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## **Internal Revenue Code Section 6652(o)**

Failure to file certain information returns, registration statements, etc.

(a) Returns with respect to certain payments aggregating less than \$10.

In the case of each failure to file a statement of a payment to another person required under the authority of-

- (1) section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), or
- (2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(b) Failure to report tips.

In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a) ) or which are compensation (as defined in section 3231(e) ), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) Returns by exempt organizations and by certain trusts.

(1) Annual returns under 6033(a)(1) or 6012(a)(6).

(A) Penalty on organization. In the case of-

(i) a failure to file a return required under 6033(a)(1) (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under 6033(a)(1) or section 6012(a)(6) or to show the correct information,

there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of

the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under 6033(a)(1) or section 6012(a)(6) for such year, in applying the first sentence of this subparagraph, the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

(B) Managers.

(i) In general. The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph .

(ii) Failure to comply with demand. If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply \$10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed \$5,000.

(C) Public inspection of annual returns and reports. In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing) or report required under section 527(j), there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return or report shall not exceed \$10,000.

(D) Public inspection of applications for exemption and notice of status. In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) or notice materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements \$20 for each day during which such failure continues.

(E) No penalty for certain annual notices. This paragraph shall not apply with respect to any notice required under section 6033(i) .

(2) Returns under section 6034 or 6043(b) .

(A) Penalty on organization or trust. In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file \$10 for each day during which such failure continues, but the total amount

imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed \$5,000.

(B) Managers. The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file \$10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed \$5,000.

(C) Split-interest trusts. In the case of a trust which is required to file a return under section 6034(a) , subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033 , except that-

(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

(ii) in the case of any trust with gross income in excess of \$250,000, the in applying the first sentence of paragraph (1)(A) , the amount of the penalty for each day during which a failure continues shall be \$100 in lieu of the amount otherwise specified, and in lieu of applying the second sentence of paragraph (1)(A) , the maximum penalty under paragraph (1)(A) shall not exceed \$50,000, and shall be applied by substituting "\$100" for "\$20", and the second sentence thereof shall be applied by substituting "\$50,000" for "\$10,000", and

(iii) the third sentence of paragraph (1)(A) shall be disregarded. In addition to any penalty imposed on the trust pursuant to this subparagraph , if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.

(3) Disclosure under section 6033(a)(2) .

(A) Penalty on entities. In the case of a failure to file a disclosure required under section 6033(a)(2) , there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4) , (5) , (6) , or (7) of section 4965(c) ) \$100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed \$50,000.

(B) Written demand.

(i) In general. The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph .

(ii) Failure to comply with demand. If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply \$100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed \$10,000.

(C) Definitions. Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965 .

(4) Notices under section 506.

(A) Penalty on organization. In the case of a failure to submit a notice required under section 506(a) (relating to organizations required to notify Secretary of intent to operate as 501(c)(4) ) on the date and in the manner prescribed therefor, there shall be paid by the organization failing to so submit \$20 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization for failure to submit any one notice shall not exceed \$5,000.

(B) Managers. The Secretary may make written demand on an organization subject to penalty under subparagraph (A) specifying in such demand a reasonable future date by which the notice shall be submitted for purposes of this subparagraph. If such notice is not submitted on or before such date, there shall be paid by the person failing to so submit \$20 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to submit any one notice shall not exceed \$5,000.

(5) Reasonable cause exception.

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

(6) Other special rules.

(A) Treatment as tax. Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) Joint and several liability. If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) Person. For purposes of this subsection , the term "person" means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(7) Adjustment for inflation.

(A) 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 paragraphs (1) , (2) , and (3) 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 2013" for "calendar year 2016" in subparagraph (A)(ii) thereof.

(B) Rounding. If any amount adjusted under subparagraph (A) -

(i) is not less than \$5,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

(ii) is not described in clause (i) and is not a multiple of \$5, such amount shall be rounded to the next lowest multiple of \$5.

(d) Annual registration and other notification by pension plan.

(1) Registration.

In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to \$10 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed \$50,000.

(2) Notification of change of status.

In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$10 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed \$10,000.

(e) Information required in connection with certain plans of deferred compensation; etc.

In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, \$250 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed \$150,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(AA) .

(f) Returns required under section 6039C .

(1) In general.

In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) Amount of penalty.

For purposes of paragraph (1) , the amount determined under this paragraph with respect to any failure shall be \$25 for each day during which such failure continues.

(3) Limitation.

The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of-

(A) \$25,000, or

(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

(g) Repeal

(h) Failure to give notice to recipients of certain pension, etc., distributions.

In the case of each failure to provide notice as required by section 3405(e)(10)(B) , at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(i) Failure to give written explanation to recipients of certain qualifying rollover distributions.

In the case of each failure to provide a written explanation as required by section 402(f) , at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to the \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.

(j) Failure to file certification with respect to certain residential rental projects.

In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to \$100 for each such failure.

(k) Failure to make reports required under section 1202 .

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting "\$100" for "\$50". In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(l) Failure to file return with respect to certain corporate transactions.

In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to \$500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed \$100,000.

(m) Alcohol and tobacco taxes.

For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see generally, subtitle E.

(n) Failure to make reports required under sections 3511, 6053(c)(8), and 7705.

In the case of a failure to make a report required under section 3511 , 6053(c)(8) , or 7705 which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to \$50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard the preceding sentence shall be applied by substituting "\$100" for "\$50".

 (o) Failure to provide notices with respect to qualified small employer health reimbursement arrangements

In the case of each failure to provide a written notice as required by section 9831(d)(4) , unless it is shown that such failure is due to reasonable cause and not willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written notice, an amount equal to \$50 per employee per incident of failure to provide such notice, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$2,500.

(p) Failure to provide notice under section 83(i).

In the case of each failure to provide a notice as required by section 83(i)(6) , at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.