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# Internal Revenue Code Section 6707A(b)

Penalty for failure to include reportable transaction information with return

(a) Imposition of penalty.

Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

## (b) Amount of penalty.

(1) In general.

Except as otherwise provided in this subsection , the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

## (2) Maximum penalty.

The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed-

(A) in the case of a listed transaction, \$200,000 (\$100,000 in the case of a natural person), or

(B) in the case of any other reportable transaction, \$50,000 (\$10,000 in the case of a natural person).

(3) Minimum penalty.

The amount of the penalty under subsection (a) with respect to any transaction shall not be less than \$10,000 (\$5,000 in the case of a natural person).

#### (c) Definitions.

For purposes of this section -

(1) Reportable transaction.

The term "reportable transaction" means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

(2) Listed transaction.

The term "listed transaction" means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

(d) Authority to rescind penalty.

(1) In general.

The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if-

(A) the violation is with respect to a reportable transaction other than a listed transaction, and

(B) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

(2) No judicial appeal.

Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any judicial proceeding.

## (3) Records.

If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner with respect to the determination, including-

(A) a statement of the facts and circumstances relating to the violation,

(B) the reasons for the rescission, and

(C) the amount of the penalty rescinded.

# (e) Penalty reported to SEC.

In the case of a person-

(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

(2) which-

(A) is required to pay a penalty under this section with respect to a listed transaction,

(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

(C) is required to pay a penalty under section 6662(h) with respect to any reportable transaction and would (but for section 6662A(e)(2)(B)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

(f) Coordination with other penalties.

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