

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 section<sup>1</sup> 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), section<sup>2</sup> 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.

<sup>1</sup> So in original. Probably should be “sections”.

<sup>2</sup> So in original. The word “section” probably should not appear.