

§ 31.6674-1

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is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause. An employee's reluctance to disclose to his employer the amount of tips received by him will not establish that the employee's failure to report tips to his employer was due to reasonable cause and not due to willful neglect.

[T.D. 7001, 34 FR 1005, Jan. 23, 1969]

§ 31.6674-1 Penalties for fraudulent statement or failure to furnish statement.

Any person required to furnish a statement to an employee under the provisions of section 6051 or 6053(b) is subject to a civil penalty for willful failure to furnish such statement in the manner, at the time, and showing the information required under such section (or § 31.6051-1 or § 31.6053-2), or for willfully furnishing a false or fraudulent statement to an employee. The penalty for each such violation is \$50, which shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act. See section 7204 for criminal penalty.

[T.D. 7001, 34 FR 1006, Jan. 23, 1969]

§ 31.6682-1 False information with respect to withholding.

(a) *Civil penalty.* If any individual makes a statement under section 3402 (relating to income tax collected at source) which results in a lesser amount of income tax actually deducted and withheld than is properly allowable under section 3402 and, at the time the statement was made, there was no reasonable basis for the statement, the individual shall pay a penalty of \$500 for the statement. There was a reasonable basis for a statement of the number of exemptions an individual claimed on a Form W-4, if the individual properly completed the Form W-4 by taking into account only allowable amounts for items which are allowable and by computing the number of exemptions in accordance with the instructions on the Form W-4. This penalty is in addition to any criminal penalty provided by law. This penalty may be assessed at any time after the

statement is made, until the expiration of the applicable statute of limitations.

(b) *Deficiency procedures not to apply.* The civil penalty imposed by section 6682 may be assessed and collected without regard to the deficiency procedures provided by Subchapter B of Chapter 63 of the Code.

[T.D. 7963, 49 FR 28706, July 16, 1984]

§ 31.6694-1 Section 6694 penalties applicable to tax return preparer.

(a) *In general.* For general definitions regarding section 6694 penalties applicable to preparers of employment tax returns or claims for refund of employment tax under chapters 21 through 25 of subtitle C of the Internal Revenue Code, see § 1.6694-1 of this chapter.

(b) *Effective/applicability date.* Paragraph (a) of this section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78453, Dec. 22, 2008, as amended by T.D. 9436, 74 FR 5105, Jan. 29, 2009]

§ 31.6694-2 Penalties for understatement due to an unreasonable position.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of employment tax under chapters 21 through 25 of subtitle C of the Internal Revenue Code (Code) shall be subject to penalties under section 6694(a) of the Code in the manner stated in § 1.6694-2 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78454, Dec. 22, 2008]

§ 31.6694-3 Penalty for understatement due to willful, reckless, or intentional conduct.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of employment tax under chapters 21 through 25 of subtitle C of the Internal Revenue Code (Code) shall be subject to penalties under section 6694(b) of the Code in the manner stated in § 1.6694-3 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and