

this section [amending this section] shall apply to penalties assessed after December 31, 2006.”

#### EFFECTIVE DATE

Pub. L. 108-357, title VIII, §811(c), Oct. 22, 2004, 118 Stat. 1577, as amended by Pub. L. 109-135, title IV, §403(w), Dec. 21, 2005, 119 Stat. 2629, provided that: “The amendments made by this section [enacting this section] shall apply to returns and statements the due date for which is after the date of the enactment of this Act [Oct. 22, 2004] and which were not filed before such date.”

#### REPORT

Pub. L. 108-357, title VIII, §811(d), Oct. 22, 2004, 118 Stat. 1577, provided that: “The Commissioner of Internal Revenue shall annually report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(1) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under section 6707A of the Internal Revenue Code of 1986, and

“(2) a description of each penalty rescinded under section 6707(c) of such Code and the reasons therefor.”

### § 6708. Failure to maintain lists of advisees with respect to reportable transactions

#### (a) Imposition of penalty

##### (1) In general

If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b) within 20 business days after the date of such request, such person shall pay a penalty of \$10,000 for each day of such failure after such 20th day.

##### (2) Reasonable cause exception

No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.

#### (b) 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. 98-369, div. A, title I, §142(b), July 18, 1984, 98 Stat. 682; amended Pub. L. 99-514, title XV, §1534(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 108-357, title VIII, §§815(b)(5)(A), 817(a), Oct. 22, 2004, 118 Stat. 1583, 1584.)

#### CODIFICATION

Another section 6708 was renumbered section 6709 of this title.

#### AMENDMENTS

2004—Pub. L. 108-357, §815(b)(5)(A), substituted “advisees with respect to reportable transactions” for “investors in potentially abusive tax shelters” in section catchline.

Subsec. (a). Pub. L. 108-357, §817(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of \$50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed \$100,000.”

1986—Subsec. (a). Pub. L. 99-514 substituted “\$100,000” for “\$50,000”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 815(b)(5)(A) of Pub. L. 108-357 applicable to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of this title is provided after Oct. 22, 2004, see section 815(c) of Pub. L. 108-357, set out as a note under section 6111 of this title.

Pub. L. 108-357, title VIII, §817(b), Oct. 22, 2004, 118 Stat. 1584, provided that: “The amendment made by this section [amending this section] shall apply to requests made after the date of the enactment of this Act [Oct. 22, 2004].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XV, §1534(b), Oct. 22, 1986, 100 Stat. 2750, provided that: “The amendments made by this section [amending this section] shall apply to failures occurring or continuing after the date of the enactment of this Act [Oct. 22, 1986].”

#### EFFECTIVE DATE

Section applicable to any interest which is first sold to any investor after Aug. 31, 1984, see section 142(d) of Pub. L. 98-369, set out as a note under section 6112 of this title.

### § 6709. Penalties with respect to mortgage credit certificates

#### (a) Negligence

If—

(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of \$1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

#### (b) Fraud

If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of \$10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

#### (c) Reports

Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of \$200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed \$2,000.

#### (d) Mortgage credit certificate

The term “mortgage credit certificate” has the meaning given to such term by section 25(c).

(Added Pub. L. 98-369, div. A, title VI, §612(d)(1), July 18, 1984, 98 Stat. 912, §6708; renumbered §6709, Pub. L. 99-514, title XVIII, §1862(d)(2), Oct. 22, 1986, 100 Stat. 2884.)

#### 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 applicable to interest paid or accrued after Dec. 31, 1984, on indebtedness incurred after Dec. 31, 1984, see section 612(g) of Pub. L. 98-369, set out as a note under section 25 of this title.

**§ 6710. Failure to disclose that contributions are nondeductible**

**(a) Imposition of penalty**

If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of \$1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed \$10,000.

**(b) Reasonable cause exception**

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

**(c) \$10,000 limitation not to apply where intentional disregard**

If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

(A) \$1,000, or

(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

(2) the \$10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

**(d) Day on which failure occurs**

For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

(2) by mail, shall be treated as occurring when the solicitation was mailed,

(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

(4) by telephone, shall be treated as occurring when the solicitation was made.

(Added Pub. L. 100-203, title X, §10701(b), Dec. 22, 1987, 101 Stat. 1330-458.)

## EFFECTIVE DATE

Section applicable to solicitations after Jan. 31, 1988, see section 10701(d) of Pub. L. 100-203, set out as a note under section 6113 of this title.

**§ 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government**

**(a) Imposition of penalty**

If—

(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

**(b) Amount of penalty**

The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

(1) \$1,000, or

(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

**(c) Definitions**

For purposes of this section—

**(1) Tax-exempt organization**

The term “tax-exempt organization” means any organization which—

(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

(B) is a political organization (as defined in section 527(e)).

**(2) Day on which failure occurs**

The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d).

(Added Pub. L. 100-203, title X, §10705(a), Dec. 22, 1987, 101 Stat. 1330-463.)

## EFFECTIVE DATE

Pub. L. 100-203, title X, §10705(c), Dec. 22, 1987, 101 Stat. 1330-464, provided that: “The amendments made by this section [enacting this section] shall apply to offers and solicitations after January 31, 1988.”

**§ 6712. Failure to disclose treaty-based return positions**

**(a) General rule**

If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to \$1,000 (\$10,000 in the case of a C corporation) on each such failure.

**(b) Authority to waive**

The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.