

§ 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—

(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

(B) \$1,000, or

(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

(c) Exception

No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.

(Added Pub. L. 109-280, title XII, § 1219(b)(1), Aug. 17, 2006, 120 Stat. 1084; amended Pub. L. 110-172, §§ 3(e)(1), 11(a)(40), Dec. 29, 2007, 121 Stat. 2474, 2488.)

CODIFICATION

Section 1219(b)(1) of Pub. L. 109-280, which directed the addition of section 6695A at the end of part I of subchapter B of chapter 68, without specifying the act to be amended, was executed by adding section 6695A at the end of part I of subchapter B of chapter 68 of this title, which consists of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-172, § 11(a)(40), designated the words “then such person shall pay a penalty in the amount determined under subsection (b).”, appearing in par. (2), as concluding provisions of subsec. (a).

Subsec. (a)(2). Pub. L. 110-172, § 3(e)(1), inserted “a substantial estate or gift tax valuation understatement (within the meaning of section 6662(g)),” before “or a gross valuation misstatement”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by section 3(e)(1) of Pub. L. 110-172 effective as if included in the provisions of the Pension Pro-

tection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

EFFECTIVE DATE

Section applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(2), (3) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendments note under section 170 of this title.

§ 6696. Rules applicable with respect to sections 6694, 6695, and 6695A

(a) Penalties to be additional to any other penalties

The penalties provided by section¹ 6694, 6695, and 6695A shall be in addition to any other penalties provided by law.

(b) 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 with respect to the assessment or collection of the penalties provided by sections 6694, 6695, and 6695A.

(c) Procedure for claiming refund

Any claim for credit or refund of any penalty paid under section 6694, 6695, or 6695A shall be filed in accordance with regulations prescribed by the Secretary.

(d) Periods of limitation

(1) Assessment

The amount of any penalty under section 6694(a), section² 6695, or 6695A shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

(2) Claim for refund

Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694, 6695, or 6695A shall be filed within 3 years from the time the penalty was paid.

(e) Definitions

For purposes of sections 6694, 6695, and 6695A—

(1) Return

The term “return” means any return of any tax imposed by this title.

(2) Claim for refund

The term “claim for refund” means a claim for refund of, or credit against, any tax imposed by this title.

(Added Pub. L. 94-455, title XII, § 1203(f), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 109-280, title XII, § 1219(b)(2), Aug. 17, 2006, 120 Stat. 1084; Pub.

¹So in original. Probably should be “sections”.

²So in original. The word “section” probably should not appear.

L. 110-28, title VIII, § 8246(a)(2)(H), May 25, 2007, 121 Stat. 202; Pub. L. 110-172, § 3(e)(2), Dec. 29, 2007, 121 Stat. 2474.)

CODIFICATION

Section 1219(b)(2) of Pub. L. 109-280, which directed the amendment of section 6696 without specifying the act to be amended, was executed to this section, which is section 6696 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment note below.

AMENDMENTS

2007—Subsec. (d)(1). Pub. L. 110-172 substituted “, section 6695, or 6695A” for “or under section 6695”.

Subsec. (e). Pub. L. 110-28 substituted “this title” for “subtitle A” in pars. (1) and (2).

2006—Pub. L. 109-280 substituted “6694, 6695, and 6695A” for “6694 and 6695” wherever appearing in section catchline and text and “6694, 6695, or 6695A” for “6694 or 6695” wherever appearing in text. See Codification note above.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Pension Protection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

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 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(2), (3) of Pub. L. 109-280, set out as a note under section 170 of this title.

[§ 6697. Repealed. Pub. L. 111-325, title V, § 501(a), Dec. 22, 2010, 124 Stat. 3554]

Section, added Pub. L. 94-455, title XVI, § 1601(b)(1), Oct. 4, 1976, 90 Stat. 1745; amended Pub. L. 95-600, title III, § 362(b), Nov. 6, 1978, 92 Stat. 2851; Pub. L. 99-514, title VI, § 667(a), Oct. 22, 1986, 100 Stat. 2305, related to assessable penalties with respect to liability for tax of regulated investment companies.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 22, 2010, see section 501(c) of Pub. L. 111-325, set out as an Effective Date of 2010 Amendment note under section 860 of this title.

§ 6698. Failure to file partnership 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 partnership required to file a return under section 6031 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 6031,

such partnership 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 partners in the partnership during any part of the taxable year¹

(c) Assessment of penalty

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

(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).

(Added Pub. L. 95-600, title II, § 211(a), Nov. 6, 1978, 92 Stat. 2817; amended Pub. L. 110-142, § 8(a), (b), Dec. 20, 2007, 121 Stat. 1806; Pub. L. 110-458, title I, § 127(a), Dec. 23, 2008, 122 Stat. 5116; Pub. L. 111-92, § 16(a), Nov. 6, 2009, 123 Stat. 2996.)

CODIFICATION

Another section 6698, formerly 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

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

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

2007—Subsec. (a). Pub. L. 110-142, § 8(a), substituted “12 months” for “5 months” in concluding provisions. Subsec. (b)(1). Pub. L. 110-142, § 8(b), substituted “\$85” for “\$50”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, § 16(b), Nov. 6, 2009, 123 Stat. 2996, provided that: “The amendments made by this section [amending this section and section 6699 of this title] shall apply to returns for taxable years beginning after December 31, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, § 127(b), Dec. 23, 2008, 122 Stat. 5116, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns required to be filed after December 31, 2008.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-142, § 8(d), Dec. 20, 2007, 121 Stat. 1807, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply to returns required to be filed after the date of the enactment of this Act [Dec. 20, 2007].”

EFFECTIVE DATE

Section 211(c) of Pub. L. 95-600 provided that: “The amendments made by this section [enacting this section] shall apply with respect to returns for taxable years beginning after December 31, 1978.”

MODIFICATION OF PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURNS

Pub. L. 110-141, § 2, Dec. 19, 2007, 121 Stat. 1802, provided that: “For any return of a partnership required to

¹ So in original. Probably should be followed by a period.