

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 respect 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.

**(c) Listing of frivolous positions**

The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

**(d) Reduction of penalty**

The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

**(e) Penalties in addition to other penalties**

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

(Added Pub. L. 97-248, title III, §326(a), Sept. 3, 1982, 96 Stat. 617; amended Pub. L. 109-432, div. A, title IV, §407(a), Dec. 20, 2006, 120 Stat. 2960.)

AMENDMENTS

2006—Pub. L. 109-432 amended section catchline and text generally, substituting provisions relating to civil penalties for frivolous tax returns and submissions, listing of frivolous positions, reduction of penalty to promote compliance with tax laws, and application of other penalties, consisting of subsecs. (a) to (e), for provisions relating to civil penalty for frivolous tax returns and application of other penalties, consisting of subsecs. (a) and (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to submissions made and issues raised after the date on which the Secretary first prescribes a list under subsec. (c) of this section, see section 407(f) of Pub. L. 109-432, set out as a note under section 6320 of this title.

EFFECTIVE DATE

Pub. L. 97-248, title III, §326(c), Sept. 3, 1982, 96 Stat. 617, provided that: “The amendments made by this section [enacting this section] shall apply with respect to documents filed after the date of the enactment of this Act [Sept. 3, 1982].”

**§ 6703. Rules applicable to penalties under sections 6700, 6701, and 6702**

**(a) Burden of proof**

In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

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

Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

**(c) Extension of period of collection where person pays 15 percent of penalty**

**(1) In general**

If, within 30 days after the day on which notice and demand of any penalty under section 6700 or 6701 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

**(2) Person must bring suit in district court to determine his liability for penalty**

If, within 30 days after the day on which his claim for refund of any partial payment of any