

TITLE 26 - INTERNAL REVENUE CODE

Subtitle F - Procedure and Administration

CHAPTER 68 - ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter B - Assessable Penalties

PART I - GENERAL PROVISIONS

§ 6701. Penalties for aiding and abetting understatement of tax liability

(a) Imposition of penalty

Any person—

- (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,
- (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and
- (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be \$1,000.

(2) Corporations

If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be \$10,000.

(3) Only 1 penalty per person per period

If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

(c) Activities of subordinates

(1) In general

For purposes of subsection (a), the term “procures” includes—

- (A) ordering (or otherwise causing) a subordinate to do an act, and
- (B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

(2) Subordinate

For purposes of paragraph (1), the term “subordinate” means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) Taxpayer not required to have knowledge

Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) Certain actions not treated as aid or assistance

For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) Penalty in addition to other penalties

(1) In general

Except as provided by paragraphs (2) and (3), the penalty imposed by this section shall be in addition to any other penalty provided by law.

(2) Coordination with return preparer penalties

No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(3) Coordination with section 6700

No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(Added Pub. L. 97–248, title III, § 324(a), Sept. 3, 1982, 96 Stat. 615; amended Pub. L. 101–239, title VII, § 7735(a), (b), Dec. 19, 1989, 103 Stat. 2403.)

Amendments

1989—Subsec. (a)(1). Pub. L. 101–239, § 7735(a)(1), struck out “in connection with any matter arising under the internal revenue laws” after “other document”.

Subsec. (a)(2). Pub. L. 101–239, § 7735(a)(2), inserted “(or has reason to believe)” after “who knows”.

Subsec. (a)(3). Pub. L. 101–239, § 7735(a)(3), substituted “would result” for “will result”.

Subsec. (f)(1). Pub. L. 101–239, § 7735(b)(2), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (f)(3). Pub. L. 101–239, § 7735(b)(1), added par. (3).

Effective Date of 1989 Amendment

Section 7735(c) of Pub. L. 101–239 provided that: “The amendments made by this section [amending this section] shall take effect on December 31, 1989.”

Effective Date

Section 324(c) of Pub. L. 97–248 provided that: “The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”