

(I) the tax advisor is described in clause (ii), or

(II) the opinion is described in clause (iii).

**(ii) Disqualified tax advisors**

A tax advisor is described in this clause if the tax advisor—

(I) is a material advisor (within the meaning of section 6111(b)(1)) and participates in the organization, management, promotion, or sale of the transaction or is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

**(iii) Disqualified opinions**

For purposes of clause (i), an opinion is disqualified if the opinion—

(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

(III) does not identify and consider all relevant facts, or

(IV) fails to meet any other requirement as the Secretary may prescribe.

(Added Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2398; amended Pub. L. 108-357, title VIII, §812(c), Oct. 22, 2004, 118 Stat. 1579; Pub. L. 109-280, title XII, §1219(a)(3), (c)(2), Aug. 17, 2006, 120 Stat. 1084, 1085; Pub. L. 111-152, title I, §1409(c), Mar. 30, 2010, 124 Stat. 1069.)

**CODIFICATION**

Section 1409(c) of Pub. L. 111-152, which directed the amendment of section 6664 without specifying the act to be amended, was executed to this section, which is section 6664 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment notes below.

Section 1219(a)(3), (c)(2) of Pub. L. 109-280, which directed the amendment of section 6664 without specifying the act to be amended, was executed to this section, which is section 6664 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

**AMENDMENTS**

2010—Subsec. (c)(2) to (4). Pub. L. 111-152, §1409(c)(1)(A), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. See Codification note above.

Subsec. (c)(4)(A). Pub. L. 111-152, §1409(c)(1)(B), substituted “paragraph (3)” for “paragraph (2)”. See Codification note above.

Subsec. (d)(2), (3). Pub. L. 111-152, §1409(c)(2)(A), (C), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4). See Codification note above.

Subsec. (d)(4). Pub. L. 111-152, §1409(c)(2)(B), substituted “paragraph (3)(C)” for “paragraph (2)(C)” in introductory provisions. See Codification note above.

Pub. L. 111-152, §1409(c)(2)(A), redesignated par. (3) as (4). See Codification note above.

2006—Subsec. (c)(2). Pub. L. 109-280, §1219(a)(3), substituted “paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if—” for “paragraph (1) shall not apply unless—” in introductory provisions. See Codification note above.

Subsec. (c)(3)(B), (C). Pub. L. 109-280, §1219(c)(2), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) QUALIFIED APPRAISER.—The term ‘qualified appraiser’ means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).”

“(C) QUALIFIED APPRAISAL.—The term ‘qualified appraisal’ means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).” See Codification note above.

2004—Subsec. (c). Pub. L. 108-357, §812(c)(2)(B), inserted “for underpayments” after “exception” in heading.

Subsec. (c)(1). Pub. L. 108-357, §812(c)(2)(A), substituted “section 6662 or 6663” for “this part”.

Subsec. (d). Pub. L. 108-357, §812(c)(1), added subsec. (d).

**EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by section 1409(c)(1) of Pub. L. 111-152 applicable to underpayments attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(2) of Pub. L. 111-152, set out as a note under section 6662 of this title.

Amendment by section 1409(c)(2) of Pub. L. 111-152 applicable to understatements attributable to transactions entered into after Mar. 30, 2010, see section 1409(e)(3) of Pub. L. 111-152, set out as a note under section 6662 of this title.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by section 1219(a)(3) of Pub. L. 109-280 applicable to returns filed after Aug. 17, 2006, with special rule for certain easements, see section 1219(e)(1), (3), of Pub. L. 109-280, set out as a note under section 170 of this title.

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

**EFFECTIVE DATE OF 2004 AMENDMENT**

Amendment by Pub. L. 108-357 applicable to taxable years ending after Oct. 22, 2004, with special rule for application of subsec. (d)(3)(B) [now (d)(4)(B)] of this section, see section 812(f) of Pub. L. 108-357, as amended, set out as a note under section 6662 of this title.

**PART III—APPLICABLE RULES**

Sec.  
6665. Applicable rules.

**AMENDMENTS**

1989—Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2398, added part heading and analysis.

**§ 6665. Applicable rules**

**(a) Additions treated as tax**

Except as otherwise provided in this title—

(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

(2) any reference in this title to “tax” imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

**(b) Procedure for assessing certain additions to tax**

For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, 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.]

<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.

- 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.
- 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.

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”.