

(2) such failure—

(A) occurs during the first quarter that such person was required to deposit any employment tax; or

(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and

(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term “employment taxes” means the taxes imposed by subtitle C.

(d) Authority to abate penalty where deposit sent to Secretary

The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(e) Designation of periods to which deposits apply

(1) In general

A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.

(2) Time for making designation

A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 91-172, title IX, §943(b), Dec. 30, 1969, 83 Stat. 728; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title VII, §724(a), (b)(1), (3), Aug. 13, 1981, 95 Stat. 344, 345; Pub. L. 99-509, title VIII, §8001(a), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 101-239, title VII, §7742(a), Dec. 19, 1989, 103 Stat. 2405; Pub. L. 104-168, title III, §304(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1458, 1464; Pub. L. 105-206, title III, §3304(a)-(c), July 22, 1998, 112 Stat. 742.)

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-206, §3304(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and”.

Subsec. (e). Pub. L. 105-206, §3304(a), added subsec. (e).

Subsec. (e)(1). Pub. L. 105-206, §3304(c), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “A person may, with respect to any deposit of tax to be reported on such person’s return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.”

1996—Subsec. (c). Pub. L. 104-168, §304(a), added subsec. (c).

Subsec. (c)(1). Pub. L. 104-168, §701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

Subsec. (d). Pub. L. 104-168, §304(a), added subsec. (d).

1989—Pub. L. 101-239 substituted “taxes” for “taxes or overstatement of deposits” as section catchline and amended text generally, revising substance and structure.

1986—Subsec. (a). Pub. L. 99-509 substituted “10 percent” for “5 percent”.

1981—Pub. L. 97-34, §724(b)(1), inserted “or overstatement of deposits” after “taxes” in section catchline.

Subsec. (a). Pub. L. 97-34, §724(b)(3), substituted “Underpayment of deposits” for “Penalty” in heading.

Subsec. (b). Pub. L. 97-34, §724(a), substituted provisions relating to conditions for imposition of penalties for overstated deposit claims and definition of “overstated deposit claim”, for provisions relating to imposition of penalties after due date for return.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Subsec. (a). Pub. L. 91-172 substituted provisions imposing a penalty of five percent for the failure to deposit on the date prescribed any amount of tax imposed by this title, for provisions imposing a penalty of one percent of the amount of underpayment each month but not to exceed six percent in the aggregate.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3304(d), July 22, 1998, 112 Stat. 742, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act [July 22, 1998].

“(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) [amending this section] shall apply to deposits required to be made after December 31, 2001.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §304(b), July 30, 1996, 110 Stat. 1459, provided that: “The amendment made by subsection (a) [amending this section] shall apply to deposits required to be made after the date of the enactment of this Act [July 30, 1996].”

Amendment by section 701(c)(3) of Pub. L. 104-168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104-168, set out as a note under section 6404 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7742(c), Dec. 19, 1989, 103 Stat. 2405, provided that: “The amendments made by this section [amending this section] shall apply to deposits required to be made after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title VIII, §8001(b), Oct. 21, 1986, 100 Stat. 1951, provided that: “The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 21, 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §724(c), Aug. 13, 1981, 95 Stat. 345, provided that: “The amendments made by this section [amending this section and sections 5684 and 5761 of this title] shall apply to returns filed after the date of the enactment of this Act [Aug. 13, 1981].”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to deposits the time for making of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

§ 6657. Bad checks

If any instrument in payment, by any commercially acceptable means, of any amount receivable under this title is not duly paid, in ad-

dition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such instrument, upon notice and demand by the Secretary, in the same manner as tax, an amount equal to 2 percent of the amount of such instrument, except that if the amount of such instrument is less than \$1,250, the penalty under this section shall be \$25 or the amount of such instrument, whichever is the lesser. This section shall not apply if the person tendered such instrument in good faith and with reasonable cause to believe that it would be duly paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title V, §5071(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 110-28, title VIII, §8245(a), May 25, 2007, 121 Stat. 200; Pub. L. 111-198, §3(a), July 2, 2010, 124 Stat. 1356.)

AMENDMENTS

2010—Pub. L. 111-198, §3(a)(2), substituted “such instrument” for “such check” wherever appearing.
 Pub. L. 111-198, §3(a)(1), substituted “If any instrument in payment, by any commercially acceptable means, of any amount” for “If any check or money order in payment of any amount”.
 2007—Pub. L. 110-28 substituted “\$1,250” for “\$750” and “\$25” for “\$15”.
 1988—Pub. L. 100-647 substituted “2” for “1”, “\$750” for “\$500”, and “\$15” for “\$5”.
 1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-198, §3(b), July 2, 2010, 124 Stat. 1356, provided that: “The amendments made by this section [amending this section] shall apply to instruments tendered after the date of the enactment of this Act [July 2, 2010].”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-28, title VIII, §8245(b), May 25, 2007, 121 Stat. 200, provided that: “The amendments made by this section [amending this section] apply to checks or money orders received after the date of the enactment of this Act [May 25, 2007].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5071(b), Nov. 10, 1988, 102 Stat. 3681, provided that: “The amendment made by subsection (a) [amending this section] shall apply to checks or money orders received after the date of the enactment of this Act [Nov. 10, 1988].”

§ 6658. Coordination with title 11

(a) Certain failures to pay tax

No addition to the tax shall be made under section 6651, 6654, or 6655 for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

- (1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or
- (2) if—

(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

(B)(i) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

(ii) the date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) Exception for collected taxes

Subsection (a) shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States.

(Added Pub. L. 96-589, §6(e)(1), Dec. 24, 1980, 94 Stat. 3408.)

PRIOR PROVISIONS

A prior section 6658, act Aug. 16, 1954, ch. 736, 68A Stat. 826, authorized inclusion as part of the tax a 25 percent penalty in cases of violations or attempted violations of section 6851 of this title, prior to repeal by Pub. L. 96-167, §6(a), Dec. 29, 1979, 93 Stat. 1276.

EFFECTIVE DATE

Section effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

[§§ 6659 to 6661. Repealed. Pub. L. 101-239, title VII, §7721(c)(2), Dec. 19, 1989, 103 Stat. 2399]

Section 6659, added Pub. L. 97-34, title VII, §722(a)(1), Aug. 13, 1981, 95 Stat. 341; amended Pub. L. 97-448, title I, §107(a)(1), (2), Jan. 12, 1983, 96 Stat. 2391; Pub. L. 98-369, div. A, title I, §155(c)(1), title VII, §721(x)(4), July 18, 1984, 98 Stat. 693, 971, related to additions to tax in case of valuation overstatements for purposes of the income tax.

A prior section 6659 was renumbered section 6662 of this title.

Section 6659A, added Pub. L. 99-514, title XI, §1138(a), Oct. 22, 1986, 100 Stat. 2486, related to additions to tax in case of overstatements of pension liabilities.

Section 6660, added Pub. L. 98-369, div. A, title I, §155(c)(2)(A), July 18, 1984, 98 Stat. 694; amended Pub. L. 99-514, title XVIII, §§1811(d), 1899A(57), Oct. 22, 1986, 100 Stat. 2833, 2961, related to additions to tax in case of valuation understatements for purposes of estate or gift taxes.

A prior section 6660 was renumbered section 6662 of this title.

Section 6661, added Pub. L. 97-248, title III, §323(a), Sept. 3, 1982, 96 Stat. 613; amended Pub. L. 97-354, §5(a)(42), Oct. 19, 1982, 96 Stat. 1697; Pub. L. 98-369, div. A, title VII, §714(h)(3), July 18, 1984, 98 Stat. 962; Pub. L. 99-509, title VIII, §8002(a), (c), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99-514, title XV, §1504(a), Oct. 22, 1986, 100 Stat. 2743, related to substantial understatements of liability.

EFFECTIVE DATE OF REPEAL

Repeal 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.

PART II—ACCURACY-RELATED AND FRAUD PENALTIES

Sec.	
6662.	Imposition of accuracy-related penalty on underpayments.
6662A.	Imposition of accuracy-related penalty on understatements with respect to reportable transactions.
6663.	Imposition of fraud penalty.
6664.	Definitions and special rules.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §812(e)(2), Oct. 22, 2004, 118 Stat. 1580, added items 6662 and 6662A and