added subpar. (E).

1990—Subsec. (d)(1)(B)(x). Pub. L. 101-508, §11323(b)(2), substituted “subsection (b) or (e) of section 1060” for “section 1060(b)”.

Subsec. (d)(1)(B)(xi). Pub. L. 101-508, §11212(e)(1), as amended by Pub. L. 104-188, §1702(b)(1), struck out “, or subsection (e),” after “(c)(4)”.

Subsec. (d)(1)(B)(xii). Pub. L. 101-508, §11323(c)(2), added cl. (xii) relating to subpar. (C) of section 338(h)(10).

Pub. L. 101-508, §11212(e)(1), as amended by Pub. L. 104-188, §1702(b)(1), added cl. (xii) relating to section 4101(d).

1989—Pub. L. 101-239, §7711(a), amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to reasonable cause waivers, subsec. (b) relating to payment of penalty, subsec. (c) relating to special rules for failure to file interest and dividend returns or statements, and subsec. (d) relating to definitions.

Subsec. (d)(1)(B)(viii) to (xi). Pub. L. 101-239, §7811(c)(3), amended cls. (viii) to (xi) generally. Prior to amendment, cls. (viii) to (xi) read as follows:

“(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

“(ix) section 6053(c)(1) (relating to reporting with respect to certain tips), or

“(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions).

“(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).”

Subsec. (d)(2). Pub. L. 101-239, §7813(a), struck out “or” after “insurance,” in subpar. (Q), substituted “tips, or” for “tips.” in subpar. (R), and redesignated subpar. (U) as (S).

1988—Subsec. (d)(1)(B). Pub. L. 100-647, §3001(b)(1), which directed that “or” be struck out at end of cl. (ix), “, or” be substituted for period at end of cl. (x), and cl. (xi) relating to section 4093 be added, was executed by striking out “or” at end of cl. (ix) and adding cl. (xi) in view of intervening amendments by section 1941(b)(2)(M)(i) of Pub. L. 100-418, and by section 1006(h)(3)(A) of Pub. L. 100-647.

Pub. L. 100-647, §1006(h)(3)(A), struck out “or” at end of cl. (ix), substituted “, or” for period at end of cl. (x), and added cl. (xi) relating to section 1060.

Pub. L. 100-418, §1941(b)(2)(M)(i), redesignated cls. (ii) to (x) as (i) to (ix) and struck out former cl. (i) which read as follows: “section 4997(a) (relating to information with respect to windfall profit tax on crude oil).”

Subsec. (d)(2). Pub. L. 100-647, §3001(b)(2), which directed that “or” be struck out at end of subpar. (S), “, or” be substituted for period at end of subpar. (T), and subpar. (U) be added, was executed by adding subpar. (U) in view of intervening amendment by section 1941(b)(2)(M)(ii) of Pub. L. 100-418.

Pub. L. 100-418, §1941(b)(2)(M)(ii), redesignated subpars. (B) to (J) as (A) to (I), respectively, and struck out former subpar. (A) which read as follows: “section 4997(a) (relating to records and information; regulations),” and redesignated subpars. (L) to (T) as (J) to (R), respectively, and struck out former subpar. (K) which read as follows: “section 6050C (relating to information regarding windfall profit tax on domestic crude oil).”

Subsec. (d)(2)(B). Pub. L. 100-647, §1015(a), substituted “6031(b) or (c)” for “6031(b)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 201(c)(2) of Pub. L. 105-34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105-34, set out as an Effective Date note under section 25A of this title.

Amendment by section 1213(b) of Pub. L. 105-34 applicable to leases entered into after Aug. 5, 1997, see section 1213(e) of Pub. L. 105-34, set out as an Effective Date note under section 110 of this title.

Amendment by section 1223(b) of Pub. L. 105-34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1602(d)(2)(A) of Pub. L. 105-34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, to which such amendment relates, see section 1602(i) of Pub. L. 105-34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 applicable to benefits paid after Dec. 31, 1996, see section 323(d) of Pub. L. 104-191, set out as an Effective Date note under section 6050Q of this title.

Amendment by section 1116(b)(2)(A), (B) of Pub. L. 104-188 applicable to payments made after Dec. 31, 1997, see section 1116(b)(3) of Pub. L. 104-188, set out as an Effective Date note under section 6050R of this title.

Amendment by section 1455(a) of Pub. L. 104-188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104-188, set out as a note under section 408 of this title.

Amendment by section 1615(a)(2)(B) of Pub. L. 104-188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104-188, set out as a note under section 21 of this title.

Amendment by section 1702(b)(1), (c)(2) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

Amendment by section 1901(c)(1) of Pub. L. 104-188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104-188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-322 effective on 60th day after date on which temporary regulations are prescribed under Pub. L. 103-322, §20415(c), see section 20415(d) of Pub. L. 103-322, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, to discharges of indebtedness after Dec. 31, 1993, see section 13252(d) of Pub. L. 103-66, set out as an Effective Date note under section 6050P of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-486 applicable to taxable years beginning after Dec. 31, 1992, see section 1933(c) of

Pub. L. 102-486, set out as a note under section 6109 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11212(e)(1) of Pub. L. 101-508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101-508, set out as a note under section 4081 of this title.

Amendment by section 11323(b)(2), (c)(2) of Pub. L. 101-508 applicable to acquisitions after Oct. 9, 1990, but not applicable to any acquisition pursuant to a written binding contract in effect on Oct. 9, 1990, and at all times thereafter before such acquisition, see section 11323(d) of Pub. L. 101-508, set out as a note under section 338 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7711(a) of Pub. L. 101-239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101-239, set out as a note under section 6721 of this title.

Amendment by sections 7811(c)(3) and 7813(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by sections 1006(h)(3)(A) and 1015(a) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 3001(b)(1), (2) of Pub. L. 100-647 effective Jan. 1, 1989, see section 3001(c) of Pub. L. 100-647, set out as a note under section 4093 of this title.

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as a note under section 6721 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 6652, 6693, 6721, 7434 of this title.

Subchapter C—Procedural Requirements

Sec.
6751. Procedural requirements.

§ 6751. Procedural requirements

(a) Computation of penalty included in notice

The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

(b) Approval of assessment

(1) In general

No penalty under this title shall be assessed unless the initial determination of such as-

essment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any addition to tax under section 6651, 6654, or 6655; or

(B) any other penalty automatically calculated through electronic means.

(c) Penalties

For purposes of this section, the term “penalty” includes any addition to tax or any additional amount.

(Added Pub. L. 105-206, title III, §3306(a), July 22, 1998, 112 Stat. 744.)

EFFECTIVE DATE

Pub. L. 105-206, title III, §3306(c), July 22, 1998, 112 Stat. 744, provided that: “The amendments made by this section [enacting this subchapter] shall apply to notices issued, and penalties assessed, after December 31, 2000.”

CHAPTER 69—GENERAL PROVISIONS RELATING TO STAMPS

Sec. 6801.	Authority for establishment, alteration, and distribution.
6802.	Supply and distribution.
6803.	Accounting and safeguarding.
6804.	Attachment and cancellation.
6805.	Redemption of stamps.
6806.	Posting occupational tax stamps. ¹
6807.	Stamping, marking, and branding seized goods.
6808.	Special provisions relating to stamps.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6422 of this title.

§ 6801. Authority for establishment, alteration, and distribution

(a) Establishment and alteration

The Secretary may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) Preparation and distribution of regulations, forms, stamps and dies

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 829; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-569, §2, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 98-369, div. A, title IV, §454(c)(13), July 18, 1984, 98 Stat. 822.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369 struck out “, except that stamps required by or prescribed pursuant to the

¹ Section catchline amended by Pub. L. 90-618 without corresponding amendment of analysis.