



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

20.1.7

APRIL 5, 2024

EFFECTIVE DATE

(04-05-2024)

PURPOSE

- (1) This transmits revised IRM 20.1.7, Penalty Handbook, Information Return Penalties.

MATERIAL CHANGES

- (1) Significant changes to this IRM include the following:

IRM Reference	Description of Change
IRM 20.1.7.1, Program Scope and Objectives	Added primary stakeholders.
IRM 20.1.7.1.1, Background	Clarified the purpose of information return penalties.
IRM 20.1.7.1.5, Program Controls	Added subsection to complete internal controls.
IRM 20.1.7.1.7, Related Resources	Updated title of Publication 1586 and Publication 1281.
IRM 20.1.7.2.1.1.1, IDRS Command Code PMFOL	Revised language in paragraph (3).
IRM 20.1.7.2.2, Filing Requirements for Information Returns	Updated for final regulations.
IRM 20.1.7.2.3, Form 8508 - Application for a Waiver From Electronic Filing of Information Returns	Updated title of Form 8508. Moved paragraphs (1) and (2) to IRM 20.1.7.2.2. Added paragraph for religious exemptions.
IRM 20.1.7.2.4, Application for Extension of Time to File Information Returns	Added new method for filing a request for an extension of time using the Information Returns Intake System (IRIS). Added Form 15397 to request extension of time to furnish recipient statements.
IRM 20.1.7.3.3, Penalty Computation	Revised language in paragraph (5).
IRM 20.1.7.5.1, Field Examination Delinquent Information Return Procedures.	Revised language in paragraph (2).
IRM 20.1.7.6, Notice 972CG	Updated title of Publication 1586 and retention standards for CD/DVD TIN listings.

IRM Reference	Description of Change
IRM 20.1.7.8.2, Intentional Disregard of Rules and Regulations	Updated paragraph (6) with penalty rates for current years. Updated paragraph (7) with new electronic filing threshold.
IRM 20.1.7.8.4.4, Penalty for Failure to File on Electronic Media	Updated paragraph (2) with new electronic filing threshold.
IRM 20.1.7.8.4.6, Penalty for Missing and Incorrect TINs	Updated title of Publication 1586.
IRM 20.1.7.9.1, Intentional Disregard	Updated paragraphs (5) and (6) with penalty rates for current years.
IRM 20.1.7.11, Regulations Requiring Use of Electronic Form IRC 6011(e)	Updated subsection title and rules for electronic filing based on final regulations.
IRM 20.1.7.12.2, Responsible Manner	Updated paragraph (3) for final regulations related to Affordable Care Act information returns.
IRM 20.1.7.12.2.5, Annual Solicitations	Deleted note in paragraph (5).
IRM 20.1.7.12.2.6, Exceptions and Limitations	Deleted (1)(e).
Exhibit 20.1.7-1, IRC 6721 & IRC 6722 Penalty Rates for Large Businesses and Government Entities with Gross Receipts Over \$5 Million	Added row to table for returns due in calendar year 2025.
Exhibit 20.1.7-2, IRC 6721 & IRC 6722 Penalty Rates for Small Businesses with Gross Receipts Less Than or Equal to \$5 Million	Added row to table for returns due in calendar year 2025.
Exhibit 20.1.7-3, Forms	Added noted for information returns relating to issuer of certified long-term care insurance.

- (2) Editorial changes have been made throughout this IRM to correct grammar and comply with plain language writing standards. References, citations, and links were reviewed and updated accordingly.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 20.1.7, dated December 16, 2022.

AUDIENCE

All operating division employees who address information return penalties

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20.1.7

Information Return Penalties

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20.1.7.1
(04-05-2024)
**Program Scope and
Objectives**

- (1) **Purpose:** This IRM provides policy and procedures for the application of information return penalties assessable under IRC 6721, IRC 6722, and IRC 6723. It also discusses reasonable cause criteria per IRC 6724 and 26 CFR 301.6724-1.
- (2) **Audience:** All operating division employees who address information return penalties.
- (3) **Policy Owner:** The Business Support Office (BSO) is under Operations Support (OS). SB/SE is responsible for overseeing civil penalties, including information return penalties.
- (4) **Program Owner:** The Office of Servicewide Penalties (OSP) is responsible for information return penalty policy.
- (5) **Primary Stakeholders:** Small Business Self-Employed (SB/SE), Tax Exempt and Government Entities (TEGE), Large Business and International (LB&I), Wage & Investment (W&I), Appeals, and other IRS functions.

20.1.7.1.1
(04-05-2024)
Background

- (1) Information return penalties are important tools for the IRS to encourage voluntary compliance by taxpayers. See IRM 1.2.1.12.1, Policy Statement 20–1 (Formerly P-1-18), Penalties are used to enhance voluntary compliance.
- (2) The law requires taxpayers to timely file correct information returns with the IRS and to timely furnish complete payee statements to recipients. Information return penalties are imposed for any failure to file an information return or payee statement on or before the required filing date, in the required manner, and for any failure to include all the information required to be shown or the inclusion of incorrect information.

20.1.7.1.2
(12-16-2022)
Authority

- (1) IRC 6721 provides a penalty for failure to file correct information returns.
- (2) IRC 6722 provides a penalty for failure to furnish correct payee statements.
- (3) IRC 6723 provides a penalty for failure to comply with other information reporting requirements.
- (4) IRC 6724 provides a reasonable cause waiver; definitions of information returns and special rules.
- (5) The term “information return” means any statement, form, or return as described in IRC 6724(d)(1), or 26 CFR 301.6721-1(h), and the term “payee statement” means any statement as described in IRC 6724(d)(2) or 26 CFR 301.6722-1(e). See Exhibit 20.1.7-3 for a listing of forms.

20.1.7.1.3
(12-16-2022)
**Roles and
Responsibilities**

- (1) The Director of Business Support is the director responsible for the service-wide civil penalty program.
- (2) Overall responsibility for civil penalty programs is assigned to OSP. OSP is a matrix organization residing in the Business Support (Small Business/Self Employed) Function. OSP is charged with coordinating policy and procedures concerning the administration of civil penalty programs, ensuring consistency with the penalty policy statement, reviewing and analyzing penalty information, researching penalty effectiveness on compliance trends, and determining appropriate action necessary to promote voluntary compliance.

- (3) Each IRS organization is responsible for establishing an internal process for managing their procedures based upon these Servicewide policies and will develop additional guidance or reference materials for their specific functional administrative needs. However, such reference material must receive approval from OSP prior to distribution and must remain consistent with the policies and general procedural requirements set forth in this IRM, Policy Statement 20-1 (e.g., Penalty Policy Statement) in IRM 1.2.1.12.1, Policy Statement 20-1 (Formerly P-1-18), Penalties are used to enhance voluntary compliance, and any other guidance relating to civil penalties.
- (4) All employees must keep the following objectives in mind when handling each penalty case:
 - a. Treat similar cases and similarly situated taxpayers alike.
 - b. Provide an opportunity to each taxpayer to have their interests heard and considered.
 - c. Strive to make a right decision in the first instance. A wrong decision, even though eventually corrected, has a negative impact on voluntary compliance.
 - d. Provide adequate opportunity for incorrect decisions to be corrected.
 - e. Treat each case in an impartial and honest way (i.e., approach the job, not from the government's or the taxpayer's perspective, but in the interest of fair and impartial enforcement of the tax laws).
 - f. Use each penalty case as an opportunity to educate the taxpayer, help the taxpayer understand their legal obligations and rights, assist the taxpayer in understanding their appeal rights, and in all cases, observe the taxpayer's procedural rights.
 - g. Endeavor to promptly process and resolve each taxpayer's case.
 - h. Resolve each penalty case in a manner which promotes voluntary compliance.

20.1.7.1.4
(09-08-2021)
**Program Management
and Review**

- (1) Every function in the IRS has a role in proper penalty administration. It is essential that each function conducts its operations with an emphasis on promoting voluntary compliance. Appropriate reviews must be conducted to ensure consistency with Policy Statement 20-1 (Formerly P-1-18), Penalties are used to enhance voluntary compliance. See IRM 1.2.1.12.1.
- (2) To promote the goal of consistency and fairness, OSP reviews semi-annually a sample of penalty assessments, provided by SB/SE Research. See IRM 20.3.1, Civil Penalty Accuracy Review Process. The report of findings is shared with the Director, Business Support, the CFO, and other leadership as needed. The completed report is uploaded to an enterprise shared folder. Reports will be prepared when a significant issue develops, such as a correction to programming that affects many taxpayers.

20.1.7.1.5
(04-05-2024)
Program Controls

- (1) OSP is organized into two sub-groups: Strategy & Analytics (SA) and Technical Analysis & Policy Specialist (TAPS). The SA group oversees penalty administration across multiple penalty programs. TAPS is a group of analysts that are assigned to specific penalties and serve as the subject matter expert. Each analyst is responsible for setting and maintaining policy and reviewing trends impacting their programs.

20.1.7.1.6
(09-08-2021)
Terms & Acronyms

- (1) For IRM 20.1.7, "TIN", refers to an Employer Identification Number (EIN), a Social Security Number (SSN), an Individual Taxpayer Identification Number (ITIN), or an Adoption Taxpayer Identification Number (ATIN).
- (2) See Exhibit 20.1.7-5, Acronyms, for a list of acronyms and definitions used in this IRM.

20.1.7.1.7
(04-05-2024)
Related Resources

- (1) See the related resources with titles below:

Resource	Title
IRM 11.3.1	Introduction to Disclosure
IRM 25.6.1	Statute of Limitations Processes and Procedures
IRM 4.19.25	Information Return Penalty (IRP) Procedures (Campus)
IRM 3.10.8	Campus Mail and Work Control, Information Returns Processing
IRM 4.23.9.13	Penalties for Failure to File Certain Information Returns or Furnish Certain Statements (Employment Tax Exam)
IRM 4.10.5.6	Information Returns (General Field Exam)
Pub 1586	Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs on Information Returns
Pub 1220	Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G
Pub 5165	Guide for Electronically Filing Affordable Care Act (ACA) Information Returns for Software Developers and Transmitters
Pub 1281	Backup Withholding on Missing and Incorrect Name/TINs
Instruction 1099-GENERAL (Catalog Number 27976F found at: https://publish.no.irs.gov/cat12.cgi?request=CAT1&catnum=27976)	General Instructions for Certain Information Returns (Forms 1097, 1099, 1098, 3921, 3922, 5498, and W-2G)
Document 6209	IRS Processing Codes and Information, see Section 10 for Penalty and Interest Provisions

Resource	Title
Document 13267	Field Procedures for Securing and Processing Information Return Penalties
Form 8278	Assessment and Abatement of Miscellaneous Civil Penalties
Form 3645	Computation of Information Return Penalty

- (2) The IRS adopted the Taxpayer Bill of Rights (TBOR) in June 2014. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see Pub 5170, Taxpayer Bill of Rights, and the TBOR link at: <https://irssource.web.irs.gov/Lists/General%20News/DispItemForm.aspx?ID=126>.

20.1.7.2
(09-08-2021)
Common Features

- (1) The information contained in this subsection is common to all information return penalties discussed in this subsection, unless otherwise indicated. Exceptions and additional information are noted in the discussions of the specific penalties.

20.1.7.2.1
(12-16-2022)
Payer Master File

- (1) Payer Master File (PMF) is a file consisting of a composite of payer interest, partnership and S corporation distributions, gambling winnings, and miscellaneous/other categories of information returns filed by businesses, corporations, banks, credit unions, and other payers.
- (2) This program creates and maintains a database of information relating to filers of information returns (such as the Form 1098 series, Form 1099 series, etc.). Information returns and extension and waiver requests are maintained for five tax years on PMF.
- (3) PMF contains the payer entity and filing data from the payer record for certain information return submissions. The Information Return Master File (IRMF) database is updated on a weekly basis and is where the payee data (record of payment data to individuals from the payer) is updated and maintained.
- (4) The Internal Revenue Code outlines civil penalty provisions for persons or entities who fail to file information returns as required. Based on the information return data processed to PMF, irreconcilable information is subject to penalties.
- Notices 972CG, proposed civil penalty notices, are generated based on information from PMF. Assessments that result from the proposed notices are manually input to the Civil Penalty Module.
 - Penalties will also be proposed as the result of an examination of a filer's records.
- (5) Employees can request information through the online Integrated Data Retrieval System (IDRS) and paper transcripts through the Privacy Act Transcript Request Activity (PATRA).

- (6) PMF (Command Code (CC) "PMFOLS") maintains data covering the five most current tax years of information for all Form 1096, Form W-3, Form 1042-T, Form 1094-B, and Form 1094-C documents, including generated penalty proposal amounts.
- (7) Penalty abatements or waivers of proposed penalties (whether based on computer generated notices or manually determined) are not posted to PMF, therefore will not be available on PMFOL. This information must be obtained from IDRS CC "BMFOL" (MFT 13), CC "IMFOL" (MFT 55), or CC "TXMOD" (MFT 13/55).

20.1.7.2.1.1
(10-12-2017)

**IDRS Penalty Research
Command Codes**

- (1) PMF data will be accessed by using IDRS CC "PMFOL" or CC "PATRA" as described below.
- (2) See IRM 2.3, IDRS Terminal Responses, for additional information on IDRS research in obtaining payer information.

20.1.7.2.1.1.1
(04-05-2024)

**IDRS Command Code
PMFOL**

- (1) CC "PMFOL" provides a summary of a filer's submissions by return type for the five most recent tax years as well as a complete record of each transmittal filed for all five years.
- (2) The PMF is viewed using CC "PMFOL". It contains:
 - a. **Filer entity** information.
 - b. **Filing History** with indicators to show whether returns were filed or a penalty was proposed for the five most recent tax years.
 - c. A record of each Form 1096 or other transmittals submitted by the filer, including: **Documents** - the type and number of forms submitted, the media used (paper or electronic), whether returns were original, amended or replacement; **Payments** - the total payment for all payees for each type of form; **Withholding** - the total amount withheld for all payees; **Received Date** - for late-filed returns; and **Penalties** - the number of returns for which a penalty was proposed for late filing, electronic media, and TINs (Notice 972CG);
 - d. **Return due date** for each form type.
 - e. **Extension** indicating the filer received an extension of time to file that extended the due date of the return;
 - f. **Waiver** indicating the filer received a waiver exempting the returns from the requirement to be filed electronically; and
 - g. **Totals** with a summary for each form type filed, amounts reported, and penalties proposed.
- (3) PMF entity information is compared to Individual Master File (IMF) and Business Master File (BMF). The term "Linked" in the entity section of the PMF will show when entity information is identical on the PMF and IMF/BMF.
 - a. Linked PMF accounts are verified annually and receive entity updates from the MF on a weekly basis. This is the only way PMF is updated.
 - b. Individual / Form 1096/Form 1099 filings will not update the PMF entity. A different entity may be shown on "PMFOLD" for individual Form 1096/1099 filings, however, these will not update the PMF entity on "PMFOL" or MF.
 - c. Approximately 95 percent of PMF is linked. The remaining 5 percent, which is not linked, represents new filers or filers without BMF/IMF filing requirements.

- (4) The penalty indicators show which types of PMF generated penalties were proposed. The penalty indicators do not consider any manual assertions and must be used in conjunction with CC “TXMOD”, “BMFOL”, “IMFOL”, or “MFTRA” information to determine previous compliance history.
- (5) For “YRS PNL” a blank (no entry) for a tax year indicates that no systemically (computer) generated penalty was issued (or proposed) for that period.
- (6) For “YRS FILED” a blank (no entry) for a tax year indicates that no information returns were processed to PMF for that period.
- (7) For Form W-2, currently only Form W-3’s, with data subject to a penalty or that met penalty criteria but was not penalized (i.e., filer was granted a waiver or extension) appear on PMF. Other Form W-3’s submitted by the filer for a particular tax year are not posted to the PMF; however, that additional information is available on CC “BMFOLU” (MFT “88”).
- (8) The “Transmitted” volume is the count for the number of returns processed, which reflects the actual number of documents filed, minus voided or blank forms and forms reporting under one dollar. This count will sometimes differ from the count entered by the filer on Form 1096 or other transmittals.
- (9) The Subject to Penalty (“Subj”) count appears for each Form 1096 record and refers to the total number of returns in a submission that **could** be penalized. No penalty is applicable to a particular Form 1096 submission unless separate amounts are shown in the “Late”, “MAG”, or “TIN” fields of the PMF.

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- (10) The “Replacement” volume is for returns that replace original returns when a correction is submitted to change a TIN, name, or return type.
- (11) “Civil Penalty Summary” (accruals) provides:
 - a. **Volume** - The aggregate volume of original, amended, and replacement returns, by return type, that were transmitted and the number subject to penalty based on all returns filed.
 - b. **Gross Penalty Amounts** - The gross penalty amounts applicable to the returns that were penalized by return type and the type of penalty (late, electronic media, and missing/incorrect TINs). These figures include all potential penalties identified for the tax year.
 - c. **Civil Penalty Proposed** - “Civil Penalty Proposed” is the actual penalty amount proposed on the Notice 972CG.
 - d. **Waiver** - A waiver of electronic media filing is indicated by a “yes” or “no” entry. The extended due date (if applicable) is shown by return type. If no extension was granted, the date shown is the required due date for the return.

20.1.7.2.1.1.2
(10-12-2017)
IDRS Command Code
PATRA

- (1) CC “PATRA” provides complete transcript data for all five years on the PMF. Only paper (hard copy) transcripts are available and can also be requested using CC “IRPTR”. See IRM 21.3.6.4.6.4, Requests for Copies of Forms 1096 and Forms 1099. See IRM 2.3, IDRS Terminal Responses, for a complete description of all hard copy requests.

20.1.7.2.2
(04-05-2024)

Filing Requirements for Information Returns

- (1) The return must be postmarked by the due date. Exhibit 20.1.7-3 shows the due dates for most information returns.
- (2) When any due date falls on a Saturday, Sunday or legal holiday, the due date becomes the next “business” day that is not a Saturday, Sunday, or legal holiday. See IRC 7503.
- (3) Information returns are filed either on paper or electronically. Paper information returns are filed with the Submission Processing Campus sites. Electronic information returns are filed through the FIRE (Filing Information Returns Electronically) System. Beginning January 2023, Forms 1099 can also be filed electronically through IRIS (Information Reporting Intake System). Forms W-2 are filed with the Social Security Administration and can be filed electronically through SSA Business Services Online. Information returns related to the Affordable Care Act (ACA) such as Form 1095-B and Form 1095-C are filed through the AIR (ACA Information Returns) System.
- (4) Final regulations for the Taxpayer First Act, provision 2301, were issued February 21, 2023, by the Department of the Treasury and the Internal Revenue Service. Treasury Reg. 26 CFR 301.6011-2, reduced the threshold to require electronic filing, from 250 or more of the same document type to the aggregate of 10 or more returns in a calendar year beginning in tax year 2023. Partnerships are subject to additional e-filing rules. See IRM 20.1.7.11.

20.1.7.2.3
(04-05-2024)

Form 8508 - Application for a Waiver From Electronic Filing of Information Returns

- (1) A filer can request a waiver from the requirement to file information returns electronically by filing Form 8508, Application for a Waiver from Electronic Filing of Information Returns. See IRM 3.42.9.10, Form 8508, Application for a Waiver from Electronic Filing of Information Returns.
 - a. The filer must show that it would cause an undue economic hardship if the filer were to file electronically.
 - b. The request must be filed at least 45 days before the due date of the returns for which the filer is requesting a waiver. See IRM 20.1.7.11.
- (2) An exemption is allowed for filers for whom using the technology required to file electronically conflicts with their religious beliefs. Although filers are not required to file a waiver or take any action to claim religious exemption, filers have the option to notify the IRS by filing Form 8508, Application for a Waiver From Electronic Filing of Information Returns. The exemption will be permanently recorded in the Payer Master File and the filer will not need to file a waiver in subsequent years.

20.1.7.2.4
(04-05-2024)

Form 8809 - Application for Extension of Time to File Information Returns

- (1) A filer can request an initial (automatic 30-day extension) and/or additional extension of time (non-automatic 30-day extension) to file information returns by filing Form 8809, Application for Extension of Time to File Information Returns, with the IRS. The extension request must be postmarked no later than the due date of the return, but not before January 1 of the filing year.

Note: Effective starting TY 2016, filers or transmitters of Form W-2 series (except Form W-2G) can only request one non-automatic 30-day extension of time to file. Effective starting TY 2018, filers or transmitters of a form reporting non-employee compensation (currently Form 1099-NEC) can only request one non-automatic 30-day extension of time to file. There are no automatic extension requests available for these forms. See 26 CFR 1.6081-8. Non-

automatic 30-day extension requests for these forms can only be submitted on paper and mailed into the IRS for approval.

- (2) There are four methods for filing a request for an extension of time to file information returns:
 - a. Fill-in Form 8809: Complete online on the FIRE System and receive an instant acknowledgement on screen if forms are completed properly and timely (30-day automatic extension).
 - b. Electronic File Transmission submitted on the FIRE System: Transmitters requesting an extension of time via an electronic file will receive the file status results online (30-day automatic extension).
 - c. Information Returns Intake System (IRIS): Complete an extension request for Form 1099 series (excluding Form 1099-NEC) and receive an instant acknowledgement on screen if forms are completed properly and timely (30-day automatic extension).
 - d. Paper Form 8809: Mail to the Ogden Service Center as directed on the form instructions (30-day automatic, additional 30-day and non-automatic extension).

Note: Approval letters will not be issued for automatic, additional 30-day extension requests and non-automatic extension requests. Payer/filer will receive Letter 5365, Incomplete Form 8809, when Form 8809 is received with incomplete information or Letter 5381, Extension Request Denied, when Form 8809 is postmarked after the due date of the return.

- (3) Filers can also request an extension of time to furnish the statement to recipients (payees). Filers have the option to use Form 15397, Application for Extension of Time to Furnish Recipient Statements or send a written request. The request must be faxed to the IRS. It must be received no later than the due date on which the statements are due to the recipients. The faxed letter must contain:
 - a. The filer's name, TIN and address,
 - b. A statement that your extension request is for providing statements to recipients,
 - c. Type(s) of information returns,
 - d. Reason for delay, and
 - e. Signature of filer or authorized agent.

Note: If approved, the extension to furnish recipient statement is generally granted for a maximum of 30 days.

- (4) See IRM 3.42.9.11, Information Returns Extension Request Processing, for more information on extension requests.

20.1.7.3 (12-16-2022) Penalty Dollar Amounts and Limitations

- (1) IRC 6721 provides for a penalty when an information return or statement is not timely and/or correctly filed by the due date of the return. IRC 6722 provides for a penalty when a payee statement is not timely and/or correctly furnished. Penalties assessed under IRC 6721 and IRC 6722 are based on a time sensitive penalty rate.
- (2) The Trade Preferences Extension Act (TPEA) of 2015, Section 806, increased the tiered penalty amounts for IRC 6721 and IRC 6722. The following penalty

amounts (subject to inflationary adjustment) are effective for returns and statements required to be filed on or after January 1, 2016:

- a. \$50 per failure, not to exceed an annual maximum of \$500,000 for returns filed correctly within 30 days of the due date,
- b. \$100 per failure, not to exceed an annual maximum of \$1,500,000 for returns filed correctly after 30 days, but on or before August 1, or
- c. \$250 per failure, not to exceed an annual maximum of \$3,000,000 for returns filed after August 1.

Note: There are lower annual maximums applicable to small businesses with gross receipts of \$5 million or less. Penalty amounts are higher, with no maximum amounts, if the failure is due to intentional disregard.

Note: IRC 6721 and IRC 6722 penalty rates and maximum amounts are subject to **annual inflationary adjustments** enacted by the Tax Increase Prevention Act (TIPA) of 2014, Section 208, effective for returns required to be filed in a **calendar year beginning after 2014**. See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for penalty rates and maximum amounts with inflationary adjustments.

Also refer to these exhibits for penalty rates for prior years.

- (3) IRC 6723 provides for a penalty of \$50 for each failure, with a maximum of \$100,000 for any calendar year, to comply with other information reporting requirements. Penalties under IRC 6723 are not subject to annual inflationary adjustments.

20.1.7.3.1
(12-16-2022)

**Supervisory Approval
for Penalty Assessment**

- (1) IRC 6751(b)(1) states, in general, that no penalty under the IRC shall be assessed unless the **initial** determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher-level official as the Secretary may designate. At this time, the Secretary has not designated any higher-level official to approve initial determinations.
- (2) The following penalties are excluded from the supervisory approval:
 - a. Additions to tax under IRC 6651, Failure to File Tax Return or to Pay Tax, IRC 6654, Failure by Individual to Pay Estimated Income Tax, and IRC 6655, Failure by Corporation to Pay Estimated Income Tax, and penalties under IRC 6662(b)(9), Overstatement of Deduction Provided in Section 170(p).
 - b. Any other penalty automatically calculated through electronic means. For additional information on supervisory approval for penalty assessments, see IRM 20.1.1.2.3, Approval Prerequisite to Penalty Assessments.

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- 20.1.7.3.2
(10-12-2017)
Who Asserts/Assesses
- (1) A campus or field function will determine that a penalty should be imposed.

a. Philadelphia Campus (PSC) can impose the penalty manually or through the penalty proposal notice (Notice 972CG) which are systemically generated based on returns posted to the PMF. See IRM 4.19.25, Information Return Penalty (IRP) Procedures.

b. Field functions will impose the penalty during an examination/contact if it is found that the filer failed to file/furnish, filed/furnished late, or filed/furnished incorrect information returns or payee statements.

(2) See Exhibit 20.1.7-4 for a listing of Penalty Reference Numbers (PRNs) for information return penalties, their descriptions and which function uses them.

- 20.1.7.3.3
(04-05-2024)
Penalty Computation
- (1) To compute the appropriate information return or payee statement penalty as it relates to IRC 6721, IRC 6722, or IRC 6723, multiply the number of violations by the penalty rate in each penalty code section.

(2) Campus (PSC) function: refer to IRM 4.19.25, Information Return Penalty (IRP) Procedures, or IRM 20.1.7.5.3 for more information.

(3) Field functions: refer to IRM 20.1.7.5.1 and IRM 20.1.7.5.2 for more information.

(4) Do not assess the same penalty multiple times on the same return or payee/recipient statement. For example, if a Form 1099-MISC was filed late and with incorrect information, assess the IRC 6721 penalty only once for that form. However, an IRC 6722 penalty can also be assessed on that form for failure to furnish a correct payee statement.

(5) If more than one failure under the same penalty code section is applicable for a document, then apply the penalty using the following criteria:

a. If it is determined that the late-filing penalty, while proposed, will be waived, then the next penalty for that document (i.e., missing/incorrect TIN or other missing/incorrect information), must be considered.

b. If it is determined that the missing/incorrect TIN penalty, will be waived, then the next penalty for that document (i.e., incorrect media), must be considered.

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- 20.1.7.4
(12-16-2022)
Powers of Attorney for Civil Penalties
- (1) Taxpayers can authorize a third party to represent them by submitting to the IRS a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization.

Note: The power of attorney (POA) requests are referenced as “POAs” and the tax information authorization (TIA) requests are referenced as “TIAs.”

- (2) POA documentation may be received with a response to a civil penalty notice. The POAs or TIAs cannot be entered on the Centralized Authorization File (CAF) because civil penalties are asserted against non-tax return information documents. To ensure valid POAs/ TIAs are recognized:
 - a. The POA/TIA must be kept with the penalty case file and used for all subsequent correspondence.
 - b. When the penalty case and the POA/TIA are not kept together, local procedures must be established to maintain a civil penalty database or listing.
- (3) A **separate** POA is needed for the information return penalty case from the income tax case. The POA form needs to state, "**Civil Penalty**" in the "Description of Matter" and the year(s) or period(s) to which the penalty applies.

20.1.7.4.1
(10-12-2017)
Authorized Third Party

- (1) Copies of correspondence pertaining to the taxpayer must be sent to the authorized representative if a valid POA or TIA is received.
Note: Refunds are not allowed to be sent to appointees named on Form 8821.
- (2) A reply from a valid POA must be handled in the same manner as if the taxpayers themselves were responding.
- (3) Original documents, photocopies, or documents submitted by FAX transmission are acceptable for processing.
- (4) See IRM 4.11.55, Power of Attorney Rights and Responsibilities, for additional information regarding POAs and TIAs.

20.1.7.4.2
(12-09-2019)
Unauthorized Third Party

- (1) No tax information can be sent to or discussed with an unauthorized third party.
 - a. Notify an unauthorized third party who is requesting authorization to act on behalf of the taxpayer or is requesting information concerning the penalty assessment, by letter that their request cannot be met.
 - b. Any further correspondence required must be sent directly to the taxpayer. Include a paragraph in the taxpayer's letter requesting that the taxpayer notify the third party of our direct reply to the taxpayer. See IRM 4.11.55.2.6.2, Form 8821 - Tax Information Authorization, and IRM 4.11.55.2.7.1, Missing or Incorrect Information on Form 2848 or Form 8821.

20.1.7.5
(12-16-2022)
Delinquent Information Return Procedures

- (1) Use the instructions in the following subsections for field examination, collection and campus examination.

20.1.7.5.1
(04-05-2024)
Field Examination Delinquent Information Return Procedures

- (1) Secure and make a copy of the delinquent information returns.
 - a. Follow the instructions in paragraph (3) below and send the original delinquent information returns to the appropriate IRS Campus.
Note: For delinquent Forms W-2/W-2c, do not follow the instructions in paragraph (3), but instead follow the instructions in IRM 4.23.8.10.

If principal business, office or agency, or legal residence in the case of an individual, is located in:	Use the following address:
Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia	
Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming	

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b. Place a copy of the delinquent information returns in the penalty case file.

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- (4) Prepare separate transmittals for each type of information return if there is more than one type of information return.
- (5) Prepare Form 3198, Special Handling Notice for Examination Case Processing. Check the box "Civil Penalties" under "Special Features". Under "Other Instructions" section of "Special Features", state "Assess TC 240 penalties. Assess \$ XXXX for Tax Year XXXX". Include a separate statement for EACH year.
- (6) Prepare and retain in the penalty case file Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, for each tax year for the appli-

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- (7) Prepare and retain in the penalty case file Form 3645, Computation of Informa-

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- (8) Complete Form 886-A, Explanation of Items, activity records, etc. as applicable for the penalty case file.
- (9) Ask for payment, prepare Form 3244-A, Payment Posting Voucher-Examination, and process the payment if the taxpayer agrees with the penalty.
- (10) Do not secure an agreement on the Examination Report of Income Tax Changes. The information return penalty case file is separate from an income tax, employment tax or other case file.
- (11) See Document 13267, Field Procedures for Securing and Processing Information Return Penalties, for more information on working information return penalty cases.

20.1.7.5.2
(09-08-2021)
**Collection Delinquent
Information Return
Procedures**

- (1) Penalty assessments:
 - a. Generally, information return penalties are not asserted during collection actions; however, Collection personnel are not prohibited from making these types of assessments. During an investigation or other contact with taxpayers, it may be determined that required information returns have not been filed. The information returns must be secured from the taxpayer, and if applicable, assert the information return penalties.

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 - c. See IRM 20.1.7.5.1 for procedures in working delinquent information returns and Document 13267, Field Procedures for Securing and Processing Information Return Penalties, for more information.
- (2) Abatements/Non-assessment:
 - a. See IRM 20.1.7.12.1 for waiver provisions due to reasonable cause for penalties under IRC 6721, IRC 6722 and IRC 6723.
 - b. The taxpayer must submit a signed statement explaining the basis for non-assertion/abatement due to reasonable cause or sign Form 3870, Request for Adjustment.
Note: The signature must be executed under penalty of perjury. This requires insertion of “**Under penalty of perjury the above information is true, correct and complete**” on Form 3870 prior to obtaining the taxpayer’s signature.
 - c. The penalty reason code for abating the penalty must be annotated in red [“**PRCXXX**” (fill in number corresponding to applicable penalty reason code)] on the face of Form 3870 before it is forwarded for processing. See IRM 20.1.1-2, Penalty Reason Code Chart, for penalty reason codes.
 - d. Requests for non-assertion/abatement of penalties due to reasonable cause must be approved by the requesting employee’s supervisor.

Approval will be denoted by the supervisor's signature next to the work on the form requesting non-assertion/abatement.

- e. Penalties asserted by Examination (including SFR, IMF/BMF AUR or Field Audit) will not be abated by Collection and require a request for reconsideration. Forward the request for abatement to Examination for approval.
- (3) Unassessed Liabilities - If after discussion of the causes for the failure, the employee determines that a taxpayer did not establish reasonable cause for the failure, the employee will inform the taxpayer that the penalty will be asserted.
- a. If the taxpayer disagrees with the employee's determination and maintains that the penalty should not be asserted, the employee must provide written notification of the denial to the taxpayer.
 - b. Form 9423, Collection Appeal Request, will be sent to the taxpayer advising them of their pre-assessment appeal rights, claim procedures, and post-assessment appeal procedures.
 - c. When a Collection employee decides to deny penalty relief and proceeds with assertion of the penalty, it is imperative that the decision be recorded in such a manner that other IRS employees will be aware that reasonable cause has already been addressed.
 - d. When reasonable cause is denied at the time the information return penalty is recommended for assessment, the penalty reason code will be annotated on Form 8278 in column (e) opposite the penalty amount assessed. The penalty reason code (PRC) shall be entered in red in the following format "PRCXXX" (fill in number corresponding to applicable penalty reason code).
- (4) Assessed Liabilities - When the Collection employee makes a determination not to abate a penalty for lack of reasonable cause, the taxpayer will be informed of that decision.
- a. Written notification must be provided to the taxpayer when the taxpayer disagrees with the employee's determination and maintains that the penalty should be abated.
 - b. An appropriate input document will be used to request input of TC 290, Reason Code 062, blocking series 98 (without original return). This is necessary to insure that, if subsequent claims of reasonable cause are received, the employee will be able to determine that the issue has been addressed.
 - c. The Collection employee who rejected the abatement request will examine any written appeal submitted by the taxpayer for additional information which can change the original determination not to abate the penalty.
 - d. Normally collection action will be suspended on the penalty portion of the assessment during the 15-day period granted to the taxpayer to file an appeal, or during the period the case is under consideration by Appeals. However, action need not be suspended if circumstances meriting continuation of collection action exist. The Collection compliance function employee must obtain supervisory approval not to suspend collection of the penalty portion of the assessment.

20.1.7.5.3
(12-16-2022)
Campus (PSC)
Information Return
Procedures

- (1) The penalties will be assessed on a Civil Penalty Module with:
 - MFT 13 (Business Master File), or
 - MFT 55 (Individual Master File).
- (2) PSC (IRP Unit) assesses penalties that are preceded by a systemic Notice 972CG or other failures that are not preceded by this notice. See IRM 4.19.25, Information Return Penalty (IRP) Procedures.
- (3) The penalty is assessed/waived/abated/sustained using command code ADJ54. See IRM 21.5.2, Adjustment Guidelines, for complete Campus processing instructions.
- (4) Letter 1948-C, Civil Penalty Explained, is sent to the filer to request additional information, or to notify the filer that the explanation submitted establishes reasonable cause and the penalty will not be charged or will be removed.
- (5) Letter 854-C, Penalty Waiver or Abatement Disallowed/Appeals Procedure Explained, is sent to the filer when a penalty waiver or abatement request is fully or partially denied. This letter provides appeal rights and the procedures filers must follow if they wish to appeal the IRS's decision.
- (6) See IRM 4.19.25.12, Correspondence Letters, for a complete list of letters the IRP program uses.
- (7) The following information must be input to the appropriate Civil Penalty Module to record the consideration of an assessment, or abatement of a penalty or a waiver request:
 - a. Enter RC 062 in the first reason code position if reasonable cause was considered and was either established or denied.
 - b. Use the appropriate Penalty Reason Code (PRC) (as shown in IRM 20.1.1-2, Penalty Reason Code Chart) in the fourth reason code position for waiving/abating a penalty due to reasonable cause.

Note: Do not use Reason Code 062 if the penalty is waived/abated for other than reasonable cause, e.g., processing errors. In this case use only the appropriate fourth position penalty reason code.
- (8) The TC 290 acts as a carrier transaction for adjustments on a civil penalty module. The TC 290 and the penalty reference number will carry to the civil penalty module as a TC 240/241 with the penalty reference number used in the adjustment transaction. The TC 290 is systemically deleted.

20.1.7.6
(04-05-2024)
Notice 972CG

- (1) Notice 972CG, Notice of Proposed Civil Penalty, will systemically generate from the Payer Master File (PMF) for filers who fail to comply with the information reporting requirements.
 - (2) A Notice 972CG control listing will generate to the Philadelphia Campus (PSC) site.
- Note:** This listing generates as the first item in the file that contains the PMF transcripts.

- (3) PSC and Technical Services Operation (TSO) will work with IT on establishing the actual dates that the computer disk (CD) or digital versatile disk (DVD) will arrive and the file number. Each file will be sorted in TIN order.
- (4) Notice 972CG (IMF) that requires special handling - IMF notices that require special handling must be reviewed to separate notices that can be mailed from those that require a change in the name (entity) on the notice before mailing.
- (5) Notice 972CG with TIN listings - Campus sites will receive a copy of the TIN listings. This separate control listing will be generated for filers who receive TIN listings (paper and CD/DVD) and will include the filer's TIN (EIN or SSN), name, address, account access key number, CD/DVD (TSO) or paper (PSC) sequential number, transmittal number, and the total volume of missing, incorrect, and/or not currently issued TINs.

Note: Notices that include a penalty for TINs (Penalty Reference Numbers 502, 505, 507, 510) will be associated with the TIN listings. Publication 1586, Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs on Information Returns, must accompany these notices, either paper or electronic copy.

- a. **TIN listings containing up to 250 payee records** - notices that include a proposed penalty for missing and/or incorrect TINs of 250 or less payee records, a paper listing of the payee records with missing, incorrect or not currently issued TINs will be provided for mail out with Notice 972CG.
- b. **TIN listings containing over 250 payee records** - TSO will mail Notice 972CG and a CD or DVD for filers with 251 or more payee records with missing, incorrect or not currently issued TINs.
- (6) *Retention* : CDs and DVDs for Notice 972CG and TIN listings must be retained for ten years to fulfill recreate notice requests.
- (7) See IRM 4.19.25, Information Return Penalty (IRP) Procedures, for more information on Notice 972CG.
- (8) Notice recreates:
 - a. IRS Campus does not maintain copies of Notice 972CG after they have been generated and mailed to taxpayers. Taxpayers can obtain a copy of their notice (notice recreates) by calling TSO Centralized Call Site at 1-866-455-7438. Field employees can follow instructions in IRM 3.42.9.13.4, Request to Recreate Notices CP2100, CP2100A, and 972CG, to request a copy of Notice 972CG.
 - b. Information related to Notice 972CG such as proposed penalty amounts, PRN, type of returns being penalized, can also be viewed by using IDRS CC "PMFOLS". See IRM 2.3.53 for more information on CC "PMFOLS", and IRM 2.3.53.7 for specific information on Screen Display of Civil Penalty Data.

20.1.7.6.1
(12-16-2022)
Federal Agencies

- (1) IRM 1.2.1.12.2, Policy Statement 20-2 (Formerly P-2-4), Penalties and interest not asserted against Federal agencies, states that penalties and interest will not be asserted against agencies or instrumentalities of the United States.

Note: As state and local government agencies are not federal, Policy Statement 20-2 does not apply to state and local government agencies.

- (2) Federal agencies are restricted from certain types of enforcement, including penalties. As a result, systemic or manual penalty assessments are blocked upon input. Refer to IRM 5.19.15, Federal Agency Delinquency (FAD) Program, for additional information. If additional information is needed, contact the FAD unit via SERP "Who and Where" link- FAD Contact.
- (3) Employment Code **F** is assigned to agencies of the United States Government. See IRM 3.13.2.6.3, Employment Code (EC) **F**, for additional information on employment code assignment.

Note: Effective starting tax year 2013, do not mail Notice 972CG to quasi-governmental agencies that have Employment Code "Q".

- (4) Federal agencies are not subject to receiving Notice 972CG. In lieu of Notice 972CG, federal agencies receive Notice 972F (formerly Notice 1313) informing them of those information returns filed with missing/incorrect TINs so they can take appropriate corrective actions.

20.1.7.7
(10-12-2017)
**Creating Entities or
Name Lines for
Non-Return Civil Penalty
Cases**

- (1) These procedures are required to establish entities if there is no entity on the BMF or IMF or where a civil penalty name line (CVPN) must be established (the CVPN applies to IMF accounts only) to assess the penalty.
- (2) An account will be created on the Master File to manually assess the penalty on IDRS.
- (3) Campus sites will manually assess all IRP penalties on IDRS. Research must be completed prior to making the assessment to ensure that the penalty is being assessed to the correct filer's account. However, in the event one of these assessments goes unpostable, the case will be referred to the IRP Penalty unit to correct the entity problem.
- (4) These procedures will also be used when no-merge transcripts are generated for penalties assessed on the wrong TIN.

20.1.7.7.1
(10-12-2017)
BMF Entities

- (1) The Entity Function is the only area authorized to establish BMF accounts. Hand carry or use Form 3210, Document Transmittal, to route all cases that require that an account be established on the BMF to the Entity Control Unit. Maintain controls for all cases routed to Entity and ensure that they are returned for penalty assertion.
- (2) Assess the appropriate penalty on IDRS following the instructions in this IRM subsection. Verify that the penalty was not previously assessed on the Civil Penalty Module (CPM).

20.1.7.7.2
(10-12-2017)
IMF Entities

- (1) All IMF penalties must be assessed against the responsible individual. Assessments against joint accounts will not post to the CPM.
 - a. After entity is established on the CPM or the civil penalty name line (CVPN) is created, the penalty must be manually assessed following the appropriate instructions in this IRM.
 - b. In addition, correspondence must only be sent to the responsible (liable) individual. Ensure that the non-responsible spouse's name is removed before sending out a correspondence.

Note: For IMF taxpayers with an EIN for attached Schedule C or Schedule F, the penalties are assessed against the SSN of the responsible IMF individual that filed the tax return. The attached Schedule C or Schedule F with an EIN are considered disregarded entities.

- (2) An unpostable condition will occur when the taxpayer does not have an account on the IMF under their own SSN. Using the valid individual SSN, establish the account using CC “ENREQ” with TC 000.
- (3) For the penalty to be assessed against a spouse filing as the secondary taxpayer on a joint individual tax return when that spouse has no account on the IMF, establish an account using “ENREQ” with TC 000.
 - a. Assess the appropriate penalty following the instructions in this IRM subsection. **Verify that this is not a duplicate assessment.**
 - b. Once an account is established, Master File processing will establish a CVPN on MFT 55 when the civil penalty assessment is input. Once created, the CVPN remains on the account and applies to all civil penalty periods.
- (4) Special action to establish a CVPN for assessing civil penalties is required if all of the following conditions are met:
 - a. The current account is, or has ever been married filing jointly,
 - b. The assessment will be against the primary taxpayer whose SSN controls the account, and
 - c. The account does not already have a CVPN.

Note: If a CVPN already exists, MFTRA transcripts and CC “INOLE” or CC “ENMOD” will display it after the current name and address data.

- (5) To establish a separate CVPN, use an IMF entity change (CC “ENREQ” to generate a TC 013) with the special CVPN procedures described in the IDRS Handbook. When using this special procedure, only the CVPN change will be input. No other entity change information is permitted. Information to otherwise update the entity, such as an address change, must be input before establishing the CVPN. When using this procedure, both first and last names must match the Master File name. If the name does not show on IDRS/Master File, check CC “MFTRA” or “INOLE.”
- (6) For a correct account on the Master File that has a CVPN, the name line will be updated (e.g., taxpayer’s current account name is Mary Jones and the CVPN is Mary Smith) by input of CC “ENREQ” with the special procedures described above.
 - **EXAMPLE 1:** A joint account is on Master File for John and Mary Doe (John’s is the controlling SSN). A penalty is to be assessed against John. The account has no existing CVPN. Action: Input a CVPN for “John Doe” using the special procedures for establishing a CVPN shown in the IDRS Handbook. The penalty will be assessed immediately.
 - **EXAMPLE 2:** On the same joint account as above, the penalty is to be assessed against Mary Doe. Mary has an account on Master File under own SSN with the name line of Mary Jones because they filed individually before filing jointly. There is no CVPN on Mary’s account because Mary is the secondary taxpayer. Action: Input a name change (and

address change, if appropriate) to Mary's existing Master File account, then assess the penalty. No CVPN has to be input because Mary is the secondary taxpayer.

- **EXAMPLE 3:** On a Joint account for John and Mary Doe, the penalty is to be assessed against Mary. However, Mary has no account under SSN on the Master File. Action: Establish an account for Mary on the Master File using SSN with TC 000, as described in the IDRS Handbook, then assess the penalty. No CVPN has to be input.
- **EXAMPLE 4:** John Doe has a separate account without a CVPN on Master File and a penalty is to be assessed. No special name line action is required, the penalty will be assessed and a CVPN will be generated by Master File.
- **EXAMPLE 5:** John and Mary Doe do not have an account on the Master File since they are non-filers. A penalty is to be assessed against John. If a joint return is to be processed as a delinquent or substitute, a joint name line must be established before establishing a CVPN. Once the joint entity is established, follow the special CVPN name line procedures to establish CVPN for John.

20.1.7.8
(10-12-2017)
**Failure to File Correct
Information Returns IRC
6721**

- (1) For information returns or statements, a penalty will be imposed for filing returns:
 - a. After the due date,
 - b. Without all required or correct information (including missing, incorrect and/or not currently issued TINs),
 - c. On paper when required to be filed electronically,
 - d. When filed on paper, in a manner which does not allow them to be processed, or
 - e. When filed electronically, in a manner which does not allow them to be processed or be read by machine (not processable).
- (2) No more than one IRC 6721 penalty will be imposed per return, even when a return contains more than one failure, for example, a return was filed late and missing a TIN.
- (3) For purposes of IRC 6721, the term "information return" means any return required to be filed as described in IRC 6724(d)(1).
- (4) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for applicable penalty rates and maximum limitations.

20.1.7.8.1
(12-16-2022)
Reduction of the Penalty

- (1) If a failure is corrected within 30 days after the due date of the information return required to be filed, the penalty will be reduced.
- (2) If the failure is corrected more than 30 days after the due date of the information return required to be filed, but on or before August 1 of the filing year, the penalty will be reduced.

Note: The reduction of penalty discussed in (2) does not apply to returns that are not due on January 31, February 28 or March 15 (for example, Form 8300 because this form does not have a fixed due date but is due within 15 days of cash receipt). See Exhibit 20.1.7-3 for due date of information returns subject to penalties discussed in this IRM. Therefore, this exception does not apply to Form W-2 and a form reporting non-employee compensation (currently Form 1099-NEC), since these forms have a due date of January

31 for tax years beginning in 2016. These forms still have a reduction in penalty if corrected more than 30 days after the due date but on or before August 1.

Note: Penalty relief was provided for certain information return penalties for TY 2019 information returns that were filed on or before August 1, 2020, with an original due date of January 31, 2020; February 28, 2020 (if paper filed) or March 31, 2020 (if electronically filed); or March 15, 2020. Penalty relief was also provided for TY 2020 information returns that were filed on or before August 1, 2021, with an original due date of January 31, 2021; February 28, 2021 (if paper filed) or March 31, 2021 (if electronically filed); or March 15, 2021. Consider these conditions when determining penalty relief. See Notice 2022-36 in IRB 2022-36.

- (3) Small Business Limitation - If the filer's average annual gross receipts for the three most recent taxable years do not exceed \$5,000,000, the maximum penalty in each of the three penalty categories will be reduced. For example, if the filer uses a calendar year for tax purposes, and the calendar year during which the return is required to be filed is 2023, then, the most recent three taxable years are 2022, 2021 and 2020.
 - See IRC 448(c)(3)(C) when computing the average gross receipts test (gross receipts shall be reduced by returns and allowances). For subsidiary entities that have no income tax filing requirement and file their income with the parent entities, the gross receipts for the subsidiary entities will be evaluated based on the **aggregated** gross receipts of both parent and subsidiary(ies), as member(s) of a controlled group within the meaning of IRC 1563(a). See Section 448(c)(2) for additional aggregation rules.
- (4) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for applicable penalty rates and maximum limitations for small and large businesses and reduction of the penalty when corrected within certain time frames.

20.1.7.8.2 (04-05-2024)

Intentional Disregard of Rules and Regulations

- (1) The Intentional Disregard of the Rules and Regulations penalty under IRC 6721(e) applies when the facts and circumstances show that the filer knowingly or willfully failed to comply with the filing requirements of the information returns.
- (2) Intentional disregard occurs when a filer knowingly or willfully chooses to ignore a rule or regulation's requirements. The facts must show the filer:
 - a. Was required to file,
 - b. Knew of or willfully disregarded the requirement to file, and
 - c. Consciously chose not to file or willfully disregarded (i.e., ignored) the duty to file a timely and correct information return.
- (3) 26 CFR 301.6721-1(g)(3)(i) provides that a pattern of failures indicates intentional disregard. The greater the number of failures, the greater the likelihood some of those failures could be due to intentional disregard.
- (4) Additional questions relevant to ascertaining the existence of intentional disregard are:

- Did the filer correct the failure promptly after the discovery of the failure?
 - Did the filer correct the failure within 30 days after written notification of the failure by the IRS, and
 - Did the filer avoid an administrative inconvenience or was the cost of compliance greater than an IRC 6721 penalty?
- (5) For instance, intentional disregard may exist when the filer believes it would be less expensive to pay the penalties under IRC 6721 than to comply with the applicable filing requirements of 26 CFR 301.6721-1(g)(3)(i).
- (6) The Intentional Disregard of the Rules and Regulations penalty is \$580 for returns due in 2023 and \$630 for returns due in 2024 (see Exhibit 20.1.7-1 for rates of other years) for each information return required to be correctly filed, or if greater:
- a. Ten percent of the total amount required to be reported on information returns **other than** returns of brokers, returns reporting direct sales, returns reporting mortgage interest received, returns reporting cash received, returns reporting foreclosures and abandonment of property, returns reporting exchanges of partnership interests, and returns reporting donated property per IRC 6721(e)(2)(A), or
 - b. Five percent of the total amount required to be reported on the information returns for brokers, exchange of partnership interest, or disposition of donated property payments per IRC 6721(e)(2)(B).
- (7) When the intentional disregard is due to failure to file electronically as required by IRC 6011(e) and 26 CFR 301.6011-2 (see IRM 20.1.7.11, Regulations Requiring Use of Electronic Form), the method to compute the aggregate amount of the items required to be reported correctly under either IRC 6721(e)(2)(A) or IRC 6721(e)(2)(B) is as follows:
- a. Step (1): Take the average of the amounts reported on all the returns or statements that were incorrectly paper filed for the calendar year.
 - b. Step (2): Multiply the average from step (1) by the number of returns that are subject to penalty (i.e., the number of paper-filed returns above the e-filing threshold for non-partnerships (250 returns for tax years before 2023 and 10 returns for tax year 2023 and thereafter).
 - c. Step (3): Multiply step (2) by the applicable percentages in either IRC 6721(e)(2)(A) or IRC 6721(e)(2)(B).
 - d. Step (4): Multiply the number of returns subject to penalty by \$500 (for returns and statements required to be filed after December 31, 2015, subject to annual inflationary adjustments).
 - e. Step (5): Compare the result in step (3) and (4), and assess the greater amount.
- (8) Form 8300 -The intentional disregard penalty for failing to file a correct Form 8300 under IRC 6050I(a) is the greater of:
- a. \$25,000, or
 - b. The amount of cash required to be reported in the transaction up to \$100,000.

Note: These amounts are subject to annual inflationary adjustments. See Exhibit 20.1.7-1 for references to Revenue Procedures discussing the amounts

including inflationary adjustments depending on when the Form 8300 is due to be filed.

- (9) The penalty for failing to file a correct Form 8300 applies to cash amounts exceeding \$10,000 received by a trade or business (as defined by IRC 162). The information required to be provided by the recipient of the cash includes: the name, address and TIN of the person providing the cash; the amount of cash received; and the date and nature of the transaction.

Note: The Form 8300 is required to be filed within 15 days of the receipt of the reportable amount.

- (10) The intentional disregard penalty on Form 8300 is subject to a pre-assessment administrative appeal. Generally, this penalty will only be assessed as a result of an area office examination. See IRM 4.26.11, BSA Examiner Responsibilities for Form 8300 Examinations, for guidance on penalty applicability.
- (11) There is **no maximum dollar limitation** for the intentional disregard of the rules and regulations penalty.

20.1.7.8.3 (09-08-2021)

Exceptions and Special Rules

- (1) No more than one IRC 6721 penalty can be imposed even if there is more than one failure on the same information return (for example, a return was filed late and with incorrect TIN). When a return is filed with multiple failures and the penalty amounts differ, the higher penalty will be imposed.
- (2) The de minimis exception will apply to the number of incorrect information returns remaining after the reasonable cause waiver has been allowed. The de minimis exception will apply if the return:
- Was timely filed,
 - Had missing or incomplete information, and
 - The filer corrected the missing or incomplete information on or before August 1st of the filing year.
- (3) The maximum number of corrected information returns to which this exception applies cannot exceed the greater of: 10, or one-half of one percent of the total number of returns required to be filed during that calendar year. This exception only applies to returns that are due on January 31, February 28th or March 15th. Nevertheless, the returns that are not due on these dates are included in the total number of information returns that the filer is required to file for purposes of calculating the number of the returns subject to this exception.
- (4) The penalty shall not be assessed for errors or omissions that are considered inconsequential.
- (5) The term **inconsequential** means any failure that does not make it difficult for or prevent the IRS from:
- Processing the return,
 - Matching the information return shown with the payee's tax return, or
 - Otherwise putting the information return to its intended use.
- (6) Errors or omissions are never considered inconsequential if they relate to:
- A dollar amount (except for the safe harbor for certain de minimis errors, as provided in paragraph (8) below),

- A taxpayer identification number, and/or
- A surname of a payee.

- (7) The IRS may administratively specify other errors or omissions that are never considered inconsequential.
- (8) **Safe harbor for certain de minimis errors on information returns and payee statements:** IRC 6721(c)(3) and IRC 6722(c)(3) state with respect to an information return filed with the Secretary and a payee statement required to be furnished to a payee, if no single amount in error differs from the correct amount by more than \$100, and no single amount reported for tax withheld differs from the correct amount by more than \$25, then no correction shall be required and, for purposes of IRC 6721 and IRC 6722, such return shall be treated as having been filed/furnished with all of the correct required information. This safe harbor applies to returns required to be filed, and payee statements required to be furnished, after December 31, 2016. The recipients have the option to elect out of this safe harbor and can request to have the information return be corrected by the filer. See Notice 2017-09, IRB 2017-04 .

20.1.7.8.4
(12-16-2022)
**Failure to Timely File
Information Returns**

- (1) These procedures are used to identify late filed paper returns received by the Submission Processing Campus during the current processing year:
- a. The delinquent Form 1096 or other transmittal is date-stamped by
 - b. Operators will key in the received date from the date stamp whenever the "X" is present and the information returns will be processed to PMF.
 - c. These procedures will ensure that this information will update PMF.
- (2) Do not identify returns filed by federal or quasi-governmental agencies for the penalty.
- (3) If a correction is being submitted for a name or TIN change, or for the wrong type of return filed, the filer will submit two returns to make the correction:
- a. One correction with "zero" money amounts, and
 - b. One original return to replace the first return filed.
- (4) Campuses must attempt to identify this situation and ensure that the penalty is not assessed for the "replacement" return (original), since it is part of a correction.
- (5) See IRM 3.10.8, Campus Mail and Work Control, Information Returns Processing, for more information.

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- (10) For electronically filed information returns, TSO will enter the received date and provide postmarked material for late filed returns to allow PMF to automatically generate the penalty proposal notice for late filing as applicable. The notice generation process considers any granted extension of time to file.

20.1.7.8.4.1
(10-12-2017)

**Late Filing Penalty (Prior
Year Returns)**

- (1) The excessively late-filed information returns are those filed by paper or electronic which were received by the Campus (paper) or TSO (electronic) with a due date prior to the current processing year.
- (2) Penalties for these prior year returns will be assessed manually through IDRS to generate notice CP 215 /CP 15 from the Civil Penalty Module (MFT 13/55). These notices will not be preceded by Notice 972CG.
- (3) Receipt and Control will forward these returns to the area responsible for assessing the IRP penalties. PMF will also forward a listing of returns (generally monthly) for assessment of the late filing penalty for returns filed electronically and provide the received date.
- (4) See IRM 3.10.8, Campus Mail and Work Control, Information Returns Processing, for more information.
- (5) See IRM 4.19.25, Information Return Program (IRP) Procedures for more information.

20.1.7.8.4.2
(12-16-2022)

**Late Filing Penalty -
Forms W-2**

- (1) A late filed Form W-2 is identified by the Social Security Administration (SSA). This information is posted to the Payer Master File (PMF) for the penalty program.
- a. The indicator is derived from the received date. Indicators will appear in the **Late SSA** field on the PMF transcript.
- b. Only Forms W-2 and Forms W-3 that are included in the Notice 972CG (i.e., waiver or extension granted) will appear on PMF. Other Forms W-2 and Forms W-3 submitted by employers are currently not posted to PMF. These will be researched using CC "BMFOLU", if necessary.
- c. Extensions and waivers for Form W-2 that have been approved will post to PMF, even if the forms are not subject to a penalty.

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[illegible]

- 20.1.7.8.4.3
(10-12-2017)
**Responses to Combined
Annual Wage Reporting
(CAWR)**

- Note:** Upon receipt of these cases, please refer to CAWR, see IRM 4.19.4, CAWR Reconciliation Balancing.

- 20.1.7.8.4.4
(04-05-2024)
**Penalty for Failure to
File on Electronic Media**

- (1) The PMF generates a penalty proposal notice (Notice 972CG) when a filer fails to comply with the electronic media filing requirements for information returns. Failure to file in the required manner, i.e., on electronically machine-readable form as provided under IRC 6011(e) and the regulations thereunder will result in a IRC 6721 penalty. See IRM 20.1.7.11.
- (2) Per 26 CFR 301.6011-2, the Commissioner may waive the requirements of IRC 6011(e) if economic hardship is shown in a request for waiver. The

principal factor in determining the economic hardship will be the amount, if any, by which the cost of filing the information returns in accordance with this subsection exceeds the cost of filing the returns on other media. A request for waiver must be filed at least 45 days before the due date of the information return for the IRS to have adequate time to respond to the request for waiver. The waiver will specify the type of information return and the period to which it applies and will be subject to such terms and conditions regarding the method

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- (3) The penalty must not be assessed if an undue economic hardship waiver was granted by TSO and posted to PMF.
- (4) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for penalty rates.

20.1.7.8.4.5
(12-16-2022)
Penalty for Failure to File in the Proper Format (Unprocessable Returns)

- (1) The penalty for failure to file in the proper format is assessed for unprocessable paper and electronic returns identified by the Campus and TSO. This penalty is manually assessed by the Campus (CP 215 or CP 15 Notices). It is not preceded by a Notice 972CG.
 - a. The filer is contacted with a letter explaining the problem and requesting correction and re-submission by a specific date.

Note: For paper returns, only a sample of the unprocessable returns are returned to the filer to identify the problem. However, the filer is asked to resubmit the entire submission. For electronically filed returns, none of the unprocessable returns are returned to the filer.
 - b. Filers are also advised of the applicable penalties for not resubmitting the returns timely. If processable returns are submitted beyond the date requested, the filer is subject to a late filing penalty.
 - c. Returns are referred to the IRP penalty unit for the improper format penalty if they are still unprocessable at the processing cut off for the year.
- (2) Refer to IRM 4.19.25.18, Failure to File in the Proper Format (Letter 1865C) for more information on working these penalty cases.
- (3) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for penalty rates.

20.1.7.8.4.6
(04-05-2024)
Penalty for Missing and Incorrect TINs

- (1) Filers who file an information return with a missing TIN, or a TIN determined to be incorrect or not currently issued by the IRS, are subject to a penalty under IRC 6721.
- (2) After the TIN validation process is performed to identify payee records with missing and incorrect TINs/names, this data is transmitted to the PMF for inclusion in the penalty proposal notice.

Note: When a TIN is identified as incorrect, either the TIN or name will be incorrect.

- (3) A paper or CD/DVD (for over 250 TINs) listing of payee records with missing or incorrect TINs is sent to the filers along with the proposal notice (Notice 972CG). Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs on Information Returns, is also included in this mailing.
- (4) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for penalty rates.

20.1.7.8.4.6.1
(09-08-2021)
TIN Validation

- (1) The “TIN Validation process” compares the taxpayer identification number (TIN) and name control (the first four characters of a surname or first four characters of the first significant word in a non-individual’s title) against certain IRS or SSA files.
- (2) During the weekly **matching process**, the IRS attempts to match each name and TIN combination provided on all information returns.

If	Then
No match is found,	an attempt is made against the EIN/ Name Control file.
The TIN matches (identified that the TIN provided was issued by either the IRS or SSA),	an attempt to match the name control provided is made.
The name control is not provided,	an attempt to develop name controls is made by creating name controls from each word separated by a space on each name line. Both name lines 1 and 2 are read, totaling 80 characters, 40 characters for each name line.

- (3) “Exact matches” are attempted first, followed by “proximal matches.”
 - a. Exact matches occur when the name/TIN combination provided on the information return exactly matches the name/TIN combination on either file. This applies to both SSNs and EINs.
 - b. Proximal matches allow for transposition of the second and third characters of the name control provided.

Note: THIS APPLIES TO SSNs ONLY.

20.1.7.9
(12-16-2022)
**Failure to Furnish
Correct Payee
Statements IRC 6722**

- (1) IRC 6722 provides for a penalty when a payee statement is not timely or correctly furnished. The penalty is imposed for each failure to:
 - a. Furnish a payee statement on or before the due date to the person to whom the statement must be furnished,
 - b. Furnish all information required, and
 - c. Furnish correct information.
- (2) No more than one IRC 6722 penalty will be imposed per payee statement, even when a statement contains more than one failure (for example, furnished late and with incorrect TIN).

- (3) For purposes of IRC 6722, the term “payee statement” means any statement required to be furnished as described in IRC 6724(d)(2).
- (4) A **composite substitute payee statement** is a single document created by the filer to reflect several types of payments made to the same payee. Each composite statement shall be treated as though each type of payment (or other required information) were a separate statement with each type of payment being subject to the penalty.

Note: This statement must be on a form acceptable to the IRS. See Publication 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, and Certain Other Information Returns. See Publication 1141, General Rules and Specifications for Substitute Forms W-2 and W-3.

- (5) See Exhibit 20.1.7-1 and Exhibit 20.1.7-2 for applicable penalty rates and maximum limitations.

20.1.7.9.1
(04-05-2024)
Intentional Disregard

- (1) The Intentional Disregard of the Rules and Regulations Penalty applies when the **facts and circumstances** show that the filer **knowingly or willfully** failed to comply with the requirements of IRC 6722.
- (2) Intentional disregard occurs when a filer knowingly or willfully chooses to ignore a rule or regulation’s requirements. The facts must show the filer:
 - a. Was required to file,
 - b. Knew of or willfully disregarded the requirement to file, and
 - c. Consciously chose not to file or willfully disregarded (i.e., ignored) the duty to file a timely and correct information return.
- (3) 26 CFR 301.6721-1(g)(3)(i) provides that a pattern of failures indicates intentional disregard. The greater the number of failures, the greater the likelihood some of those failures could be due to intentional disregard. Additional questions relevant to ascertaining the existence of intentional disregard are:
 - a. Did the filer correct the failure promptly after the discovery of the failure?
 - b. Did the filer correct the failure within thirty days after written notification of the failure by the IRS?
 - c. Did the filer avoid an administrative inconvenience, and
 - d. Was the cost of compliance greater than the IRC 6722 penalty?
- (4) Intentional disregard may exist when the filer believes it would be less expensive to pay the penalty under IRC 6722 than to comply with the requirement to provide a statement (26 CFR 301.6721-1(g)(3)(iv)). Check payee’s prior history of compliance to determine intentional disregard.
- (5) The Intentional Disregard of the Rules and Regulations Penalty is \$580 for returns due in 2023 and \$630 for returns due in 2024 (see Exhibit 20.1.7-1 for rates of other years) for each payee statement required to be filed, or if greater:
 - a. Ten percent of the amount of income required to be reported on payee statements **other than** statements of brokers, statements reporting direct sales, statements reporting mortgage interest, statements reporting cash received, statements reporting foreclosures and abandonment of property, statements reporting exchanges of partnership interests and statements reporting donated property, or

- b. Five percent of the amount required to be reported on the payee statements for brokers, exchange of partnership interest, or disposition of donated property payments.
- (6) Form 8300 - The intentional disregard penalty for failing to provide a payor of cash with a statement as required by IRC 6050I(e) is the greater of \$580 for returns due in 2023 and \$630 for returns due in 2024 (see Exhibit 20.1.7-1 for rates of other years) or 10 percent of the amount required to be provided on the statement.
 - a. These penalties are asserted manually by field or campus examination personnel.
 - b. The taxpayer will be offered an administrative pre-assessment appeal.
- (7) There is no maximum dollar limitation for the Intentional Disregard of the Rules and Regulations Penalty under IRC 6722.

20.1.7.9.2
(12-16-2022)
**Exceptions and Special
Rules**

- (1) No more than one IRC 6722 penalty will be imposed even if there is more than one failure on the same statement (for example, furnished late and with incorrect TIN). However, where a statement is furnished with multiple failures and the penalty amounts differ, the higher penalty will be imposed.
- (2) The penalty shall not be assessed if an error or omission is inconsequential. An error or omission is inconsequential when the failure does not prevent:
 - a. The timely receipt of correct information, or
 - b. The payee from putting the information to its intended use.
- (3) Errors or omissions are never considered inconsequential if they relate to:
 - a. A dollar amount (except for the safe harbor for certain de minimis errors, as provided in paragraph (4) below),
 - b. A significant item in the payee address,
 - c. Use of the appropriate form for the information provided, whether or not it is an acceptable substitute for the official IRS form, and/or
 - d. The delivery of the information return to the payee either in person or by first class mail (in a mailer that alerts the payee that the statement is enclosed) under the following: IRC 6042(c), Returns Regarding Payments of Dividends and Corporate Earnings and Profits, IRC 6044(e), Returns Regarding Payments of Patronage Dividends, IRC 6049(c), Returns Regarding Payments of Interest, and/or IRC 6050N(b), Returns Regarding Payments of Royalties.
- (4) **Safe harbor for certain de minimis errors on information returns and payee statements:** IRC 6721(c)(3) and IRC 6722(c)(3) state with respect to an information return filed with the Secretary and a payee statement required to be furnished to a payee, if no single amount in error differs from the correct amount by more than \$100, and no single amount reported for tax withheld differs from the correct amount by more than \$25, then no correction shall be required and, for purposes of IRC 6721 and IRC 6722, such return shall be treated as having been filed/furnished with all of the correct required information. This safe harbor applies to returns required to be filed, and payee statements required to be furnished after December 31, 2016. The recipients have the option to elect out of this safe harbor and can request to have the information return be corrected by the filer. See Notice 2017-09, IRB 2017-04.

For information returns required to be filed and furnished on or after January 1, 2022, see 26 CFR 301.6721-1 and 26 CFR 301.6722-1.

20.1.7.10
(09-08-2021)

**Failure to Comply with
Other Information
Reporting Requirements
IRC 6723**

- (1) In the case of a failure of a person to comply with a specified information reporting requirement, the penalty is \$50 per failure up to a maximum of \$100,000 per year. A specified information requirement is a notice of partnership exchange under IRC 6050K, a requirement under IRC 6109 to include the person's TIN or another person's TIN on a return, statement or document (other than an information return), or to furnish a TIN to another person.
- (2) Multiple penalties can be imposed on one document if the failures relate to more than one of the following requirements:
 - a. IRC 6050K(c)(1) notification of exchange of partnership interest.
 - b. IRC 6109 supplying identifying numbers, including their TIN on a return, statement or document other than an information return or payee statement, or furnishing their TIN to another person.
 - c. IRC 215 - Alimony, etc., for the person receiving separate maintenance is required to furnish their TIN to the individual making separate maintenance payments, and the person making the separate maintenance payment is required to furnish on their return the TIN of the person receiving the separate maintenance payment.

Note: P.L. 115-97 (Tax Cuts and Jobs Act, enacted 12/22/2017), Sec. 11051, repealed IRC 215 related to deduction for alimony payments, effective for any divorce or separation instrument executed after December 31, 2018. The penalty related to IRC 215 is not assessable with respect to any divorce or separation instrument executed after December 31, 2018.

Note: Multiple penalties are imposed with respect to a document with multiple instances of failures to comply with any one of these requirements. For example, if two TINs are required to be included on a return, two \$50 penalties are imposed. See 26 CFR 301.6723-1(b) Example (1).

- (3) However, no more than one penalty per document will be imposed if the failure relates to only one of the requirements listed above in (2) but could be penalized for both:
 - Failure to timely comply, and
 - Failure to include all the required information.

20.1.7.10.1
(10-12-2017)

**Exceptions and Special
Rules**

- (1) An inconsequential error or omission is not considered a failure to comply with a specified information reporting requirement. Therefore, the penalty shall not be assessed.
- (2) The term "inconsequential" means any failure that does not make it difficult for the IRS to put the information to its intended use or prevent a payee from timely receiving correct information and reporting it on their return.

20.1.7.11
(04-05-2024)

**Regulations Requiring
Use of Electronic Form
IRC 6011(e)**

- (1) Requirements:
 - a. Per 26 CFR 301.6011-2, as amended by Section 2301 of the Taxpayer First Act of 2019 (PL 116-25), a filer must file electronically when required to file 10 or more returns during the calendar year, effective January 1, 2024. See (2) below for additional rules applicable to partnerships.

- b. For a filer who timely filed paper returns, but was required to file electronically, the IRC 6721 penalty will apply to the number of returns, required to be filed during any calendar year that exceed 10. For example, if, during calendar year 2024, 5 Forms 1099-INT, 5 Forms 1099-DIV, and 5 Forms 1099-MISC are filed on paper, only 5 will be subject to penalties.

Note: Beginning January 1, 2014, financial institutions that are required to report payments made under Chapter 3 (and Chapter 4 for payments made after June 30, 2014) must electronically file Form 1042-S regardless of the number of forms to be filed (PL 111-147).

(2) Partnerships required to file electronically:

- a. Notwithstanding the above, partnerships having more than 100 partners are required to file returns electronically (including Schedules K-1 and K-3). Partnerships that fail to file electronically when required to do so are subject to the IRC 6721 penalty. See IRM 20.1.2.5, Failure to File Partnership Return Using Electronic Media.

(3) A filer can request a waiver from the requirement to file electronically by filing Form 8508, Application for a Waiver from Electronic Filing of Information Returns, with TSO. See IRM 20.1.7.2.3 and IRM 20.1.7.8.4.4.

(4) An exemption is allowed for filers for whom using the technology required to file electronically conflicts with their religious beliefs. See IRM 20.1.7.2.3 for additional information.

20.1.7.12
(12-09-2019)

**Waivers, Definitions and
Special Rules IRC 6724**

(1) Generally, an information reporting penalty under IRC 6721, IRC 6722 or IRC 6723 will be waived if it can be shown that the error was due to reasonable cause and not due to willful neglect. 26 CFR 301.6724-1 provides the general provisions that must be met to establish reasonable cause. Note that specific rules apply to certain information returns as discussed in the regulations.

(2) In seeking a waiver that the failure was due to reasonable cause and not willful neglect, the filer must submit a written statement that:

- a. States the specific provision under which the waiver is being requested,
- b. Sets forth all the facts alleged as the basis for reasonable cause,
- c. Contains the signature of the person required to file the return, and
- d. Contains a declaration that it is made under penalties of perjury.

(3) See IRM 20.1.1, Introduction and Penalty Relief, for discussion of Penalty Relief. The term "Penalty Relief" includes Reasonable Cause, Statutory Exception, Administrative Waiver, and IRS Error.

Note: Section 805 of H.R. 1295, Trade Preferences Extension Act of 2015, amended IRC 6724 by adding at the end **new subsection f**, applicable to returns required to be made, and statements required to be furnished under IRC 6050S, after December 31, 2015. IRC 6724(f), Special Rule for Returns of Educational Institutions Related to Higher Education Tuition and Related Expenses, provides that no penalty shall be imposed under IRC 6721 or IRC 6722 solely by reason of failing to provide the TIN of an individual on a return or statement required by IRC 6050S(a)(1) if the eligible educational institution required to make such return contemporaneously makes a true

and accurate certification under penalty of perjury that it has complied with standards promulgated by the Secretary for obtaining such individual's TIN.

20.1.7.12.1
(12-16-2022)
Reasonable Cause

- (1) Unless otherwise specified in this chapter, the IRS will waive (abate or not assess) an information return penalty when a filer requests a waiver of the penalty and establishes reasonable cause.
- (2) If the request properly establishes reasonable cause, the penalty will be abated using normal procedures.
- (3) If reasonable cause is not established, disallow the request using normal procedures.
- (4) If additional information is needed to substantiate a request for the waiver of a penalty due to reasonable cause, contact the taxpayer or authorized representative.
- (5) In all cases involving unauthorized third-party requests, correspond directly with the taxpayer to inform them of the action taken. Send a letter to the unauthorized third party explaining that you have responded directly to the taxpayer and include a paragraph in the taxpayer's letter requesting that the taxpayer notify the third party of our direct reply to the taxpayer.
- (6) If the correspondence contains the penalty of perjury language (jurat) it must contain the affected taxpayer's signature or the signature of the taxpayer's authorized representative. The signature requirements are as follows:
 - a. **Corporations** - The statement must be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or other officer duly authorized to sign returns and other documents. The fact that an individual within the corporation signed the statement shall be accepted as evidence that the individual is authorized to sign on behalf of the corporation (IRC 6062).
 - b. **Partnerships** - The statement must be signed by any one of the partners.
 - c. **Joint individual accounts** - The statement must contain the signature of one of the taxpayers who signed the original return to be considered a valid request.
- (7) Reasonable cause for the information return penalties generally exists when:
 - a. The filer acted in a responsible manner, both before and after the failure occurred, **and**
 - b. (i) There are significant mitigating factors, or (ii) The failure was the result of circumstances beyond the filer's control.
- (8) Acting in a Responsible Manner (26 CFR 301.6724-1(d)) generally includes exercising the same degree of care that a reasonably prudent person (or organization) would use in the course of its business in determining filing obligations and in handling account information such as account numbers and balances. The filer must act in a responsible manner both before **and** after the failure occurs. Acting in a responsible manner also includes taking steps to avoid the failure, for example:
 - a. Requesting appropriate extensions of time to file when practical to avoid the failure,

- b. Attempting to prevent a failure if it was foreseeable,
 - c. Acting to remove an impediment or the cause of the failure, and
 - d. Correcting the failure as promptly as possible, generally within 30 days.
- (9) Where a penalty is imposed for missing or incorrect TINs, a filer must comply with special rules for acting in a responsible manner. See IRM 20.1.7.12.2.
- (10) When reviewing a filer's request for a waiver, the following questions must be addressed to determine if the filer has acted in a responsible manner:
- a. Do the reasons address the penalty that was assessed?
 - b. Does the length of time between the event cited as a reason and the filing date negate the event's effect?
 - c. Does the continued operation of a business after the event that caused the filer's noncompliance negate the event's effect?
 - d. Could the event that caused the filer's noncompliance or increased liability have reasonably been anticipated?
 - e. Was the penalty the result of carelessness or did the filer appear to have made an honest mistake?
- Note:** Carelessness and forgetfulness are not examples of ordinary business care and prudence.
- f. Has the filer provided sufficient detail (dates, relationships) to determine whether they exercised ordinary business care and prudence?
 - g. Is a non-liable person being blamed for the filer's noncompliance? What is the nature of the relationship between the taxpayer and the individual? Is the individual an employee of the taxpayer or an independent third party, such as an accountant or lawyer?
 - h. Has the filer documented all pertinent facts, i.e. death certificate, doctor's statement, insurance statement for proof of fire, etc.?
 - i. Does the filer have a history of being assessed the same penalty?
 - j. Could the filer have requested an extension or filed an amended return?
- (11) A waiver must not be automatically granted where the filer claims ignorance of the filing requirements. However, ignorance of the law must be considered as one factor which indicates that the filer acted in a responsible manner if all the other facts support this contention.
- (12) Significant mitigating factors - For the filer to establish reasonable cause under this category, the filer must show that they acted in a responsible manner as well as the existence of a significant mitigating factor. Events generally considered to be significant mitigating factors include, but are not limited to:
- a. First time filer - prior to the failure, the filer had not previously been required to file this particular form or statement.
 - b. The filer has a history of complying with the information return reporting requirements. The filer's history of compliance must be considered whether or not the filer specifically requests abatement on this basis.
- Note:** A good compliance history can benefit a filer who shows that they acted in a responsible manner, but cannot show that an event beyond the filer's control caused the failure.
- c. Significant consideration is given to if the filer was previously penalized under IRC 6721, IRC 6722, or IRC 6723.

- b. A copy of the request for information, including the steps taken and the specific facts given to the IRS, and the answer received.
- c. This information must be used in determining whether the taxpayer has shown reasonable cause for taking a position on the return giving rise to the penalty.

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- (17) Actions of an Agent -- For a filer to establish events beyond the filer's control as the result of actions of an agent (imputed reasonable cause), the filer must show that:
- a. The filer exercised reasonable business judgment when contacting the agent, allowing the agent to timely file correct returns, or furnish correct payee statements.
 - b. The filer provided the agent with proper information well in advance of the due date of the return or statement, and the agent satisfied the significant mitigating factors, or an event beyond the agent's control occurred that could establish reasonable cause.
 - c. A filer who contracted with an agent and cannot establish reasonable cause based on the actions of the agent as described above, will be able to demonstrate reasonable cause on their own merit by having an established history of complying with the information reporting requirements, and otherwise acting in a responsible manner both before and after the failure occurred.
- (18) Actions by the payee or any other person --For the filer to establish reasonable cause as the result of actions by the payee or any other person with respect to the return or payee statement:
- a. The filer must show that the failure resulted from the failure of the payee, or other person, to provide the necessary information to the filer or resulted from incorrect information on which the filer relied that the payee or other person provided.
 - b. The filer must have made available to the payee all necessary information to complete the filing.
 - c. The filer **must provide documentary evidence when requested by the IRS** showing that the failure was attributable to the payee.
 - d. See 26 CFR 301.6724-1(e) and (f), IRM 20.1.7.12.2.2 and IRM 20.1.7.12.2.4 for special solicitation requirements that a filer must follow to establish reasonable cause if the failure of the filer to provide a correct TIN was due to the actions of the payee.
- (19) Unavailability of business records - the business records must have been unavailable as a result of unforeseen conditions, and in a manner which would prevent timely compliance (ordinarily at least a two-week period prior to the due date or extended due date) of the information return, and the unavailability

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- (20) A supervening event includes, but is not limited to:
- a. A fire or other casualty that damages the business records or impairs the system for processing such records.
 - b. A statutory or regulatory change that relates directly to the data processing and is made so close to the time the information return or statement is required that for all practical purposes the change cannot be made.
 - c. The unavoidable absence (death or serious illness) of the person with the sole responsibility for filing a return or furnishing a statement. In the case of a corporation, estate, trust, etc., the death or serious illness must have been that of an individual having sole authority to file the return (not the individual preparing the return). If another person shares responsibility for filing the return and that other person is unaffected by the event, the event is not an event beyond the filer's control.
- (21) The return was delivered to the IRS after its due date by the United States Postal Service if it was correctly addressed, mailed, and postmarked by the

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document mailed from the same point of origin ordinarily would be received if mailed on the last day prescribed for filing the return. If the return is received after the due date, the filer must establish the return was deposited in the mail on or before the due date, the delay in receiving the return was due to a delay in the transmission of the mail, and the cause of the delay.

- (22) The taxpayer's statement that they erroneously addressed their return to the state taxing agency does not in itself constitute reasonable cause for filing late, since a properly addressed envelope is a legal requirement in determining timely mailing/filing (IRC 7502(a)(2)(B)). Further documentation of the circumstances that resulted in the taxpayer **misdirecting the returns** must be considered evidence the taxpayer acted in a responsible manner and was nevertheless unable to file on time. Acceptable documentation must include all of the following:
- a. An excellent filing compliance record,
 - b. Dated or certified mail documents showing filing made to the state or local taxing agency on or before the return due date, **and**
 - c. Evidence that the act of misdirecting the return was due to extenuating circumstances, and not due to carelessness or intentional disregard.
- (23) Undue Economic Hardship related to electronic filing - When a filer fails to file electronically as required under IRC 6011(e) and 26 CFR 301.6011-2, the filer must show that they failed to file electronically because of a lack of hardware and that to meet the requirement would have caused an undue economic

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- a. The filer attempted to contract out the electronic media filing, and the cost was prohibitive as determined 45 days before the due date of the return.
 - b. The filer supports the prohibitive costs with two estimates from unrelated service bureaus or computer software/hardware companies.
 - c. The filer filed the returns on paper.
 - d. The undue economic hardship criteria does not prevent the filer from establishing reasonable cause based on other criteria that would be applicable to the electronic media penalty. However, caution must be used to ensure that other reasonable cause criteria would be appropriate to the filer's failure to file electronically.
- (24) Additional electronic media events that will be considered beyond the filer's control include:
- a. The filer relied upon an internal computer system that encountered major hardware and/or software problems. Verification by documentation must be provided.
 - b. A reasonable cause submission must include the filer's documentation of the following - the nature and severity of problems and efforts to correct in a timely fashion including the timely and consistent effort exercised by responsible officials within the organization to monitor problems and execute corrective action. Inquire as to the efforts undertaken by the filer to meet filing obligations, including but not limited to contracting out to third parties, and/or filing the returns on paper to meet the due date.
 - c. Reasonable cause will be met if the filer provides documented evidence that they contacted two unrelated service bureaus and was informed that the service bureaus would not contract for preparation of electronic media information returns without contracting for a range of other data processing functions.
 - d. Reasonable cause will be met if a filer is located in geographically remote areas (e.g., remote parts of Alaska) and has found it impossible to arrange for an electronic media processing service. Care must be taken to review filer's documentation to ensure they were diligent in repeated attempts to contract for such service sufficiently in advance of the filing due date.
 - e. If the filer received an undue economic hardship waiver in a prior year, reasonable cause related to undue economic hardship will be determined on a case-by-case basis and not ordinarily be established for any subsequent year. Be alert that a prior waiver put the filer on notice as to the filing requirements.

20.1.7.12.2
(04-05-2024)

Responsible Manner

- (1) In general, a filer will have acted in a responsible manner if the filer:
- a. Exercised reasonable care to determine their filing obligations and handle the account numbers and balances.
 - b. Took significant steps to avoid a failure, such as requesting an extension of time to file, attempting to prevent a foreseeable failure, and acting to remove the cause of a failure once it had occurred; and correcting the failure promptly once the cause of the failure had been removed.
- (2) Correction of a failure is ordinarily considered prompt if made:
- a. Within 30 days after the cause of the failure is removed,
 - b. Within 30 days after the failure is discovered, or

- c. By the earliest date after the cause of the failure is removed or the failure is discovered on which a regular submission for corrections is made (a submission is considered “regular” only if made at intervals of 30 days or less).

- (3) Reporting entities filing Form 1095-B or Form 1095-C will not be subject to penalties for failure to report a TIN (or for the inclusion of an incorrect TIN) if they comply with the requirements of 26 CFR 301.6724-1(e) (in the case of missing TINs) and 26 CFR 301.6724-1(f) (in the case of incorrect TINs).

Note: Additionally, a reporting entity is not required to solicit a TIN from an individual whose coverage is terminated. Reporting entities filing Form 1095-B, Health Coverage will not be subject to penalties for failure to report a TIN if date of birth is provided when a TIN is not available. See 26 CFR 1.6055-1.

- (4) Form 1098-E: An educational institution or lender required to file Form 1098-E acts in a responsible manner regarding the TINs of students if it follows the solicitation requirements in 26 CFR 1.6050S-3(f)(3). If the institution or lender does not have a record of the individual’s correct TIN, 26 CFR 1.6050S-3(f)(3)(ii) requires an annual solicitation for the individual’s TIN not later than December 31 of each calendar year during which the institution or lender receives payments of interest.
- (5) Form 1098-T: If an educational institution fails to comply with the new IRC 6724(f) certification requirement effective for returns required to be made, and statements required to be furnished, after December 31, 2015, the following applies: An educational institution or insurer required to file Form 1098-T acts in a responsible manner in regard to the TINs of students if it follows the solicitation requirements in 26 CFR 1.6050S-1(e)(3). If the institution or insurer does not have a record of the individual’s correct TIN, 26 CFR 1.6050S-1(e)(3)(ii) requires an annual solicitation for the individual’s TIN not later than December 31 of each calendar year during which the institution or insurer receives payments of, or bills for, qualified tuition and related expenses, or makes reimbursements, refunds, or reductions of such amounts respecting the individual.
- (6) See 26 CFR 301.6724-1(d) for additional information.

20.1.7.12.2.1
(12-16-2022)
Missing TINs

- (1) In general, if the filer failed to include a TIN because the payee failed to provide the TIN, the filer will have acted in a responsible manner if the filer made the required solicitations. Also, the filer must have made the required solicitations in 26 CFR 301.6724-1(e) *if the filer is seeking the waiver pursuant to (c)(6)* based on actions of the payee. See 26 CFR 301.6724-1(d)(2).
- (2) The term “solicitation” means a request to the payee to provide a TIN.
- (3) The TIN will be treated as missing if it:
 - a. Does not contain nine digits, or
 - b. Includes a mixture of digits and letters.
- (4) See 26 CFR 301.6724-1(e), Acting in a responsible manner—special rules for missing TINs, for additional information.

20.1.7.12.2.2
(10-12-2017)**Solicitations for Missing TINs**

- (1) In general, an initial solicitation and two annual solicitations are required for missing TINs. However, certain information reporting requirements (such as for Forms 1098, 1098-E, and 1098-T) have special solicitation requirements. See below and 26 CFR 301.6724-1(e), Acting in a responsible manner—special rules for missing TINs, for additional information. See IRC 6724(f) for special rule on waiver of IRC 6721 and IRC 6722 penalties for Form 1098-T effective for returns required to be made, and statements required to be furnished, after December 31, 2015. For Form 1095-B and Form 1095-C, see IRM 20.1.7.12.2.
- (2) An initial solicitation must be made at the time the account is opened. The term “account” includes accounts, relationships, and other transactions. This requirement is considered met if the TIN is requested either orally or in writing. The request can be made by mail, telephone or other electronic means.
- (3) If after the initial solicitation, the filer did not receive the TIN:
 - a. A first annual solicitation must be made by December 31 of the year the account was opened (or the year the transaction occurred), or
 - b. By January 31 of the following year (for accounts opened or transactions that occurred in the preceding December).
 - c. The filer must continue backup withholding (under IRC 3406) if applicable, until a TIN is provided.
- (4) If after the first annual solicitation, a TIN was not received:
 - a. A second annual solicitation must be made by December 31 of the first year following the calendar year in which the account was opened or the transaction occurred.
 - b. The initial and the first annual solicitations relate to the year the account was opened or the transaction occurred.
 - c. The second annual solicitation relates to the year following the year the account was opened or transaction occurred.
 - d. The filer must continue backup withholding (under IRC 3406) if applicable, until a TIN is provided.
- (5) Form 1098 requires an annual solicitation to the payee until a TIN is obtained.
- (6) Form 1098-E requires an annual solicitation to the extent provided in 26 CFR 1.6050S-3(f)(3)(iii).
- (7) Form 1098-T requires an annual solicitation to the extent provided in 26 CFR 1.6050S-1(e)(3)(iii). See new IRC 6724(f) for special rule on waiver of IRC 6721 and IRC 6722 penalties for Form 1098-T effective for returns required to be made, and statements required to be furnished, after December 31, 2015.
- (8) Once the payee’s TIN is received, the filer must include the TIN on all information returns filed in the future. In addition, if a Form W-2 was filed using zeros or blanks for the employee’s TIN, an employer should file a Form W-2c, Corrected Wage and Tax Statement, even if the employer is only filing Form W-2c to provide/correct an employee’s SSN.

20.1.7.12.2.3
(09-08-2021)**Incorrect TINs**

- (1) In general, if the filer has been notified by the IRS or a broker of an incorrect TIN, and the TIN was provided by the payee, the filer will have acted in a responsible manner only if the filer made the required annual solicitations. See 26 CFR 301.6724-1(f).

- (2) The TIN will be treated as incorrect if the name/TIN combination does not match or cannot be found on the IRS or SSA records.
- (3) Not currently issued TINs and Name/TIN mismatch accounts are considered to be incorrect for purposes of solicitations and penalty assessments under IRC 6724.
- (4) See 26 CFR 301.6724-1(f), Acting in a responsible manner—special rules for incorrect TINs, for additional information.

20.1.7.12.2.4
(09-08-2021)

Solicitations for Correct TINs

- (1) In general, the filer is required to make an initial solicitation and no more than two annual solicitations for incorrect TINs. However, certain information return penalties (such as for Forms 1098, 1098-E, and 1098-T) have special solicitation requirements. See below and 26 CFR 301.6724-1(f), Acting in a responsible manner—special rules for incorrect TINs, for additional information. See IRC 6724(f) for special rule on waiver of IRC 6721 and IRC 6722 penalties for Form 1098-T effective for returns required to be made, and statements required to be furnished, after December 31, 2015. For Form 1095-B and Form 1095-C, see IRM 20.1.7.12.2.
- (2) An initial solicitation must be made at the time the account is opened or transaction occurs. This requirement is considered met if the TIN is requested either orally or in writing. The request can be made by mail, telephone, or other electronic means.
- (3) If the filer is notified by the IRS or broker that the TIN is incorrect:
 - a. A first annual solicitation must be made by December 31 of the calendar year in which the filer has been notified, or
 - b. January 31 of the following year if notified in December.
 - c. The mailing of the “B” Notice under 26 CFR 31.3406(d)-5(d) satisfies this requirement.
- (4) If the filer is notified by the IRS or broker in any calendar year, following the first notification that the TIN is incorrect:
 - a. A second annual solicitation must be made by December 31 of the calendar year following the calendar year in which the filer was notified, or
 - b. January 31 of the following year if notified in December.
 - c. The mailing of the “B” Notice under 26 CFR 31.3406(d)-5(d) satisfies this requirement. The filer does not need to make annual solicitations under 26 CFR 301.6724-1(f) if the filer received backup withholding notices with respect to the same payee, in the same calendar year or for Forms 1099 filed for the same year and sent the required B notices.
 - d. If a filer has been notified of an incorrect name/TIN combination under IRC 3406(a)(1)(B) (usually by a CP2100 or CP2100A), the filer must send a **B** notice notifying the payee that the payee’s account contains an incorrect TIN within 15 business days after the date of the notice from the IRS or a broker.

Note: Filers are not required to show that they backup withheld on payee accounts to satisfy the requirement for waiver of the penalty under IRC 6724.

- (5) Form 1098 requires an annual solicitation until a correct TIN is obtained from the payee.
- (6) If a corrected TIN (or name) is received, the filer must include it on all information returns filed in the future. In addition, if a Form W-2 was filed with an incorrect SSN for the employee, an employer should file a Form W-2c, Corrected Wage and Tax Statement, even if the employer is only filing Form W-2c to correct an employee's SSN.

20.1.7.12.2.5
(04-05-2024)

Annual Solicitations

- (1) An annual solicitation by mail must include:
 - a. A letter stating that the payee must provide their TIN or the payee will be subject to a \$50 penalty imposed by the IRS per IRC 6723, Failure to Comply with Other Information Reporting Requirements.
 - b. A Form W-9, Request for Taxpayer Identification Number and Certification, or acceptable substitute form on which the payee will provide their TIN.

Note: If the solicitation is for a missing/incorrect TIN on Form W-2, a Form W-4 may be sent instead of Form W-9. If the solicitation is for a missing/incorrect TIN on Form 1098-E or 1098-T, a Form W-9S may be sent instead of Form W-9. If the solicitation is for a missing/incorrect TIN on Form 1099-R, a Form W-4P or W-4R may be sent along with Form W-9.
 - c. A return envelope.
- (2) An annual solicitation made by telephone must:
 - a. Be made in a manner that will encourage the payee to provide their TIN,
 - b. Be a completed call to each person with a missing TIN and include a conversation with an adult member of the household or to an officer of the business or the organization,
 - c. Include a request for the TIN of the payee, and
 - d. Inform the payee that if the payee fails to furnish their TIN, the payee is subject to a \$50 penalty imposed by IRC 6723.

Note: Telephone solicitations do not apply to missing or incorrect TINs on Form 1098-E or Form 1098-T.
- (3) The filer must maintain concurrent records showing the solicitations were properly made and provide concurrent records to the IRS upon request.
- (4) Annual solicitations with respect to missing or incorrect TINs on Form 1098-E must be done as described in 26 CFR 1.6050S-3(f)(3)(iii).
- (5) Annual solicitations with respect to missing or incorrect TINs on Form 1098-T must be done as described in 26 CFR 1.6050S-1(e)(3)(iii). See IRC 6724(f) for special rule on waiver of IRC 6721 and IRC 6722 penalties for Form 1098-T effective for returns required to be made, and statements required to be furnished after December 31, 2015.

20.1.7.12.2.6

(04-05-2024)

Exceptions and Limitations

- (1) When an information reporting provision specifically provides the time and manner for obtaining a TIN, the general solicitation requirements in 26 CFR 301.6724-1(e) and (f) will not apply. To act in a responsible manner, the filer must comply with the time and manner requirements for requesting the TIN under the applicable IRC section and Treasury Regulations. For example:
 - a. For Form 1099-S, the filer is only required to make an initial solicitation on or before the related real estate closing date.
 - b. For Form 1098, the filer is required to do an annual solicitation until the TIN is received.
 - c. For Form 1098-E, the filer is required to do an annual solicitation in the manner described in 26 CFR 1.6050S-3(f)(3)(iii).
 - d. For Form 1098-T, the filer is required to do an annual solicitation in the manner described in 26 CFR 1.6050S-1(e)(3)(iii). See IRC 6724(f) for special rule on waiver of IRC 6721 and IRC 6722 penalties for Form 1098-T effective for returns required to be made, and statements required to be furnished, after December 31, 2015.
- (2) The penalty waiver provisions will apply when the solicitation requirements under 26 CFR 301.6724-1(e) or 26 CFR 301.6724-1(f) are met.
- (3) Annual solicitation is not required for a year if:
 - a. Payments were not made, or
 - b. A return was not required to be filed.
- (4) If an account is closed in the same year in which a penalty notice is received for the account, the filer must do the solicitation if a payment is required to be made or if the filer is otherwise required to file a return that year.
- (5) Generally, only two solicitations are required. The filer does not need to make annual solicitations under 26 CFR 301.6724-1(f) if the filer received backup withholding notices with respect to the same payee, in the same calendar year of for Forms 1099 filed for the same year and sent the required B notices. However, if the filer has made two annual solicitations under 26 CFR 301.6724-1(f), but later that year receives a backup withholding notice, the filer must send a B notice to the payee.
- (6) If a filer fails to make one or more of the required solicitations, the filer will satisfy the solicitation requirement by:
 - a. Making two consecutive annual solicitations in subsequent years, and
 - b. After receiving the TIN, including it on any information return filed in the future.
- (7) The penalty will apply to:
 - a. The years the solicitation was not made, and
 - b. Subsequent years until the filer has completed the make-up solicitations.
- (8) Financial institutions are not required to make annual solicitation by mail on accounts with stop-mail or hold-mail instructions if they deliver the solicitation in the same manner as they deliver the mail. Financial institutions are also not required to make annual solicitations in cases of window transactions (one-time transactions as in the issuance of savings bonds).
- (9) A filer is not required to make annual solicitations by mail on accounts where:

- a. Previous solicitations have been returned as undeliverable,
- b. Other mailings have been returned as undeliverable, and
- c. The filer has not been provided with a new address.

(10) In general, no more than two annual solicitations are required to establish that the filer acted in a responsible manner, except for certain forms discussed earlier in this subsection.

20.1.7.12.2.7
(09-08-2021)
**Special Abatement
Conditions**

- (1) **Bankruptcy** - An unreversed TC 520 and a Freeze code “- V” are used to identify a payer/filer that is in bankruptcy status. These codes will be present on the MFTRA transcripts.
 - a. If there is a TC 520 and a “- V” freeze on the account, check directly with the Insolvency Unit supporting the Area. Insolvency Support will advise how to proceed. The TC 520 and “- V” freeze must be present before a penalty abatement can be considered; however, the penalty must not be abated solely because the response states there is a bankruptcy.
 - b. If there is no TC 520 and “- V” freeze on the account, but the payer can provide the necessary information, notify the Area Insolvency Support function. A bankrupt payer will know the bankruptcy petition date, the court where the petition was filed, and the docket number.
 - c. If a “- Z” freeze is on the account, refer the module to the Criminal Investigation Division. Do not assess the penalty.
- (2) **Banks, Trusts Companies, Savings and Loans** - Penalties and collection of penalties assessed against insolvent or bankrupt banks, trust companies, or savings and loan associations will be prohibited under IRC 7507(a), **Exemption of insolvent banks from tax**. This includes:
 - a. The respondent is a bank, trust company, or savings and loan association, and
 - b. The organization is bankrupt and/or protected under IRC 7507(a).
- (3) If the reply to the penalty proposal or penalty notice indicates that a failed bank is under the receivership of the Federal Deposit Insurance Corporation (FDIC):
 - a. See IRM 5.9.11, Insolvency Mail Processing, and IRM 5.9.20, Non-Bankruptcy Insolvencies. The reply from FDIC can be received in response to either the penalty proposal notice or after the assessment is made.
 - b. If Centralized Insolvency decides that the penalty should be waived, they will refer the case back to the IRP Penalty Unit to close out the case (or proposal) or to abate the penalty.
 - c. If the penalty will be sustained, Centralized Insolvency will return the case to the IRP Penalty Unit to input the adjustment (or proposals) and/or correspond with FDIC. Exam will provide language to explain to FDIC why the penalty is not being abated.
 - d. Centralized Insolvency will notify the IRP Penalty Unit of their decision to abate or not abate within 10 working days. If not, the IRP Penalty Unit will follow-up with the designated classification specialist.
 - e. If a penalty proposal notice with FDIC shown as the entity was referred to Centralized Insolvency before being mailed, the response from Centralized Insolvency will indicate whether or not the IRP Penalty Unit must mail the proposal notice or close the case with no further action.

- (10) Additional exceptions to the filing requirements are shown in the Instructions to filers of Form 1098, Form 1099, and Form W-2G. ,

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20.1.7.12.2.8
(12-09-2019)

Civil Penalties Statute of Limitations

- (1) No statute of limitations applies to non-filed information returns and penalties can be assessed at any time. See IRC 6501(c)(3).
- (2) For incorrect or late-filed information returns, the penalties generally must be assessed within 3 years after the due date of the return or the date filed, whichever is later. See IRC 6501(a). See exhibit IRM 20.1.7-3 for due dates of most information returns.
- (3) For statute extension of information return penalties, use Form 872, Consent to Extend the Time to Assess Tax, and see IRM 25.6.22.5.4 for the appropriate language.

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Exhibit 20.1.7-1 (04-05-2024)**IRC 6721 & IRC 6722 Penalty Rates for Large Businesses and Government Entities (Other Than Federal Entities) with Gross Receipts Over \$5 Million (Average annual gross receipts for the most recent 3 taxable years)**

* P.L. 114-27 (H.R. 1295, Section 806) increases the penalty amounts for returns required to be filed/furnished after December 31, 2015. P.L. 113-295 (H.R. 5771, Section 208) provides that penalty amounts be annually adjusted for inflation for returns required to be filed/furnished in a calendar year beginning after 2014 (IRC 6721(f) and IRC 6722(f)).

** Increased penalty amounts apply if the failure is due to intentional disregard. In some cases, the penalty amounts in the case of intentional disregard will be larger than the figures in this chart and will depend on an amount required to have been reported. See IRC 6721(e)(2) and IRC 6722(e)(2).

Returns Due	Penalty Rate	Not more than 30 days late	31 days late - August 1	After August 1	Intentional disregard**
From 01-01-2025 thru 12-31-2025* (Rev.Proc. 2023-34)	Per return / Max	\$60 / \$664,500	\$130 / \$1,993,500	\$330 / \$3,987,000	\$660 / No max
From 01-01-2024 thru 12-31-2024* (Rev. Proc. 2022-38)	Per return / Max	\$60 / \$630,500	\$120 / \$1,891,500	\$310 / \$3,783,000	\$630 / No max
From 01-01-2023 thru 12-31-2023* (Rev. Proc. 2021-45)	Per return / Max	\$50 / \$588,500	\$110 / \$1,766,000	\$290 / \$3,532,500	\$580 / No max
From 01-01-2022 thru 12-31-2022* (Rev. Proc. 2020-45)	Per return / Max	\$50 / \$571,000	\$110 / \$1,713,000	\$280 / \$3,426,000	\$570 / No max
From 01-01-2021 thru 12-31-2021* (Rev. Proc. 2019-44)	Per return / Max	\$50 / \$565,000	\$110 / \$1,696,000	\$280 / \$3,392,000	\$560 / No max
From 01-01-2020 thru 12-31-2020* (Rev. Proc. 2018-57)	Per return / Max	\$50 / \$556,500	\$110 / \$1,669,500	\$270 / \$3,339,000	\$550 / No max
From 01-01-2019 thru 12-31-2019* (Rev. Proc. 2018-18)	Per return / Max	\$50 / \$545,500	\$100 / \$1,637,500	\$270 / \$3,275,500	\$540 / No max

Exhibit 20.1.7-1 (Cont. 1) (04-05-2024)

IRC 6721 & IRC 6722 Penalty Rates for Large Businesses and Government Entities (Other Than Federal Entities) with Gross Receipts Over \$5 Million (Average annual gross receipts for the most recent 3 taxable years)

Returns Due	Penalty Rate	Not more than 30 days late	31 days late - August 1	After August 1	Intentional disregard**
From 01-01-2018 thru 12-31-2018* (Rev. Proc. 2016-55)	Per return / Max	\$50 / \$536,000	\$100 / \$1,609,000	\$260 / \$3,218,500	\$530 / No max
From 01-01-2017 thru 12-31-2017* (Rev. Proc. 2015-53)	Per return / Max	\$50 / \$532,000	\$100 / \$1,596,500	\$260 / \$3,193,000	\$530 / No max
From 01-01-2016 thru 12-31-2016* (Rev. Proc. 2016-11)	Per return / Max	\$50 / \$529,500	\$100 / \$1,589,000	\$260 / \$3,178,500	\$520 / No max
From 01-01-2011 thru 12-31-2015	Per return / Max	\$30 / \$250,000	\$60 / \$500,000	\$100 / \$1,500,000	\$250 / No max

Exhibit 20.1.7-2 (04-05-2024)
IRC 6721 & IRC 6722 Penalty Rates for Small Businesses with Gross Receipts Less Than or Equal to \$5 Million (Average annual gross receipts for the most recent 3 taxable years)

* P.L. 114-27 (H.R. 1295, Section 806) increases the penalty amounts for returns required to be filed/furnished after December 31, 2015. P.L. 113-295 (H.R. 5771, Section 208) provides that penalty amounts be annually adjusted for inflation for returns required to be filed/furnished in a calendar year beginning after 2014 (IRC 6721(f) and IRC 6722(f)).

** Increased penalty amounts apply if the failure is due to intentional disregard. In some cases, the penalty amounts in case of intentional disregard will be larger than the figures in this chart and will depend on an amount required to have been reported. See IRC 6721(e)(2) and IRC 6722(e)(2).

Returns Due	Penalty Rate	Not more than 30 days late	31 days late - August 1	After August 1	Intentional disregard**
From 01-01-2025 thru 12-31-2015* (Rev Proc. 2023-34)	Per return / Max	\$60 / \$232,500	\$130 / \$664,500	\$330 / \$1,329,000	\$660 / No max
From 01-01-2024 thru 12-31-2024* (Rev Proc. 2022-38)	Per return / Max	\$60 / 220,500	\$120 / \$630,500	\$310 / \$1,261,000	\$630 / No max
From 01-01-2023 thru 12-31-2023* (Rev Proc. 2021-45)	Per return / Max	\$50 / \$206,000	\$110 / \$588,500	\$290 / \$1,177,500	\$580 / No max
From 01-01-2022 thru 12-31-2022* (Rev. Proc. 2020-45)	Per return / Max	\$50 / \$199,500	\$110 / \$571,000	\$280 / \$1,142,000	\$570 / No max
From 01-01-2021 thru 12-31-2021* (Rev. Proc. 2019-44)	Per return / Max	\$50 / \$197,500	\$110 / \$565,000	\$280 / \$1,130,500	\$560 / No max
From 01-01-2020 thru 12-31-2020* (Rev. Proc. 2018-57)	Per return / Max	\$50 / \$194,500	\$110 / \$556,500	\$270 / \$1,113,000	\$550 / No max
From 01-01-2019 thru 12-31-2019* (Rev. Proc. 2018-18)	Per return / Max	\$50 / \$191,000	\$100 / \$545,500	\$270 / \$1,091,500	\$540 / No max
From 01-01-2018 thru 12-31-2018* (Rev. Proc. 2016-55)	Per return / Max	\$50 / \$187,500	\$100 / \$536,000	\$260 / \$1,072,500	\$530 / No max

Exhibit 20.1.7-2 (Cont. 1) (04-05-2024)

IRC 6721 & IRC 6722 Penalty Rates for Small Businesses with Gross Receipts Less Than or Equal to \$5 Million (Average annual gross receipts for the most recent 3 taxable years)

Returns Due	Penalty Rate	Not more than 30 days late	31 days late - August 1	After August 1	Intentional disregard**
From 01-01-2017 thru 12-31-2017* (Rev. Proc. 2015-53)	Per return / Max	\$50 / \$186,000	\$100 / \$532,000	\$260 / \$1,064,000	\$530 / No max
From 01-01-2016 thru 12-31-2016* (Rev. Proc. 2016-11)	Per return / Max	\$50 / \$185,000	\$100 / \$529,500	\$260 / \$1,059,500	\$520 / No max
From 01-01-2011 thru 12-31-2015	Per return / Max	\$30 / \$75,000	\$60 / \$200,000	\$100 / \$500,000	\$250 / No max

Exhibit 20.1.7-3 (04-05-2024)**Forms**

The information reporting penalties discussed in this IRM are for information returns and payee statements defined under IRC 6724(d), or 26 CFR 301.6721-1(h), 26 CFR 301.6722-1(e), and 26 CFR 301.6723-1(a).

Note: The list below shows the majority of forms defined under IRC 6724(d), but not all. The Infrastructure Investment and Jobs Act amended IRC 6724(d) to include IRC 6045A(d) relating to returns for certain digital assets required to be filed and furnished after December 31, 2023. The Consolidated Appropriations Act amended IRC 6724(d) to include IRC 6050Z relating to returns for any issuer of certified long-term care insurance required to be filed and furnished after December 29, 2025. Refer to the code and regulations for a complete definition.

Note: The due date for furnishing the forms to recipients is generally January 31, but some forms have a different furnishing due date depending on the character of transactions. See each form's filing instructions and related regulations for further information.

Form	Title	Paper Transmittal	Due Date (Paper)	Due Date (E-file)	Information Return IRC Penalty Applicable
Form 1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Form 1042-T	Mar 15	Mar 15	6721, 6722
Form 1095-B	Health Coverage	Form 1094-B	Feb 28	Mar 31	6721, 6722
Form 1095-C	Employer-Provided Health Insurance Offer and Coverage	Form 1094-C	Feb 28	Mar 31	6721, 6722
Form 1097-BTC	Bond Tax Credit	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1098	Mortgage Interest	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1098-E	Student Loan Interest Statement	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1098-T	Tuition Statement	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-A	Acquisition or Abandonment of Secured Property	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-B	Proceeds from Broker and Barter Exchange Transactions	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-C	Cancellation of Debt	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-DIV	Dividends and Distributions	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-H	Health Coverage Tax Credit (HCTC) Advance Payments	N/A	N/A	Mar 31	6721, 6722

Exhibit 20.1.7-3 (Cont. 1) (04-05-2024)**Forms**

Form	Title	Paper Transmittal	Due Date (Paper)	Due Date (E-file)	Information Return IRC Penalty Applicable
Form 1099-INT	Interest Income	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-K	Payment Card and Third-Party Network Transactions	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-LS (starting TY2019)	Reportable Life Insurance Sale	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-LTC	Long-Term Care and Accelerated Death Benefits	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-MISC (with NEC) (TY2016 thru TY2019)	Miscellaneous Income	Form 1096	Jan 31	Jan 31	6721, 6722
Form 1099-MISC (without NEC)	Miscellaneous Information	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-NEC (starting TY2020)	Non-employee Compensation	Form 1096	Jan 31	Jan 31	6721, 6722
Form 1099-OID	Original Issue Discount	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-PATR	Taxable Distributions Received From Cooperatives	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-R	Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-S	Proceeds From Real Estate Transactions	Form 1096	Feb 28	Mar 31	6721, 6722
Form 1099-SB (starting TY 2019)	Seller's Investment in Life Insurance Contract	Form 1096	Feb 28	Mar 31	6721, 6722
Form 3520-A	Annual Information Return of Foreign Trust With a U.S. Owner	N/A	See Form's Instructions	See Form's Instruction	6722

Exhibit 20.1.7-3 (Cont. 2) (04-05-2024)
Forms

Form	Title	Paper Transmittal	Due Date (Paper)	Due Date (E-file)	Information Return IRC Penalty Applicable
Form 3921	Exercise of Incentive Stock Option Under Section 422(b)	Form 1096	Feb 28	Mar 31	6721, 6722
Form 3922	Transfer of Stock Acquired Through an Employees Stock Purchase Plan Under Section 423(c)	Form 1096	Feb 28	Mar 31	6721, 6722
Form 8027	Employer's Annual Information Return of Tip Income and Allocated Tips	Form 8027-T	Feb 28	Mar 31	6721
Form 8282	Donee Information Return	N/A	See Form's Instructions	See Form's Instructions	6721, 6722
Form 8300	Report of Cash Payments Over \$10,000 Received in a Trade or Business	N/A	Within 15 Days of Transaction	Within 15 Days of Transaction	6721, 6722
Form 8308	Report of a Sale or Exchange of Certain Partnership Interests	With Partnership Return	Partnership Return's Due Date	Partnership Return's Due Date	6721, 6722
Form 8594	Asset Acquisition Statement	With Income Tax Return	Income Tax Return's Due Date	Income Tax Return's Due Date	6721
Form 8805	Foreign Partner's Information Statement of Section 1446 Withholding Tax	Form 8804	Partnership Return Due Date	Partnership Return Due Date	6721, 6722
Form 8937	Report of Organizational Actions Affecting Basis of Securities	N/A	See Form's Instructions	See Form's Instructions	6721, 6722
Form 8966	FATCA Report	Form 8966-C	Mar 31	Mar 31	6721, 6722
Form 8971	Information Regarding Beneficiaries Acquiring Property from a Decedent	See Form's Instructions	See Form's Instructions	See Form's Instructions	6721, 6722
Form W-2	Wage and Tax Statement	Form W-3	Jan 31 (starting TY2016)	Jan 31 (starting TY2016)	6721, 6722
Form W-2G	Certain Gambling Winnings	Form 1096	Feb 28	Mar 31	6721, 6722

Exhibit 20.1.7-4 (12-09-2019)**Penalty Reference Numbers (PRNs) for Information Return Penalties**

Below are the PRNs for assessing information return penalties. Each PRN is assigned to capture certain failures to comply with the reporting requirements. For full listings of PRNs for other penalties not related to information return penalties, see the exhibits at the end of IRM 20.1.1, Introduction and Penalty Relief.

Note: All penalty assessments for the PRNs below are posted under Transaction Code (TC) 240, with penalty abatements posted under TC 241. Except for PRN 688 (TC 246, TC 247), see IRM 20.1.2.4, Failure to File Partnership Return Using Electronic Media.

PRN	IRC	Penalty Description	PRN Used By
500	6721(a)	Failure to timely file information returns	Campus only (PSC), systemic, Notice 972CG program
501	6721(a)	Failure to file information returns electronically when required	Campus only (PSC), systemic, Notice 972CG program
502	6721(a)	Failure to include correct TINs on information returns	Campus only (PSC), systemic, Notice 972CG program
503	6721(a)	Failure to file information returns in proper format	Campus only (PSC), manual
504	6721(a)	Failure to timely file & Failure to file electronically when required	Campus only (PSC), systemic, Notice 972CG program
505	6721(a)	Failure to timely file & Failure to include correct TINs	Campus only (PSC), systemic, Notice 972CG program
506	6721(a)	Failure to timely file & Failure to file in proper format	Campus only (PSC), manual
507	6721(a)	Failure to file electronically when required & Failure to include correct TINs	Campus only (PSC), systemic, Notice 972CG program
508	6721(a)	Failure to file electronically when required & Failure to file in proper format	Campus only (PSC), manual
509	6721(a)	Failure to include correct TINs & Failure to file in proper format	Campus only (PSC), manual
510	6721(a)	Failure to timely file, Failure to file electronically when required, & Failure to include correct TINs	Campus only (PSC), systemic, Notice 972CG program
511	6721(a)	Failure to timely file, Failure to file electronically when required, & Failure to file in proper format	Campus only (PSC), manual
512	6721(a)	Failure to timely file, Failure to include correct TINs, & Failure to file in proper format	Campus only (PSC), manual

Exhibit 20.1.7-4 (Cont. 1) (12-09-2019)**Penalty Reference Numbers (PRNs) for Information Return Penalties**

PRN	IRC	Penalty Description	PRN Used By
513	6721(a)	Failure to file electronically when required, Failure to include correct TINs, & Failure to file in proper format	Campus only (PSC), manual
514	6721(a)	Failure to timely file, Failure to file electronically when required, Failure to include correct TINs, & Failure to file in proper format	Campus only (PSC), manual
537	6721(e)	Failure to file correct/timely information returns due to intentional disregard	Field, manual, Form 8278, Form 3645
549	6721(e)	Failure to file Forms W-2 due to intentional disregard	Campus only (CAWR Unit), manual or systemic
550	6721(a)	Failure to timely file Forms W-2	Campus only (CAWR Unit), manual
600	6721(a)	Failure to file correct/timely information returns	Field, manual, Form 8278, Form 3645
607	6721(a)	Failure to timely file information returns or registration statements	Campus BSA Exam only (Detroit), manual
609	6721(a)	Failure to file correct/timely Form 8300	Campus BSA Exam only (Detroit), manual
612	6722(a)	Failure to furnish correct/timely payee statements	Field, manual, Form 8278, Form 3645
621	6723	Failure to comply with other information reporting requirements	Field, manual, Form 8278, Form 3645
637	6721(a)/ 6722(a)	Failure to file/furnish correct/timely returns relating to higher education tuition & expenses	Field, manual, Form 8278, Form 3645
638	6721(a)	Failure to file correct/timely Form 8027	Field, manual, Form 8278, Form 3645. SP Campus in Ogden (OSPC) also assesses manually.
642	6722(e)	Failure to furnish correct/timely payee statements due to intentional disregard	Field, manual, Form 8278, Form 3645
651	6721(a)	Failure to file correct/timely Form 8300	Field, manual, Form 8278, Form 3645
652	6721(e)	Failure to file correct/timely Form 8300 due to intentional disregard	Field, manual, Form 8278, Form 3645
653	6722(a)	Failure to furnish correct/timely Form 8300 payee statement	Field, manual, Form 8278, Form 3645

Exhibit 20.1.7-4 (Cont. 2) (12-09-2019)**Penalty Reference Numbers (PRNs) for Information Return Penalties**

PRN	IRC	Penalty Description	PRN Used By
654	6722(e)	Failure to furnish correct/timely Form 8300 payee statement due to intentional disregard	Field, manual, Form 8278, Form 3645
672	6721(a)	Failure to file correct/timely returns relating to taxable mergers & acquisitions	Field, manual, Form 8278, Form 3645
674	6723	Failure to comply with other information reporting requirements - Failure to provide notice of partnership exchange	Field, manual, Form 8278, Form 3645
688 (TC 246)	6721(a)	Failure to file partnership return using electronic media when required	Campus, systemic

Exhibit 20.1.7-5 (12-09-2019)**Acronyms**

This is the listing of acronyms and definitions used in this IRM.

Acronym	Definition
ACA	Affordable Care Act (of 2010)
AIR	(Affordable Care Act) Information Returns
ATIN	Adoption Taxpayer Identification Number
BMF	Business Master File
BSO	Business Support Office
CAWR	Combined Annual Wage Reporting
CC	Command Code
CD	Compact Disc
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
CP	Computer Paragraph
CPA	Certified Public Accountant
CPM	Civil Penalty Module
CVPN	Civil Penalty Name Line
DLN	Document Locator Number
DVD	Digital Video Disc
FAD	Federal Agency Delinquency
EIN	Employer Identification Number
FDIC	Federal Deposit Insurance Corporation
FIRE	Filing Information Returns Electronically
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IPU	IRM Procedural Update
IRB	Internal Revenue Bulletin
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRMF	Information Return Master File
IRP	Information Return Penalty / Information Return Program
IRS	Internal Revenue Service

Exhibit 20.1.7-5 (Cont. 1) (12-09-2019)**Acronyms**

Acronym	Definition
ISRP	Integrated Submission and Remittance Processing
IT	Information Technology
ITIN	Individual Taxpayer Identification Number
MF	Master File
MFT	Master File Tax
OCR	Optical Character Recognition
OS	Operations Support
OSP	Office of Servicewide Penalties
OSPC	Ogden Submission Processing Campus
PATRA	Privacy Act Transcript Request Activity
PL	Public Law
PMF	Payer Master File
PMFOL	Payer Master File Online
POA	Power of Attorney
PRC	Penalty Reason Code
PRN	Penalty Reference Number
PSC	Philadelphia Service Center
SB/SE	Small Business/Self Employed
SCRIPS	Service Center Recognition/Image Processing System
SERP	Servicewide Electronic Research Program
SP	Submission Processing
SSA	Social Security Administration
SSN	Social Security Number
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TFA	Taxpayer First Act (of 2019)
TIA	Tax Information Authorization
TIN	Taxpayer Identification Number
TIPA	Tax Increase Prevention Act (of 2014)
TPEA	Trade Preferences Extension Act (of 2015)
TSO	Technical Services Operation

Exhibit 20.1.7-5 (Cont. 2) (12-09-2019)
Acronyms

Acronym	Definition
TY	Tax Year

Exhibit 20.1.7-6 (10-12-2017)
PMF Civil Penalty Transcript

(1) The table below describes a PMF civil penalty transcript screen print.

Field	Description
Entity Information.	The word “linked” indicates a match between the IMF/BMF entities and the PMF entities.
Filing History	a. Indicates if Information Returns were filed in the tax year. b. Penalty indicator codes.
Submission Record:	a. Original transmitted paper or electronic media. b. Amended transmitted paper or electronic media. c. Replace transmitted electronic media only. d. Number of documents subject to a penalty. e. Received date for late filing. f. DLN of the Form 1096, MSN of Form W-3. g. Total money amount and withholding reported on forms filed.
Summary:	a. Total original, amended, replace documents submitted. b. Number of documents subject to penalty. c. Total amount reported. d. Backup withholding. e. Waiver and extensions granted. f. Summary of penalties by return type. g. Dollar amount of penalty assessed.