

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 be filed under section 6031 of the Internal Revenue Code of 1986 for a taxable year beginning in 2008, the dollar amount in effect under section 6698(b)(1) of such Code shall be increased by \$1.”

[§ 6698A. Repealed. Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94-455, title XX, § 2005(d)(2), Oct. 4, 1976, 90 Stat. 1878, § 6694; renumbered § 6698 and amended Pub. L. 95-600, title VII, § 702(r)(1)(A), (B), Nov. 6, 1978, 92 Stat. 2938; renumbered § 6698A, Pub. L. 96-222, title I, § 107(a)(2)(D), Apr. 1, 1980, 94 Stat. 223, related to failure of an executor to file information with respect to carryover basis property. Repeal was achieved by repealing section 2005(d)(2) of Pub. L. 94-455 and section 702(r)(1)(A), (B) of Pub. L. 95-600 and the amendments made by those sections.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR
LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

§ 6699. Failure to file S corporation 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 S corporation required to file a return under section 6037 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 6037,

such S corporation 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 shareholders in the S corporation during any part of the taxable year.

(c) Assessment of penalty

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

(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. 110-142, § 9(a), Dec. 20, 2007, 121 Stat. 1807; amended Pub. L. 110-458, title I, § 128(a), Dec. 23, 2008, 122 Stat. 5116; Pub. L. 111-92, § 16(a), Nov. 6, 2009, 123 Stat. 2996.)

CODIFICATION

Section 9(a) of Pub. L. 110-142, which directed amendment of this part by adding this section at the end, was executed by inserting this section after section 6698, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 6699, added Pub. L. 95-600, title I, § 141(c)(1), Nov. 6, 1978, 92 Stat. 2794; amended Pub. L. 96-222, title I, § 101(a)(7)(L)(iii)(VI), (v)(IX), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97-34, title III, § 331(c)(3), (4), Aug. 13, 1981, 95 Stat. 293, 294; Pub. L. 97-448, title I, § 103(g)(2)(B)-(D), Jan. 12, 1983, 96 Stat. 2379; Pub. L. 98-369, div. A, title IV, § 491(e)(9), July 18, 1984, 98 Stat. 853; Pub. L. 99-514, title XVIII, § 1847(b)(9), Oct. 22, 1986, 100 Stat. 2857, related to assessable penalties applicable to tax credit employee stock ownership plans, prior to repeal by Pub. L. 99-514, title XI, § 1171(b)(7)(A), Oct. 22, 1986, 100 Stat. 2513. For effective date of repeal, see section 1171(c) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 38 of this title.

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”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-92 applicable to returns for taxable years beginning after Dec. 31, 2009, see section 16(b) of Pub. L. 111-92, set out as a note under section 6698 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, § 128(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

Pub. L. 110-142, § 9(c), Dec. 20, 2007, 121 Stat. 1808, provided that: “The amendments made by this section [enacting this section] shall apply to returns required to be filed after the date of the enactment of this Act [Dec. 20, 2007].”

§ 6700. Promoting abusive tax shelters, etc.

(a) Imposition of penalty

Any person who—

- (1)(A) organizes (or assists in the organization of)—
 - (i) a partnership or other entity,
 - (ii) any investment plan or arrangement,
 or
 - (iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

- (A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the

plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

shall pay, with respect to each activity described in paragraph (1), a penalty equal to the \$1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated. Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.

(b) Rules relating to penalty for gross valuation overstatements

(1) Gross valuation overstatement defined

For purposes of this section, the term “gross valuation overstatement” means any statement as to the value of any property or services if—

(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

(2) Authority to waive

The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 97-248, title III, § 320(a), Sept. 3, 1982, 96 Stat. 611; amended Pub. L. 98-369, div. A, title I, § 143(a), July 18, 1984, 98 Stat. 682; Pub. L. 101-239, title VII, § 7734(a), Dec. 19, 1989, 103 Stat. 2403; Pub. L. 108-357, title VIII, § 818(a), Oct. 22, 2004, 118 Stat. 1584.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 inserted at end of concluding provisions “Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.”

1989—Subsec. (a). Pub. L. 101-239, § 7734(a)(3), added concluding provision and struck out former concluding provision which read as follows: “shall pay a penalty equal to the greater of \$1,000 or 20 percent of the gross income derived or to be derived by such person from such activity.”

Subsec. (a)(1)(B). Pub. L. 101-239, § 7734(a)(1), inserted “(directly or indirectly)” after “participates”.

Subsec. (a)(2). Pub. L. 101-239, § 7734(a)(2), inserted “or causes another person to make or furnish” after “makes or furnishes” in introductory provisions.

1984—Subsec. (a). Pub. L. 98-369 substituted “20 percent” for “10 percent”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 818(b), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendment made by this section [amending this section] shall apply to activities after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7734(b), Dec. 19, 1989, 103 Stat. 2403, provided that: “The amendment made by subsection (a) [amending this section] shall apply to activities after December 31, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, § 143(c), July 18, 1984, 98 Stat. 682, provided that: “The amendments made by this section [amending this section and section 7408 of this title] shall take effect on the day after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE

Pub. L. 97-248, title III, § 320(c), Sept. 3, 1982, 96 Stat. 612, provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

§ 6701. Penalties for aiding and abetting understatement of tax liability

(a) Imposition of penalty

Any person—

(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

(2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

(2) Corporations

If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

(3) Only 1 penalty per person per period

If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with re-