

[§ 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 Repealed.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.

Statutory Notes and Related Subsidiaries

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. Failure to file S corporation 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 S corporation required to file a return under section 6037 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 6037,

such S corporation 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 12 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) \$195, multiplied by

(2) the number of persons who were shareholders in the S corporation during any part of the taxable year.

(c) Assessment of penalty

The penalty imposed by subsection (a) shall be assessed against the S corporation.

(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).

(e) Adjustment for inflation

(1) In general

In the case of any return required to be filed in a calendar year beginning after 2014, the \$195 dollar amount under subsection (b)(1) 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) is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(Added Pub. L. 110-142, §9(a), Dec. 20, 2007, 121 Stat. 1807; amended Pub. L. 110-458, title I, §128(a), Dec. 23, 2008, 122 Stat. 5116; Pub. L. 111-92, §16(a), Nov. 6, 2009, 123 Stat. 2996; Pub. L. 113-295, div. B, title II, §208(e), Dec. 19, 2014, 128 Stat. 4073; Pub. L. 115-97, title I, §11002(d)(1)(OO), Dec. 22, 2017, 131 Stat. 2061; Pub. L. 115-141, div. U, title IV, §401(a)(299)(E), Mar. 23, 2018, 132 Stat. 1198.)

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

CODIFICATION

Section 9(a) of Pub. L. 110-142, which directed amendment of this part by adding this section at the end, was executed by inserting this section after section 6698, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6699, 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, prior to repeal by Pub. L. 99-514, title XI, §1171(b)(7)(A), Oct. 22, 1986, 100 Stat. 2513. For effective date of repeal, 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.

AMENDMENTS

2018—Subsec. (e)(1). Pub. L. 115-141 inserted “an amount equal to” after “increased by” and “for the calendar year” after “section 1(f)(3)”.

2017—Subsec. (e)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

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

2009—Subsec. (b)(1). Pub. L. 111-92 substituted “\$195” for “\$89”.

2008—Subsec. (b)(1). Pub. L. 110-458 substituted “\$89” for “\$85”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by 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 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed, and statements required to be furnished, 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 2009 AMENDMENT

Amendment by Pub. L. 111-92 applicable to returns for taxable years beginning after Dec. 31, 2009, see sec-