

in an amount equal to 20 percent of the excessive amount.

**(b) Excessive amount**

For purposes of this section, the term “excessive amount” means in the case of any person the amount by which the amount of the claim for refund or credit for any taxable year exceeds the amount of such claim allowable under this title for such taxable year.

**(c) Noneconomic substance transactions treated as lacking reasonable basis**

For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as due to reasonable cause.

**(d) Coordination with other penalties**

This section shall not apply to any portion of the excessive amount of a claim for refund or credit which is subject to a penalty imposed under part II of subchapter A of chapter 68.

(Added Pub. L. 110-28, title VIII, §8247(a), May 25, 2007, 121 Stat. 204; amended Pub. L. 111-152, title I, §1409(d), Mar. 30, 2010, 124 Stat. 1070; Pub. L. 114-113, div. Q, title II, §209(b), (c), Dec. 18, 2015, 129 Stat. 3084, 3085.)

CODIFICATION

Section 1409(d) of Pub. L. 111-152, which directed the amendment of section 6676 without specifying the act to be amended, was executed to this section, which is section 6676 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment note below.

PRIOR PROVISIONS

A prior section 6676, added Pub. L. 87-397, §1(b), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 91-172, title I, §101(j)(52), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(20), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, §316(a), Sept. 3, 1982, 96 Stat. 607; Pub. L. 98-67, title I, §105(a), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98-369, div. A, title IV, §422(c), July 18, 1984, 98 Stat. 798; Pub. L. 99-514, title XV, §§1501(b), 1523(b)(3), 1524(b), Oct. 22, 1986, 100 Stat. 2736, 2748, 2749; Pub. L. 100-647, title I, §1015(g), Nov. 10, 1988, 102 Stat. 3570, related to failure to supply identifying numbers, prior to repeal by Pub. L. 101-239, title VII, §7711(b)(1), (c), Dec. 19, 1989, 103 Stat. 2393, applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-113, §209(c)(1), substituted “is due to reasonable cause” for “has a reasonable basis”.

Pub. L. 114-113, §209(b), struck out “(other than a claim for a refund or credit relating to the earned income credit under section 32)” after “income tax”.

Subsec. (c). Pub. L. 114-113, §209(c)(2), substituted “due to reasonable cause” for “having a reasonable basis”.

2010—Subsecs. (c), (d). Pub. L. 111-152 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title II, §209(d)(2), Dec. 18, 2015, 129 Stat. 3085, provided that: “The amendment made by subsection (b) [amending this section] shall apply to claims filed after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-152 applicable to refunds and credits attributable to transactions entered into

after Mar. 30, 2010, see section 1409(e)(4) of Pub. L. 111-152, set out as a note under section 6662 of this title.

EFFECTIVE DATE

Pub. L. 110-28, title VIII, §8247(c), May 25, 2007, 121 Stat. 204, provided that: “The amendments made by this section [enacting this section] shall apply to any claim filed or submitted after the date of the enactment of this Act [May 25, 2007].”

**§ 6677. Failure to file information with respect to certain foreign trusts**

**(a) Civil penalty**

In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

(1) is not filed on or before the time provided in such section, or

(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to the greater of \$10,000 or 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).

**(b) Special rules for returns under section 6048(b)**

In the case of a return required under section 6048(b)—

(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

(2) subsection (a) shall be applied by substituting “5 percent” for “35 percent”.

**(c) Gross reportable amount**

For purposes of subsection (a), the term “gross reportable amount” means—

(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

(2) the gross value of the portion of the trust’s assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

**(d) Reasonable cause exception**

No penalty shall be imposed by this section on any failure which is shown to be due to reason-

able cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

**(e) 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. 87-834, §7(g), Oct. 16, 1962, 76 Stat. 988; amended Pub. L. 91-172, title I, §101(j)(53), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(21), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94-455, title X, §1013(d)(2), Oct. 4, 1976, 90 Stat. 1616; Pub. L. 104-188, title I, §1901(b), Aug. 20, 1996, 110 Stat. 1907; Pub. L. 111-147, title V, §535(a), Mar. 18, 2010, 124 Stat. 115.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-147, in concluding provisions, inserted “the greater of \$10,000 or” before “35 percent” and substituted “At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).” for “In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.”

1996—Pub. L. 104-188, §1901(b), substituted “information” for “information returns” in section catchline and amended text generally, substituting present provisions for former provisions which related to civil penalty in subsec. (a) and nonapplicability of deficiency procedures in subsec. (b).

1976—Subsec. (a). Pub. L. 94-455 inserted “(or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)” after “transferred to a trust”.

1974—Subsec. (b). Pub. L. 93-406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91-172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §535(b), Mar. 18, 2010, 124 Stat. 115, provided that: “The amendments made by this section [amending this section] shall apply to notices and returns required to be filed after December 31, 2009.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104-188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, but only in the case of foreign trusts created after May 21, 1974 and transfer of property to foreign trusts after May 21, 1974, see section 1013(f)(1) of Pub. L. 94-455, set out as a note under section 679 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

**§ 6678. Repealed. Pub. L. 99-514, title XV, § 1501(d)(2), Oct. 22, 1986, 100 Stat. 2740]**

Section, added Pub. L. 87-834, §19(e), Oct. 16, 1962, 76 Stat. 1058; amended Pub. L. 88-272, title II, §§204(c)(2), 221(b)(3), Feb. 26, 1964, 78 Stat. 37, 75; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §7(b)(2), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 97-34, title VII, §723(a)(2), (b)(2), Aug. 13, 1981, 95 Stat. 343, 344; Pub. L. 97-248, title III, §§309(b)(3), 311(a)(2), 312(b), 314(b), 315(c), Sept. 3, 1982, 96 Stat. 595, 600, 602, 605, 607; Pub. L. 97-448, title II, §201(i)(3), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98-67, title I, §105(b)(2), Aug. 5, 1983, 97 Stat. 381; Pub. L. 98-369, div. A, title I, §§145(b)(3), 146(b)(3), 148(b)(3), 149(b)(2), (3), 155(b)(2)(B), title VII, §714(f), (q)(3), July 18, 1984, 98 Stat. 685, 686, 689, 690, 693, 961, 966; Pub. L. 99-514, title XVIII, §1811(c)(1), Oct. 22, 1986, 100 Stat. 2833, related to penalties for failure to furnish certain statements.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99-514, set out as an Effective Date note under section 6721 of this title.

**§ 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships**

**(a) Civil penalty**

**(1) In general**

In addition to any criminal penalty provided by law, any person required to file a return under section<sup>1</sup> 6046 and 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of \$10,000, unless it is shown that such failure is due to reasonable cause.

**(2) Increase in penalty where failure continues after notification**

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed \$50,000.

**(b) Deficiency procedures not to apply**

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and

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