

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 Repealed.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 struck out former item 6662 “Imposition of accuracy-related penalty”.

1989—Pub. L. 101-239, title VII, §7721(a), Dec. 19, 1989, 103 Stat. 2395, added part heading and analysis of sections.

### § 6662. Imposition of accuracy-related penalty on underpayments

#### (a) Imposition of penalty

If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

#### (b) Portion of underpayment to which section applies

This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

- (1) Negligence or disregard of rules or regulations.
- (2) Any substantial understatement of income tax.
- (3) Any substantial valuation misstatement under chapter 1.
- (4) Any substantial overstatement of pension liabilities.
- (5) Any substantial estate or gift tax valuation understatement.
- (6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.
- (7) Any undisclosed foreign financial asset understatement.
- (8) Any inconsistent estate basis.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663. Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.

#### (c) Negligence

For purposes of this section, the term “negligence” includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term “disregard” includes any careless, reckless, or intentional disregard.

#### (d) Substantial understatement of income tax

##### (1) Substantial understatement

###### (A) In general

For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

- (i) 10 percent of the tax required to be shown on the return for the taxable year, or
- (ii) \$5,000.

###### (B) Special rule for corporations

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

- (i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, \$10,000), or