

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.

### § 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.)

### Editorial Notes

#### AMENDMENTS

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary".

### § 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