

EFFECTIVE DATE

Pub. L. 109-59, title XI, §11167(d), Aug. 10, 2005, 119 Stat. 1978, provided that: “The amendments made by this section [enacting this section and amending section 9503 of this title] shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act [Aug. 10, 2005].”

§ 6720B. Fraudulent identification of exempt use property

In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee’s exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of \$10,000.

(Added Pub. L. 109-280, title XII, § 1215(c)(1), Aug. 17, 2006, 120 Stat. 1079.)

CODIFICATION

Section 1215(c)(1) of Pub. L. 109-280, which directed the addition of section 6720B at the end of part I of subchapter B of chapter 68, without specifying the act to be amended, was executed by adding section 6720B at the end of part I of subchapter B of chapter 68 of this title, which consists of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

EFFECTIVE DATE

Pub. L. 109-280, title XII, §1215(d)(3), Aug. 17, 2006, 120 Stat. 1079, provided that: “The amendments made by subsection (c) [enacting this section] shall apply to identifications made after the date of the enactment of this Act [Aug. 17, 2006].”

[§ 6720C. Repealed. Pub. L. 115-141, div. U, title IV, § 401(d)(7)(B), Mar. 23, 2018, 132 Stat. 1212]

Section, added Pub. L. 111-5, div. B, title III, § 3001(a)(13)(A), Feb. 17, 2009, 123 Stat. 464; amended Pub. L. 111-144, §3(b)(5)(D), Mar. 2, 2010, 124 Stat. 45, related to penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

Sec.	
6721.	Failure to file correct information returns.
6722.	Failure to furnish correct payee statements.
6723.	Failure to comply with other information reporting requirements.
6724.	Waiver; definitions and special rules.
6725.	Failure to report information under section 4101.

AMENDMENTS

2004—Pub. L. 108-357, title VIII, §863(d)(2), Oct. 22, 2004, 118 Stat. 1620, added item 6725.
 1989—Pub. L. 101-239, title VII, §7711(a), Dec. 19, 1989, 103 Stat. 2388, substituted “COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS” for

“FILE CERTAIN INFORMATION RETURNS OR STATEMENTS” in part heading and substituted “correct” for “certain” in items 6721 and 6722 and “comply with other information reporting requirements” for “include correct information” in item 6723.

§ 6721. Failure to file correct information returns

(a) Imposition of penalty

(1) In general

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of \$250 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$3,000,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period

(1) Correction within 30 days

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$500,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

(c) Exceptions for certain de minimis failures

(1) Exception for de minimis failure to include all required information

If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation

The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(3) Safe harbor for certain de minimis errors**(A) In general**

If, with respect to an information return filed with the Secretary—

(i) there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,

(ii) no single amount in error differs from the correct amount by more than \$100, and

(iii) no single amount reported for tax withheld on the information return differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(B) Exception

Subparagraph (A) shall not apply with respect to any incorrect dollar amount to the extent that such error relates to an amount with respect to which an election is made under section 6722(c)(3)(B).

(C) Regulatory authority

The Secretary may issue regulations to prevent the abuse of the safe harbor under this paragraph, including regulations providing that this paragraph shall not apply to the extent necessary to prevent any such abuse.

(d) Lower limitations for persons with gross receipts of not more than \$5,000,000**(1) In general**

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

(A) subsection (a)(1) shall be applied by substituting “\$1,000,000” for “\$3,000,000”,

(B) subsection (b)(1)(B) shall be applied by substituting “\$175,000” for “\$500,000”, and

(C) subsection (b)(2)(B) shall be applied by substituting “\$500,000” for “\$1,500,000”.

(2) Gross receipts test**(A) In general**

A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed \$5,000,000.

(B) Certain rules made applicable

For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(e) Penalty in case of intentional disregard

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the fil-

ing requirement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a) shall be \$500, or, if greater—

(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,

(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly,

(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) \$25,000, or

(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed \$100,000, or

(D) in the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$3,000,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

(f) Adjustment for inflation**(1) In general**

In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year determined by substituting “calendar year 2011” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(2) Rounding

If any amount adjusted under paragraph (1)—

(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.

(Added Pub. L. 99-514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2732; amended Pub. L. 100-690, title VII, § 7601(a)(2)(A), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101-239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2388; Pub. L. 101-508, title XI, § 11318(b),

Nov. 5, 1990, 104 Stat. 1388-459; Pub. L. 109-280, title XII, § 1211(b)(2), Aug. 17, 2006, 120 Stat. 1073; Pub. L. 111-240, title II, § 2102(a)-(f), Sept. 27, 2010, 124 Stat. 2561, 2562; Pub. L. 113-295, div. B, title II, § 208(f), Dec. 19, 2014, 128 Stat. 4074; Pub. L. 114-27, title VIII, § 806(a)-(d), June 29, 2015, 129 Stat. 416, 417; Pub. L. 114-113, div. Q, title II, § 202(a), (d), Dec. 18, 2015, 129 Stat. 3076, 3077; Pub. L. 115-97, title I, § 11002(d)(1)(PP), Dec. 22, 2017, 131 Stat. 2061; Pub. L. 115-141, div. U, title I, § 101(f)(2), title IV, § 401(a)(299)(F), Mar. 23, 2018, 132 Stat. 1161, 1198.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2018—Subsec. (c)(3)(A)(iii). Pub. L. 115-141, § 101(f)(2), substituted “the information return” for “any information return”.

Subsec. (f)(1). Pub. L. 115-141, § 401(a)(299)(F), inserted “an amount equal to” after “increased by” and “for the calendar year” after “section 1(f)(3)”.

2017—Subsec. (f)(1). Pub. L. 115-97 substituted “for ‘calendar year 2016’ in subparagraph (A)(ii)” for “for ‘calendar year 1992’ in subparagraph (B)”.

2015—Subsec. (a)(1). Pub. L. 114-27, § 806(a), substituted “\$250” for “\$100” and “\$3,000,000” for “\$1,500,000”.

Subsec. (b)(1)(A). Pub. L. 114-27, § 806(b)(1)(A), (B), substituted “\$50” for “\$30” and “\$250” for “\$100”.

Subsec. (b)(1)(B). Pub. L. 114-27, § 806(b)(1)(C), substituted “\$500,000” for “\$250,000”.

Subsec. (b)(2)(A). Pub. L. 114-27, § 806(b)(2)(A), (B), substituted “\$100” for “\$60” and “\$250” for “\$100”.

Subsec. (b)(2)(B). Pub. L. 114-27, § 806(b)(2)(C), substituted “\$1,500,000” for “\$500,000”.

Subsec. (c). Pub. L. 114-113, § 202(d)(1), substituted “Exceptions for certain de minimis failures” for “Exception for de minimis failures to include all required information” in heading.

Subsec. (c)(1). Pub. L. 114-113, § 202(d)(2), substituted “Exception for de minimis failure to include all required information” for “In general” in heading.

Subsec. (c)(3). Pub. L. 114-113, § 202(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 114-27, § 806(c)(1), substituted “\$1,000,000” for “\$500,000” and “\$3,000,000” for “\$1,500,000”.

Subsec. (d)(1)(B). Pub. L. 114-27, § 806(c)(2), substituted “\$175,000” for “\$75,000” and “\$500,000” for “\$250,000”.

Subsec. (d)(1)(C). Pub. L. 114-27, § 806(c)(3), substituted “\$500,000” for “\$200,000” and “\$1,500,000” for “\$500,000”.

Subsec. (e)(2). Pub. L. 114-27, § 806(d)(1), substituted “\$500” for “\$250”.

Subsec. (e)(3)(A). Pub. L. 114-27, § 806(d)(2), substituted “\$3,000,000” for “\$1,500,000”.

2014—Subsec. (f)(1). Pub. L. 113-295 substituted “In the case of any failure relating to a return required to be filed in a calendar year beginning after 2014” for “For each fifth calendar year beginning after 2012”.

2010—Subsec. (a)(1). Pub. L. 111-240, § 2102(a), substituted “\$100” for “\$50” and “\$1,500,000” for “\$250,000”.

Subsec. (b)(1)(A). Pub. L. 111-240, § 2102(a)(1), (b)(1), substituted “\$30” for “\$15” and “\$100” for “\$50”.

Subsec. (b)(1)(B). Pub. L. 111-240, § 2102(b)(2), substituted “\$250,000” for “\$75,000”.

Subsec. (b)(2)(A). Pub. L. 111-240, § 2102(a)(1), (c)(1), substituted “\$60” for “\$30” and “\$100” for “\$50”.

Subsec. (b)(2)(B). Pub. L. 111-240, § 2102(c)(2), substituted “\$500,000” for “\$150,000”.

Subsec. (d)(1). Pub. L. 111-240, § 2102(d)(2), substituted “such calendar year” for “such taxable year” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 111-240, § 2102(a)(2), (d)(1)(A), substituted “\$500,000” for “\$100,000” and “\$1,500,000” for “\$250,000”.

Subsec. (d)(1)(B). Pub. L. 111-240, § 2102(b)(2), (d)(1)(B), substituted “\$75,000” for “\$25,000” and “\$250,000” for “\$75,000”.

Subsec. (d)(1)(C). Pub. L. 111-240, § 2102(c)(2), (d)(1)(C), substituted “\$200,000” for “\$50,000” and “\$500,000” for “\$150,000”.

Subsec. (e)(2). Pub. L. 111-240, § 2102(e), substituted “\$250” for “\$100” in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 111-240, § 2102(a)(2), substituted “\$1,500,000” for “\$250,000”.

Subsec. (f). Pub. L. 111-240, § 2102(f), added subsec. (f). 2006—Subsec. (e)(2)(D). Pub. L. 109-280, which directed the addition of subpar. (D) to section 6721(e)(2), without specifying the act to be amended, was executed by making the addition to subsec. (e)(2) of this section, which is section 6721 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1990—Subsec. (e)(2). Pub. L. 101-508 inserted “6050I,” after “6050H,” and struck out “or” at end of subpar. (A), substituted “or” for “and” at end of subpar. (B), and added subpar. (C).

1989—Pub. L. 101-239 substituted “correct” for “certain” in section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsec. (a) stating general rule and subsec. (b) relating to penalty in case of intentional disregard.

1988—Subsec. (b)(1)(A). Pub. L. 100-690 inserted “(or, if greater, in the case of a return filed under section 6050I, 10 percent of the taxable income derived from the transaction)” after “reported”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 101(f)(2) of Pub. L. 115-141 effective as if included in the provision of the Protecting Americans from Tax Hikes Act of 2015, div. Q of Pub. L. 114-113, to which such amendment relates, see section 101(s) of Pub. L. 115-141, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 applicable to returns required to be filed, and payee statements required to be provided, after Dec. 31, 2016, see section 202(e) of Pub. L. 114-113, set out as a note under section 6045 of this title.

Pub. L. 114-27, title VIII, § 806(f), June 29, 2015, 129 Stat. 418, provided that: “The amendments made by this section [amending this section and section 6722 of this title] shall apply with respect to returns and statements required to be filed after December 31, 2015.”

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to returns required to be filed, and statements required to be furnished, after Dec. 31, 2014, see section 208(h) of Pub. L. 113-295, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-240, title II, § 2102(h), Sept. 27, 2010, 124 Stat. 2564, as amended by Pub. L. 113-295, div. A, title II, § 207(a)(1), Dec. 19, 2014, 128 Stat. 4027, provided that: “The amendments made by this section [amending this section and section 6722 of this title] shall apply with respect to information returns required to be filed, and payee statements required to be furnished, on or after January 1, 2011.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to acquisitions of contracts after Aug. 17, 2006, see section 1211(d) of Pub. L. 109-280, set out as an Effective Date note under section 6050V of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to amounts received after Nov. 5, 1990, see section 11318(e)(1) of Pub. L. 101-508, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, § 7711(c), Dec. 19, 1989, 103 Stat. 2393, provided that: “The amendments made by this section [amending this section and sections 6722 to 6724 and 7205 of this title and repealing sections 6017A, 6676, and 6687 of this title] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100-690, set out as a note under section 6050I of this title.

EFFECTIVE DATE

Pub. L. 99-514, title XV, § 1501(e), Oct. 22, 1986, 100 Stat. 2741, provided that: “The amendments made by this section [enacting this section and sections 6722 to 6724 of this title, amending sections 219, 6031, 6033 to 6034A, 6041, 6042 to 6045, 6047, 6049, 6050A to 6050C, 6050E to 6050I, 6050K, 6052, 6057, 6058, 6652, and 6676 of this title, and repealing section 6678 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986, except that the amendments made by subsections (c)(2), (c)(3), and (c)(5) [amending sections 6042, 6044, and 6049 of this title] shall apply to returns the due [date] for which (determined without regard to extensions) is after the date of the enactment of this Act [Oct. 22, 1986].”

§ 6722. Failure to furnish correct payee statements

(a) Imposition of penalty

(1) General rule

In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of \$250 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$3,000,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

- (A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and
- (B) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

(b) Reduction where correction in specified period

(1) Correction within 30 days

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the date prescribed for furnishing such statement—

- (A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and
- (B) the total amount imposed on the person for all such failures during any calendar

year which are so corrected shall not exceed \$500,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the date prescribed for furnishing such statement occurs—

- (A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and
- (B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

(c) Exception for de minimis failures

(1) In general

If—

- (A) a payee statement is furnished to the person to whom such statement is required to be furnished,
- (B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such statement, and
- (C) such failure is corrected on or before August 1 of the calendar year in which the date prescribed for furnishing such statement occurs,

for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

(2) Limitation

The number of payee statements to which paragraph (1) applies for any calendar year shall not exceed the greater of—

- (A) 10, or
- (B) one-half of 1 percent of the total number of payee statements required to be furnished by the person during the calendar year.

(3) Safe harbor for certain de minimis errors

(A) In general

If, with respect to any payee statement—

- (i) there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,
- (ii) no single amount in error differs from the correct amount by more than \$100, and
- (iii) no single amount reported for tax withheld on the payee statement differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

(B) Exception

Subparagraph (A) shall not apply to any payee statement if the person to whom such statement is required to be furnished makes an election (at such time and in such manner as the Secretary may prescribe) that subparagraph (A) not apply with respect to such statement.

(C) Regulatory authority

The Secretary may issue regulations to prevent the abuse of the safe harbor under