

Editorial Notes**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 L. 96-222, and repealed by Pub.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

2015—Subsec. (b)(1)(B). Pub. L. 114-113 substituted “75 percent” for “50 percent”.

2008—Subsec. (a). Pub. L. 110-343 amended subsec. (a) generally. Prior to amendment, subsec. (a) provided penalty for understatement due to unreasonable positions.

2007—Pub. L. 110-28, § 8246(a)(2)(F)(i)(I), substituted “tax return preparer” for “income tax return preparer” in section catchline.

Subsec. (a). Pub. L. 110-28, § 8246(b), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “If—

“(1) any part of any understatement of liability with respect to any return or claim for refund 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.”

Subsec. (b). Pub. L. 110-28, § 8246(b), amended heading and text of subsec. (b) 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—

“(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).”

Subsec. (c)(1). Pub. L. 110-28, § 8246(a)(2)(F)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

Subsec. (c)(2). Pub. L. 110-28, § 8246(a)(2)(F)(i)(III), substituted “the tax return preparer” for “the income tax return preparer”.

Subsec. (e). Pub. L. 110-28, § 8246(a)(2)(F)(i)(IV), substituted “this title” for “subtitle A”.

Subsec. (f). Pub. L. 110-28, § 8246(a)(2)(F)(i)(V), substituted “tax return preparer” for “income tax return preparer”.

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 re-

spect 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).”

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2015 AMENDMENT**

Pub. L. 114-113, div. Q, title II, § 210(b), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendment made by this section [amending this section] shall apply to returns prepared for taxable years ending after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title V, § 506(b), Oct. 3, 2008, 122 Stat. 3880, provided that: “The amendment made by this section [amending this section] shall apply—

“(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

“(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7732(b), Dec. 19, 1989, 103 Stat. 2402, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to documents prepared after December 31, 1989.”

§ 6695. Other assessable penalties with respect to the preparation of tax returns for other persons

(a) Failure to furnish copy to taxpayer

Any person who is a 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 a 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 a 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 a 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 a tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by this title which is issued to a taxpayer (other than the 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 certain tax benefits

Any person who is a 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—

- (1) eligibility to file as a head of household (as defined in section 2(b)) on the return, or
- (2) eligibility for, or the amount of, the credit allowable by section 24, 25A(a)(1), or 32,

shall pay a penalty of \$500 for each such failure.

(h) Adjustment for inflation

(1) In general

In the case of any failure relating to a return or claim for refund filed in a calendar

year beginning after 2014, each of the dollar amounts under subsections (a), (b), (c), (d), (e), (f), and (g) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year determined by substituting “calendar year 2013” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1)—

(A) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(B) is not described in subparagraph (A) and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(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; Pub. L. 110-28, title VIII, §8246(a)(2)(G)(i), (ii), May 25, 2007, 121 Stat. 202; Pub. L. 112-41, title V, §501(a), Oct. 21, 2011, 125 Stat. 459; Pub. L. 113-295, div. B, title II, §208(c), Dec. 19, 2014, 128 Stat. 4073; Pub. L. 114-113, div. Q, title II, §207(a), Dec. 18, 2015, 129 Stat. 3082; Pub. L. 115-97, title I, §§11001(b), 11002(d)(1)(MM), Dec. 22, 2017, 131 Stat. 2058, 2060; Pub. L. 115-141, div. U, title IV, §401(a)(299)(C), (309), (310), Mar. 23, 2018, 132 Stat. 1198, 1199.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

AMENDMENTS

2018—Subsec. (h)(1). Pub. L. 115-141, §401(a)(299)(C), inserted “an amount equal to” after “increased by” and “for the calendar year” after “section 1(f)(3)”.

Subsec. (h)(2). Pub. L. 115-141, §401(a)(309), substituted “paragraph (1)” for “subparagraph (A)” in introductory provisions.

Subsec. (h)(2)(B). Pub. L. 115-141, §401(a)(310), substituted “subparagraph (A)” for “clause (i)”.

2017—Subsec. (g). Pub. L. 115-97, §11001(b), amended subsec. (g) generally. Prior to amendment, text read as follows: “Any person who is a 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 24, 25A(a)(1), or 32 shall pay a penalty of \$500 for each such failure.”

Subsec. (h)(1). Pub. L. 115-97, §11002(d)(1)(MM), substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (g). Pub. L. 114-113 inserted “child tax credit; American Opportunity Tax Credit; and” before “earned income credit” in heading and substituted “section 24, 25A(a)(1), or 32” for “section 32” in text.

2014—Subsec. (h). Pub. L. 113-295 added subsec. (h).

2011—Subsec. (g). Pub. L. 112-41 substituted “\$500” for “\$100”.

2007—Pub. L. 110-28, § 8246(a)(2)(G)(i)(I), struck out “income” before “tax” in section catchline.

Subsecs. (a) to (d). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

Subsec. (f). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), (ii), substituted “a tax return preparer” for “an income tax return preparer”, “this title” for “subtitle A”, and “the tax return preparer” for “the income tax return preparer”.

Subsec. (g). Pub. L. 110-28, § 8246(a)(2)(G)(i)(II), substituted “a tax return preparer” for “an income tax return preparer”.

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11001(b) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11001(c) of Pub. L. 115-97, set out as a note under section 1 of this title.

Amendment by section 11002(d)(1)(MM) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, § 207(c), Dec. 18, 2015, 129 Stat. 3083, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns or claims for refund filed after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-41 applicable to returns required to be filed after Dec. 31, 2011, see section 501(b) of Pub. L. 112-41, set out in a note under section 3805 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-28 applicable to returns prepared after May 25, 2007, see section 8246(c) of Pub. L. 110-28, set out as a note under section 6060 of this title.

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

Pub. L. 101-239, title VII, § 7733(e), Dec. 19, 1989, 103 Stat. 2403, 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

Pub. L. 95-600, title VII, § 701(cc)(3), Nov. 6, 1978, 92 Stat. 2924, 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.

§ 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals

(a) Imposition of penalty

If—

(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), a substantial estate or gift tax valuation understatement (within the meaning of section 6662(g)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

(b) Amount of penalty

The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

(1) the greater of—