

# Internal Revenue Code Section 6722

## Failure to furnish correct payee statements

### (a) Imposition of penalty

#### (1) General rule

In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of \$250 for each statement 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 \$3,000,000.

#### (2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

(B) any failure to include all of the information required to be shown on a payee statement 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 date prescribed for furnishing such statement—

(A) the penalty imposed by subsection (a) shall be \$50 in lieu of \$250, and

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

#### (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 date prescribed for furnishing such statement occurs—

(A) the penalty imposed by subsection (a) shall be \$100 in lieu of \$250, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$1,500,000.

### (c) Exception for de minimis failures

#### (1) In general

If—

(A) a payee statement is furnished to the person to whom such statement is required to be furnished,

**(B)** there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such statement, and

**(C)** such failure is corrected on or before August 1 of the calendar year in which the date prescribed for furnishing such statement occurs,

for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

## **(2) Limitation**

The number of payee statements 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 payee statements required to be furnished by the person during the calendar year.

## **(3) Safe harbor for certain de minimis errors**

### **(A) In general**

If, with respect to any payee statement-

**(i)** there are 1 or more failures described in subsection (a)(2)(B) relating to an incorrect dollar amount,

**(ii)** no single amount in error differs from the correct amount by more than \$100, and

**(iii)** no single amount reported for tax withheld on the payee statement differs from the correct amount by more than \$25,

then no correction shall be required and, for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

### **(B) Exception**

Subparagraph (A) shall not apply to any payee statement if the person to whom such statement is required to be furnished makes an election (at such time and in such manner as the Secretary may prescribe) that subparagraph (A) not apply with respect to such statement.

### **(C) Regulatory authority**

The Secretary may issue regulations to prevent the abuse of the safe harbor under this paragraph, including regulations providing that this paragraph shall not apply to the extent necessary to prevent any such abuse.

## **(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 "\$1,000,000" for "\$3,000,000",

(B) subsection (b)(1)(B) shall be applied by substituting "\$175,000" for "\$500,000", and

(C) subsection (b)(2)(B) shall be applied by substituting "\$500,000" for "\$1,500,000".

**(2) Gross receipts test**

A person meets the gross receipts test of this paragraph if such person meets the gross receipts test of section 6721(d)(2).

**(e) Penalty in case of intentional disregard**

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (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)(1) shall be \$500, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the \$3,000,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (2).

**(f) Adjustment for inflation**

**(1) In general**

In the case of any failure relating to a statement required to be furnished in a calendar year beginning after 2014, each of the dollar amounts under subsections (a), (b), (d)(1), and (e) 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 2011" for "calendar year 2016" in subparagraph (A)(ii) 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.

*Text contains those laws in effect on March 27, 2024*