

Sec.	
6724.	Waiver; definitions and special rules.
6725.	Failure to report information under section 4101.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §863(d)(2), Oct. 22, 2004, 118 Stat. 1620, added item 6725.

1989—Pub. L. 101-239, title VII, §7711(a), Dec. 19, 1989, 103 Stat. 2388, substituted “COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS” for “FILE CERTAIN INFORMATION RETURNS OR STATEMENTS” in part heading and substituted “correct” for “certain” in items 6721 and 6722 and “comply with other information reporting requirements” for “include correct information” in item 6723.

§ 6721. Failure to file correct information returns**(a) Imposition of penalty****(1) In general**

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$250 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$3,000,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period**(1) Correction within 30 days**

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$500,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

(c) Exceptions for certain de minimis failures**(1) Exception for de minimis failure to include all required information**

If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the appli-

cation of section 6724(a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation

The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(3) Safe harbor for certain de minimis errors**(A) In general**

If, with respect to an information return filed with the Secretary—

(i) there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,

(ii) no single amount in error differs from the correct amount by more than \$100, and

(iii) no single amount reported for tax withheld on any information return differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(B) Exception

Subparagraph (A) shall not apply with respect to any incorrect dollar amount to the extent that such error relates to an amount with respect to which an election is made under section 6722(c)(3)(B).

(C) Regulatory authority

The Secretary may issue regulations to prevent the abuse of the safe harbor under this paragraph, including regulations providing that this paragraph shall not apply to the extent necessary to prevent any such abuse.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000**(1) In general**

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

(A) subsection (a)(1) shall be applied by substituting “\$1,000,000” for “\$3,000,000”,

(B) subsection (b)(1)(B) shall be applied by substituting “\$175,000” for “\$500,000”, and

(C) subsection (b)(2)(B) shall be applied by substituting “\$500,000” for “\$1,500,000”.

(2) Gross receipts test**(A) In general**

A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending