

such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

- (1) Two times the excessive amount; or
- (2) \$10.

(b) Excessive amount defined

For purposes of this section, the term “excessive amount” means in the case of any person the amount by which—

- (1) the amount claimed under section 6416(a)(4), 6420, 6421, or 6427, as the case may be, for any period, exceeds
- (2) the amount allowable under such section for such period.

(c) Assessment and collection of penalty

For assessment and collection of penalty provided by subsection (a), see section 6206.

(Added Apr. 2, 1956, ch. 160, §3, 70 Stat. 90; amended June 29, 1956, ch. 462, title II, §208(d)(2), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(3)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(8), May 21, 1970, 84 Stat. 249; Pub. L. 95-618, title II, §233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97-424, title V, §515(b)(11)(A)-(C), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 109-59, title XI, §11163(d)(2), (3), Aug. 10, 2005, 119 Stat. 1975.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, §11163(d)(2), inserted “section 6416(a)(4) (relating to certain sales of gasoline),” after “made under” in introductory provisions.

Subsec. (b)(1). Pub. L. 109-59, §11163(d)(3), inserted “6416(a)(4),” after “under section”.

1983—Pub. L. 97-424, §515(b)(11)(C), struck out “or lubricating oil” after “fuels” in section catchline.

Subsec. (a). Pub. L. 97-424, §515(b)(11)(A), struck out “6424 (relating to lubricating oil used for certain nontaxable purposes),” after “systems,”.

Subsec. (b)(1). Pub. L. 97-424, §515(b)(11)(B), struck out “6424,” after “6421,”.

1978—Subsec. (a). Pub. L. 95-618 substituted “used for certain nontaxable purposes” for “not used in highway motor vehicles”.

1970—Pub. L. 91-258, §207(d)(8)(A), substituted “fuels” for “gasoline” in section catchline.

Subsec. (a). Pub. L. 91-258, §207(d)(8)(B), inserted reference to section 6427 relating to fuels not used for taxable purposes.

Subsec. (b)(1). Pub. L. 91-258, §207(d)(8)(C), inserted reference to section 6427.

1965—Pub. L. 89-44, §202(c)(3)(A)(i), inserted “or lubricating oil” after “gasoline” in section catchline.

Subsec. (a). Pub. L. 89-44, §202(c)(3)(A)(ii), inserted reference to claims made under section 6424.

Subsec. (b)(1). Pub. L. 89-44, §202(c)(3)(A)(iii), inserted reference to amounts claimed under section 6424.

1956—Act June 29, 1956, §208(d)(2)(A), substituted “with respect to the use of certain gasoline” for “for gasoline used on farms” in section catchline.

Subsec. (a). Act June 29, 1956, §208(d)(2)(B), inserted reference to claims made under section 6421.

Subsec. (b). Act June 29, 1956, §208(d)(2)(C), inserted reference to amounts claimed under section 6421.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 applicable to sales after Dec. 31, 2005, see section 11163(e) of Pub. L. 109-59, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95-618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2) of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

§ 6676. Erroneous claim for refund or credit

(a) Civil penalty

If a claim for refund or credit with respect to income tax is made for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable for a penalty 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 cause

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; Pub. L. 115-141, div. U, title IV, §401(a)(305), Mar. 23, 2018, 132 Stat. 1199.)

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

2018—Subsec. (c). Pub. L. 115-141 substituted “reasonable cause” for “reasonable basis” in heading.

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, as amended by Pub. L. 115-141, div. U, title I, § 101(k), Mar. 23, 2018, 132 Stat. 1162, provided that: “The amendments made by subsections (b) and (c) [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 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