

Recent legislation increases information reporting penalties

Closing the distance

Global Financial Services Industry



Taxpayers with information reporting requirements

The Trade Preferences Extension Act of 2015, Public Law No: 114-27 (“Legislation”), which was signed into law on June 29, 2015, amends penalties applicable under IRC section 6721, Failure to file correct information returns, and IRC section 6722, Failure to furnish correct payee statements. The amendments apply to returns and statements required to be filed after December 31, 2015. These increases may impact taxpayers across all industries, not just within financial services.

Section 6721(a) imposes a penalty on the following:

- Any failure to file an information return with the Secretary on or before the required filing date
- Any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

Section 6722(a) imposes a penalty on the following:

- Any failure to furnish a payee statement on or before the required filing date
- Any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

The Legislation increases the penalties under sections 6721 and 6722 from \$100 to \$250 per return or statement, and the annual cap or limit on penalties per calendar year under each section is increased from \$1,500,000 to \$3,000,000. As such, for a filing that is both an information return for purposes of section 6721 and a payee statement under section 6722, the potential amount of penalties that could be assessed under these sections is \$6,000,000.

Additionally, if the failure to file information returns or payee statements is a result of intentional disregard, the Legislation increases the penalties under section 6721 and under section 6722 from

\$250 per return/statement to \$500 per return/statement; or, if greater, 10% of the aggregate amount required to be reported correctly.

Note that all of the above penalties are adjusted for inflation under sections 6721(f) and 6722(f).

In an effort to enforce information reporting, the IRS is taking the following actions:

- Collecting more information about payments made on both a U.S. domestic and global basis,
- Elevating priority of certain reporting requirements as a specialty examination issue, and
- Making greater use of technology to identify issues or incidences of noncompliance.

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