

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-

spect to any other document relating to such taxpayer for such taxable period (or event).

(c) Activities of subordinates

(1) In general

For purposes of subsection (a), the term “procures” includes—

(A) ordering (or otherwise causing) a subordinate to do an act, and

(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

(2) Subordinate

For purposes of paragraph (1), the term “subordinate” means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) Taxpayer not required to have knowledge

Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) Certain actions not treated as aid or assistance

For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) Penalty in addition to other penalties

(1) In general

Except as provided by paragraphs (2) and (3), the penalty imposed by this section shall be in addition to any other penalty provided by law.

(2) Coordination with return preparer penalties

No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(3) Coordination with section 6700

No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(Added Pub. L. 97-248, title III, § 324(a), Sept. 3, 1982, 96 Stat. 615; amended Pub. L. 101-239, title VII, § 7735(a), (b), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101-239, § 7735(a)(1), struck out “in connection with any matter arising under the internal revenue laws” after “other document”.

Subsec. (a)(2). Pub. L. 101-239, § 7735(a)(2), inserted “(or has reason to believe)” after “who knows”.

Subsec. (a)(3). Pub. L. 101-239, § 7735(a)(3), substituted “would result” for “will result”.

Subsec. (f)(1). Pub. L. 101-239, § 7735(b)(2), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (f)(3). Pub. L. 101-239, § 7735(b)(1), added par. (3).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7735(c), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendments made by

this section [amending this section] shall take effect on December 31, 1989.”

EFFECTIVE DATE

Pub. L. 97-248, title III, § 324(c), Sept. 3, 1982, 96 Stat. 616, 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].”

§ 6702. Frivolous tax submissions

(a) Civil penalty for frivolous tax returns

A person shall pay a penalty of \$5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) Civil penalty for specified frivolous submissions

(1) Imposition of penalty

Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of \$5,000.

(2) Specified frivolous submission

For purposes of this section—

(A) Specified frivolous submission

The term “specified frivolous submission” means a specified submission if any portion of such submission—

(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(ii) reflects a desire to delay or impede the administration of Federal tax laws.

(B) Specified submission

The term “specified submission” means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 6159 (relating to agreements for payment of tax liability in installments),

(II) section 7122 (relating to compromises), or

(III) section 7811 (relating to taxpayer assistance orders).

(3) Opportunity to withdraw submission

If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.