

tate, 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.

**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.
- 6676. Erroneous claim for refund or credit.
- 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 Repealed.]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 Repealed.]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. Repealed.]
- 6684. Repeated liability for tax under chapter 42.<sup>1</sup>
- 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.<sup>2</sup>
- [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 Repealed.]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.

<sup>1</sup> So in original. Does not conform to section catchline.

<sup>2</sup> Section catchline amended by Pub. L. 110-172 without corresponding amendment of analysis.

- 6694. Understatement of taxpayer's liability by tax return preparer.
- 6695. Other assessable penalties with respect to the preparation of tax returns for other persons.
- 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
- 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.
- [6697. Repealed.]
- 6698. Failure to file partnership return.
- [6698A. Repealed.]
- 6699. Failure to file S corporation return.
- 6700. Promoting abusive tax shelters, etc.
- 6701. Penalties for aiding and abetting understatement of tax liability.
- 6702. Frivolous tax submissions.
- 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 reportable transactions.
- 6707A. Penalty for failure to include reportable transaction information with return.
- 6708. Failure to maintain lists of advisees with respect to reportable transactions.
- 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.
- 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.
- [6716. Repealed.]
- 6717. Refusal of entry.
- 6718. Failure to display tax registration on vessels.
- 6719. Failure to register or reregister.
- 6720. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.
- 6720A. Penalty with respect to certain adulterated fuels.
- 6720B. Fraudulent identification of exempt use property.
- 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.

AMENDMENT OF ANALYSIS

*For termination of amendment by section 304 of Pub. L. 111-312, see Effective and Termination Dates of 2010 Amendment note set out under section 121 of this title.*

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note set out under section 1 of this title.*

AMENDMENTS

2010—Pub. L. 111-325, title V, §501(a), Dec. 22, 2010, 124 Stat. 3554, struck out item 6697 “Assessable penalties with respect to liability for tax of regulated investment companies”.

Pub. L. 111-312, title III, §§301(a), 304, Dec. 17, 2010, 124 Stat. 3300, 3304, temporarily amended analysis to read as if amendment by Pub. L. 107-16, §542(b)(5)(A), had never been enacted. See 2001 Amendment note below.

2009—Pub. L. 111-5, div. B, title III, §3001(a)(13)(B), Feb. 17, 2009, 123 Stat. 465, added item 6720C.

2007—Pub. L. 110-142, §9(b), Dec. 20, 2007, 121 Stat. 1807, which directed amendment of the analysis for this part by adding item 6699 at the end, was executed by inserting item 6699 after item 6698, to reflect the probable intent of Congress.

Pub. L. 110-28, title VIII, §§8246(a)(2)(F)(ii), (G)(iii), 8247(b), May 25, 2007, 121 Stat. 202, 204, added item 6676, substituted “tax return preparer” for “income tax return preparer” in item 6694, and struck out “income” before “tax returns” in item 6695.

2006—Pub. L. 109-432, div. A, title IV, §407(e), Dec. 20, 2006, 120 Stat. 2962, substituted “tax submissions” for “income tax return” in item 6702.

Pub. L. 109-280, title XII, §§1215(c)(2), 1219(b)(3), Aug. 17, 2006, 120 Stat. 1079, 1084, which directed amendment of the analysis for part I of subchapter B of chapter 68 by adding items 6695A and 6720B and substituting “6694, 6695, and 6695A” for “6694 and 6695” in item 6696, without specifying the act to be amended, was executed by making the amendments to this analysis, which is part of chapter 68 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Pub. L. 109-135, title IV, §403(n)(3)(B), Dec. 21, 2005, 119 Stat. 2626, struck out item 6683 “Failure of foreign corporation to file return of personal holding company tax”.

Pub. L. 109-59, title XI, §§11164(b)(4), 11167(c), Aug. 10, 2005, 119 Stat. 1976, 1977, inserted “or reregister” after “register” in item 6719 and added item 6720A.

2004—Pub. L. 108-357, title VIII, §§811(b), 815(b)(5)(B), 816(b), 854(c)(2), 859(b)(2), 861(b)(2), 863(c)(2), 884(b)(2), Oct. 22, 2004, 118 Stat. 1577, 1583, 1584, 1616, 1618-1620, 1634, added items 6707A, 6715A, and 6717 to 6720 and substituted “reportable transactions” for “tax shelters” in item 6707 and “advisees with respect to reportable transactions” for “investors in potentially abusive tax shelters” in item 6708.

2001—Pub. L. 107-16, title V, §542(b)(5)(A), title IX, §901, June 7, 2001, 115 Stat. 83, 150, temporarily added item 6716 “Failure to file information with respect to certain transfers at death and gifts”.

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.

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 non-deductible 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.

### § 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”.

### § 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