

\$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 reasonable 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 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, §20(c), Oct. 16, 1962, 76 Stat. 1062; amended Pub. L. 91-172, title I, §101(j)(54), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93-406, title II, §1016(a)(22), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97-248, title III, §340(b)(1), (2), title IV, §405(b), (c)(2), Sept. 3, 1982, 96 Stat. 634, 670; Pub. L. 97-448, title III, §306(c)(2), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 105-34, title XI, §1143(b), Aug. 5, 1997, 111 Stat. 983; Pub. L. 108-357, title IV, §413(c)(29), Oct. 22, 2004, 118 Stat. 1509.)

#### AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-357, §413(c)(29)(A), which directed substitution of “6046 and 6046A” for “6035, 6046, and 6046A” was executed by making the substitution for “6035, 6046, or 6046A” to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 108-357, §413(c)(29)(B), struck out heading and text of par. (3). Text read as follows:

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

“In the case of a return required under section 6035, paragraph (1) shall be applied by substituting ‘\$1,000’ for ‘\$10,000’, and paragraph (2) shall not apply.”

1997—Subsec. (a). Pub. L. 105-34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 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 \$1,000, unless it is shown that such failure is due to reasonable cause.”

1983—Pub. L. 97-448 amended language of Pub. L. 97-248, §405(b), (c)(2), to clarify an ambiguity created by the conflicting language of §§340(b)(1), (2) and 405(b), (c)(2) of Pub. L. 97-248. See 1982 Amendment note below.

1982—Pub. L. 97-248, §§340(b)(2), 405(c)(2), as amended by Pub. L. 97-448, §306(c)(2)(B), substituted “Failure to file returns, etc., with respect to foreign corporations or foreign partnerships” for “Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock” in section catchline.

Subsec. (a). Pub. L. 97-248, §§340(b)(1), 405(b), as amended by Pub. L. 97-448, §306(a)(2)(A), substituted “section 6035, 6046, or 6046A” for “section 6046”.

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 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to transfers and changes after Aug. 5, 1997, see section 1143(c) of Pub. L. 105-34, set out as a note under section 6046A of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title III, §340(c), Sept. 3, 1982, 96 Stat. 634, provided that: “The amendment made by this section [amending this section and section 6035 of this title] shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act [Sept. 3, 1982].”

Amendment by section 405(b), (c)(2) of Pub. L. 97-248 applicable with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after Sept. 3, 1982, see section 407(b) of Pub. L. 97-248, set out as an Effective Date note under section 6046A 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.