

Internal Revenue Code Section 6721(d)(1)(A)

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 \$ 100 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 \$ 1,500,000.

(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 \$ 30 in lieu of \$ 100, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$ 250,000.

(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 \$ 60 in lieu of \$ 100, and

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

(c) Exception for de minimis failures to include all required information.

(1) In general. 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.

(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 "\$ 500,000" for "\$ 1,500,000",

(B) subsection (b)(1)(B) shall be applied by substituting "\$ 75,000" for "\$ 250,000", and

(C) subsection (b)(2)(B) shall be applied by substituting "\$ 200,000" for "\$ 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 filing 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 \$ 250, 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 \$ 1,500,000 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. For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting "calendar year 2011" for "calendar year 1992" in subparagraph (B) 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.