



LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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January 19, 2011

MEMORANDUM FOR INDUSTRY DIRECTORS
DIRECTOR, FIELD SPECIALISTS
DIRECTOR, INTERNATIONAL BUSINESS COMPLIANCE
DIRECTOR, INTERNATIONAL INDIVIDUAL COMPLIANCE

FROM:

Sumita Lough
for Cheryl P. Claybough /s/ Cheryl P. Claybough
Director, Pre-Filing and Technical Guidance

SUBJECT: Amended IRC Section 6707A Penalty - Interim Procedures

The purpose of this memorandum is to provide guidance on applying the Section 6707A penalty provisions amended by the Small Business Jobs Act of 2010 that was enacted on September 27, 2010. The amount of the penalty was changed, but the application of the Section 6707A penalty did not change. The amendment applies to penalties assessed after December 31, 2006.

Prior to the Act, the amount of the penalty was unrelated to the tax shown on the tax return as a result of the reportable transaction. Under the amendment, the penalty is "75 percent of the decrease in tax shown on the return" as a result of the reportable transaction. The **maximum penalty** in the case of a listed transaction is \$100,000 for a natural person and \$200,000 for all other taxpayers and in the case of a non-listed reportable transaction is \$10,000 for a natural person and \$50,000 for all other taxpayers. The **minimum penalty** for both listed transactions and non-listed reportable transactions is \$5,000 for a natural person and \$10,000 for all other taxpayers.

Procedures are being developed to centralize processing of closed cases (i.e. calculation of new penalty amounts, processing of partial abatements, and notices to impacted taxpayers). Revised case processing procedures for open and future cases will be developed. Until procedures are finalized Revenue Agents will:

- **NOT issue a 30-day letter or process any assessments (This is a temporary suspension until further notice.)**
- **Contact his or her Technical Advisor immediately if a statute of limitations on a case will expire within the next 2 months, and the transaction is coordinated through an Issue Management Team (e.g., 412(i), 419A, Abusive Roth IRA).**
- Continue to develop facts related to the application of the Section 6707A penalty.
- Attempt to calculate the revised penalty.
- Seek assistance from Issue Management Team (IMT) Technical Advisors and Counsel regarding calculation of the 6707A penalty.
- Contact Samantha Hunt, Penalty Technical Advisor, at 281-721-7581 if uncertain about who to contact for assistance.

Please forward this memorandum as appropriate to ensure that field personnel are aware of this amendment and the temporary suspension of the issuance of 30-day letters and the assessments except in cases with imminent statute expiration dates.

Any technical questions may be directed to Samantha Hunt, at (281) 721-7581.