

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****§ 6677. Failure to file information with respect to certain foreign trusts****(a) Civil penalty**

In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

- (1) is not filed on or before the time provided in such section, or
- (2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to the greater of \$10,000 or 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).

(b) Special rules for returns under section 6048 (b)

In the case of a return required under section 6048 (b)—

- (1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and
- (2) subsection (a) shall be applied by substituting “5 percent” for “35 percent”.

(c) Gross reportable amount

For purposes of subsection (a), the term “gross reportable amount” means—

- (1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048 (a),
- (2) the gross value of the portion of the trust’s assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048 (b)(1), and
- (3) the gross amount of the distributions in the case of a failure relating to section 6048 (c).

(d) Reasonable cause exception

No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscp.html>).

(Added Pub. L. 87–834, § 7(g), Oct. 16, 1962, 76 Stat. 988; amended Pub. L. 91–172, title I, § 101(j)(53), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93–406, title II, § 1016(a)(21), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title X, § 1013(d)(2), Oct. 4, 1976, 90 Stat. 1616; Pub. L. 104–188, title I, § 1901(b), Aug. 20, 1996, 110 Stat. 1907; Pub. L. 111–147, title V, § 535(a), Mar. 18, 2010, 124 Stat. 115.)

Amendments

2010—Subsec. (a). Pub. L. 111–147, in concluding provisions, inserted “the greater of \$10,000 or” before “35 percent” and substituted “At such time as the gross reportable amount with respect to any failure can be determined by the Secretary, any subsequent penalty imposed under this subsection with respect to such failure shall be reduced as necessary to assure that the aggregate amount of such penalties do not exceed the gross reportable amount (and to the extent that such aggregate amount already exceeds the gross reportable amount the Secretary shall refund such excess to the taxpayer).” for “In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.”

1996—Pub. L. 104–188, § 1901(b), substituted “information” for “information returns” in section catchline and amended text generally, substituting present provisions for former provisions which related to civil penalty in subsec. (a) and nonapplicability of deficiency procedures in subsec. (b).

1976—Subsec. (a). Pub. L. 94–455 inserted “(or, in the case of a failure with respect to section 6048 (c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)” after “transferred to a trust”.

1974—Subsec. (b). Pub. L. 93–406 substituted “and certain excise” for “chapter 42”.

1969—Subsec. (b). Pub. L. 91–172 inserted reference to chapter 42 taxes.

Effective Date of 2010 Amendment

Pub. L. 111–147, title V, § 535(b), Mar. 18, 2010, 124 Stat. 115, provided that: “The amendments made by this section [amending this section] shall apply to notices and returns required to be filed after December 31, 2009.”

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–188, to the extent related to section 6048 (a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048 (b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048 (c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104–188, set out as a note under section 6048 of this title.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94–455 applicable to taxable years ending after Dec. 31, 1975, but only in the case of foreign trusts created after May 21, 1974 and transfer of property to foreign trusts after May 21, 1974, see section 1013(f)(1) of Pub. L. 94–455, set out as a note under section 679 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

Effective Date of 1969 Amendment

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.