

acting this section] shall apply to returns required to be filed after the date of the enactment of this Act [Dec. 20, 2007].”

§ 6700. Promoting abusive tax shelters, etc.

(a) Imposition of penalty

Any person who—

(1)(A) organizes (or assists in the organization of)—

- (i) a partnership or other entity,
- (ii) any investment plan or arrangement, or
- (iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

shall pay, with respect to each activity described in paragraph (1), a penalty equal to \$1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated. Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.

(b) Rules relating to penalty for gross valuation overstatements

(1) Gross valuation overstatement defined

For purposes of this section, the term “gross valuation overstatement” means any statement as to the value of any property or services if—

(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

(2) Authority to waive

The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

(c) Penalty in addition to other penalties

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

(Added Pub. L. 97-248, title III, §320(a), Sept. 3, 1982, 96 Stat. 611; amended Pub. L. 98-369, div. A, title I, §143(a), July 18, 1984, 98 Stat. 682; Pub. L. 101-239, title VII, §7734(a), Dec. 19, 1989, 103 Stat. 2403; Pub. L. 108-357, title VIII, §818(a), Oct. 22, 2004, 118 Stat. 1584; Pub. L. 115-141, div. U, title IV, §401(a)(314), Mar. 23, 2018, 132 Stat. 1199.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-141 substituted “\$1,000” for “the \$1,000” in concluding provisions.

2004—Subsec. (a). Pub. L. 108-357 inserted at end of concluding provisions “Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.”

1989—Subsec. (a). Pub. L. 101-239, §7734(a)(3), added concluding provision and struck out former concluding provision which read as follows: “shall pay a penalty equal to the greater of \$1,000 or 20 percent of the gross income derived or to be derived by such person from such activity.”

Subsec. (a)(1)(B). Pub. L. 101-239, §7734(a)(1), inserted “(directly or indirectly)” after “participates”.

Subsec. (a)(2). Pub. L. 101-239, §7734(a)(2), inserted “or causes another person to make or furnish” after “makes or furnishes” in introductory provisions.

1984—Subsec. (a). Pub. L. 98-369 substituted “20 percent” for “10 percent”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §818(b), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendment made by this section [amending this section] shall apply to activities after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7734(b), Dec. 19, 1989, 103 Stat. 2403, provided that: “The amendment made by 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