

or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(Added Pub. L. 97-248, title III, §322(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 101-239, title VII, §§7736(a), 7737(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101-239, §7737(a), inserted at end “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).”

Pub. L. 101-239, §7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

Subsec. (c)(2). Pub. L. 101-239, §7736(a), substituted “section 6700 or 6701” for “section 6700, 6701, or 6702”.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7736(b), Dec. 19, 1989, 103 Stat. 2404, provided that: “The amendment made by subsection (a) [amending this section] shall apply to returns filed after December 31, 1989.”

EFFECTIVE DATE

Pub. L. 97-248, title III, §322(c), Sept. 3, 1982, 96 Stat. 613, 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].”

§ 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d)

(a) Liability for penalty

Any person who—

(1) has a duty to report or may have a duty to report any information under section 6047(d), and

(2) fails to keep such records as may be required by regulations prescribed under section 6047(d) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

(b) Amount of penalty

(1) In general

The penalty of any person for any calendar year shall be \$50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

(2) Maximum amount

The penalty under this section of any person for any calendar year shall not exceed \$50,000.

(c) Exceptions

(1) Reasonable cause

No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

(2) Inability to correct previous failure

No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been pe-

nalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

(3) Pre-1983 failures

No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure.

(Added Pub. L. 97-248, title III, §334(c)(1), Sept. 3, 1982, 96 Stat. 627; amended Pub. L. 99-514, title XVIII, §1848(e)(1), Oct. 22, 1986, 100 Stat. 2857.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “section 6047(d)” for “section 6047(e)” in section catchline and in subsec. (a).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 334(e)(3) of Pub. L. 97-248, set out as a note under section 3405 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6705. Failure by broker to provide notice to payors

(a) In general

Any person required under section 3406(d)(2)(B) to provide notice to any payor who willfully fails to provide such notice to such payor shall pay a penalty of \$500 for each such failure.

(b) Penalty in addition to other penalties

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

(Added Pub. L. 98-67, title I, §104(c)(1), Aug. 5, 1983, 97 Stat. 379.)

EFFECTIVE DATE

Section effective with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98-67, set out as an Effective Date of 1983 Amendment note under section 31 of this title.

§ 6706. Original issue discount information requirements

(a) Failure to show information on debt instrument

In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of \$50 for

each instrument with respect to which such a failure exists.

(b) Failure to furnish information to Secretary

Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed \$50,000 for such issue.

(c) 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 this section.

(Added Pub. L. 98-369, div. A, title I, §41(c)(1), July 18, 1984, 98 Stat. 555.)

EFFECTIVE DATE

Section effective on day 30 days after July 18, 1984, see section 44(h) of Pub. L. 98-369, set out as a note under section 1271 of this title.

§ 6707. Failure to furnish information regarding reportable transactions

(a) In general

If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

- (1) fails to file such return on or before the date prescribed therefor, or
- (2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be \$50,000.

(2) Listed transactions

The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

- (A) \$200,000, or
- (B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return is filed under section 6111.

Subparagraph (B) shall be applied by substituting “75 percent” for “50 percent” in the case of an intentional failure or act described in subsection (a).

(c) Rescission authority

The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

(d) Reportable and listed transactions

For purposes of this section, the terms “reportable transaction” and “listed transaction” have the respective meanings given to such terms by section 6707A(c).

(Added Pub. L. 98-369, div. A, title I, §141(b), July 18, 1984, 98 Stat. 680; amended Pub. L. 99-514, title XV, §§1532(a), 1533(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 105-34, title X, §1028(b), (d), Aug. 5, 1997, 111 Stat. 927, 928; Pub. L. 108-357, title VIII, §816(a), Oct. 22, 2004, 118 Stat. 1583.)

AMENDMENTS

2004—Pub. L. 108-357 amended section catchline and text generally, substituting provisions relating to penalty for failure to furnish information regarding reportable transactions for provisions relating to penalty for failure to furnish information regarding tax shelters.

1997—Subsec. (a)(1). Pub. L. 105-34, §1028(d)(2), which directed the substitution of “paragraph (2) or (3), as the case may be” for “paragraph (2)” in subpar. (A) of par. (1), was executed by making the substitution in the concluding provisions of par. (1) to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 105-34, §1028(d)(1), substituted “Except as provided in paragraph (3), the penalty” for “The penalty”.

Subsec. (a)(3). Pub. L. 105-34, §1028(b), added par. (3).

1986—Subsec. (a)(2). Pub. L. 99-514, §1532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

- “(A) \$500, or
 - “(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) \$10,000.
- The \$10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).”

Subsec. (b)(2). Pub. L. 99-514, §1533(a), substituted “\$250” for “\$50”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §816(c), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendments made by this section [amending this section] shall apply to returns the due date for which is after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to any tax shelter, as defined in section 6111(d) of this title, interests in which are offered to potential participants after Secretary of the Treasury prescribes guidance with respect to meeting requirements added by amendments made by Pub. L. 105-34, §1028, see section 1028(e) of Pub. L. 105-34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1532(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendment made by this section [amending this section] shall apply to failures with respect to tax shelters interests in which are first offered for sale after the date of the enactment of this Act [Oct. 22, 1986].”

Pub. L. 99-514, title XV, §1533(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendment made by this section [amending this section] shall apply to returns filed after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE

Section applicable to tax shelters (within the meaning of section 6111 of this title), any interest in which is first sold to any investor after Aug. 31, 1984, see sec-