

AMENDMENTS

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 respect 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 pro-

hibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).”

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 earned income credit

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

(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.)

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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.

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—

(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 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.

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.

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

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