



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

20.1.11

NOVEMBER 22, 2023

## EFFECTIVE DATE

(11-22-2023)

## PURPOSE

- (1) This transmits revised IRM 20.1.11, Penalty Handbook, Excise Tax and Estate and Gift Tax Penalties.

## MATERIAL CHANGES

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

IRM Reference	Description of Change
IRM 20.1.11.2.3, Coverage Exemptions and Penalty Relief	The definition for members of certain religious sects in paragraph (1) was clarified.
IRM 20.1.11.8.1.2, Refusing Entry Authorized by IRC 4083(d)(1)	Citation was added for the statutory definition of fuel in paragraph (1)(a).
IRM 20.1.11.8.1.3, Computation for Penalty with IRC 4083(d)(1)	Citation was added and sentence was restructure in paragraph (1) to clarify computation of the IRC 7342 penalty.
IRM 20.1.11.8.1.3, Computation for Penalty with IRC 4083(d)(1)	Deleted paragraph (2) and renumbered paragraph (3).
IRM 20.1.11.11, Form 720 Penalties	Updated title. Added failure to file/pay penalties and new excise tax reporting for repurchase of stock by a publicly traded corporation.
IRM 20.1.11.12, Other Penalties Related to Filing Estate and Gift Tax Returns	Reworded paragraph (3)(a) to accurately state IRC 6662 provision.
IRM 20.1.11.18, Statute of Limitations	Added additional penalties under IRC 6719.

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

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 20.1.11, Excise Tax and Estate and Gift Tax Penalties, dated August 24, 2020.

## AUDIENCE

All operating divisions and functions that work with excise tax and estate and gift tax penalties.

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Small Business/Self-Employed



20.1.11

Excise Tax and Estate and Gift Tax Penalties

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20.1.11.1  
(05-29-2018)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM provides policy and procedures for the application of excise tax and estate and gift tax penalties. Each penalty discussed in this chapter is unique and will stand alone unless otherwise indicated. Exceptions and additional information are noted in the discussions of the specific penalties; however, some general procedures will apply.
- (2) **Audience:** All operating division employees who address excise tax and estate and gift tax penalties.
- (3) **Policy Owner:** The Business Support Office (BSO) is under Operations Support (OS). SB/SE is responsible for overseeing civil penalties, including excise tax and estate and gift tax penalties.
- (4) **Program Owner:** The Office of Servicewide Penalties (OSP) is responsible for the policy of excise tax and estate and gift tax penalties.

20.1.11.1.1  
(08-24-2020)  
**Background**

- (1) Excise tax and estate and gift tax penalties are important tools for IRS enforcement. Penalties provide the IRS with an important tool to achieve that goal because they enhance 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.

20.1.11.1.2  
(05-29-2018)  
**Authority**

- (1) IRC 6653 provides a penalty for failure to pay stamp tax.
- (2) IRC 6675 provides a penalty for excessive claims with respect to the use of certain fuels.
- (3) IRC 6715 provides a penalty for dyed fuel sold for use or used in taxable use, etc.
- (4) IRC 6715A provides a penalty for tampering with or failing to maintain security requirements for mechanical dye injection systems.
- (5) IRC 6717 provides a penalty for refusal of entry.
- (6) IRC 6718 provides a penalty for failure to display tax registration on vessels.
- (7) IRC 6719 provides a penalty for failure to register or reregister.
- (8) IRC 6720A provides a penalty with respect to certain adulterated fuels.
- (9) IRC 6725 provides a penalty for failure to report information under IRC 4101.
- (10) IRC 5000A provides a penalty for failure to maintain minimum essential coverage.

20.1.11.1.3  
(08-24-2020)  
**Responsibilities**

- (1) The Director, Business Support, is the director responsible for the servicewide civil penalty program.
- (2) Overall responsibility for civil penalty programs is assigned to OSP. OSP is an 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 may 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 should keep the following objectives in mind when handling each penalty case:
  - a. Treat similar cases and similarly-situated taxpayers alike.
  - b. Afford each taxpayer the opportunity 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.

20.1.11.1.4  
(05-29-2018)  
**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 should be conducted to ensure consistency with the penalty policy statement (**Policy Statement 20-1**) and philosophy.
- (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 may be prepared when a significant issue develops, such as a correction to programming that affects many taxpayers.

20.1.11.1.5  
(05-29-2018)  
**Terms/Definitions/  
Acronyms**

- (1) See Exhibit 20.1.11-1, Acronyms, for a list of acronyms and definitions used in this IRM.



20.1.11.1.6  
(08-24-2020)

#### Related Resources

- (1) See the related resources below:

Resource	Title
IRM 11.3.1	Introduction to Disclosure
IRM 25.6	Statute of Limitations
IRM 4.24	Excise Tax
IRM 4.25	Estate and Gift Tax
IRM 21.6.4.4.20	Individual Shared Responsibility Provision
IRM 20.1.1	Introduction and Penalty Relief
Document 6209	IRS Processing Codes and Information, see Section 10 for Penalty and Interest Provisions
Form 8278	Assessment and Abatement of Miscellaneous Civil Penalties

20.1.11.2  
(05-29-2018)

#### IRC 5000A Individual Shared Responsibility Provision

- (1) IRC 5000A was added to the Internal Revenue Code by the Patient Protection and Affordable Care Act in 2010, P.L. 111-148.
- (2) IRC 5000A requires that, beginning in 2014, applicable individuals must have qualifying health coverage (called minimum essential coverage or MEC) for each month, qualify for a health coverage exemption or make an individual shared responsibility payment (ISRP) with their income tax returns.

**Note:** For years beginning after December 31, 2018, the annual ISRP was reduced to 0 by the Tax Cuts and Jobs Act of 2017, P.L. 115-97, Sec. 11081.

20.1.11.2.1  
(08-24-2020)

#### ISRP Computation

- (1) The annual ISRP amount is the greater of a percentage of excess household income or a flat dollar amount, but is capped at the national average premium for a bronze level qualified health plan available through the Marketplace that would cover everyone in the household who does not have coverage and does not qualify for a coverage exemption.
- (2) For **2014**, the annual ISRP amount is the greater of:
- 1.0% of the household income that is above the tax return filing threshold for the taxpayer's filing status, or
  - The family's flat dollar amount, which is \$95 per adult and \$47.50 per child (under age 18), limited to a family maximum of \$285, but
  - Not to exceed the national average premium for a bronze level qualified health plan of \$204 per uncovered individual per month, limited to \$1,020 per month for 5 or more uncovered individuals.

**Example:** Single individual with \$40,000 income. Jim, an unmarried adult with no dependents, did not have MEC for any month during 2014 and does not qualify for a coverage exemption.

For 2014, Jim's household income was \$40,000 and filing threshold is \$10,150. To determine Jim's payment using the income formula, subtract \$10,150 (filing threshold) from \$40,000 (2014 household income). The result is \$29,850. 1% of \$29,850 equals \$298.50. Jim's flat dollar amount is \$95. The national average premium for a bronze level qualified health plan for Jim is \$204 per month (or \$2,448 per year). Because \$298.50 is greater than \$95 (and is less than the national average premium for bronze level coverage of \$2,448), the ISRP for 2014 is \$298.50 or \$24.87 for each month Jim is uninsured (1/12 of \$298.50 equals \$24.87). Jim will make the ISRP for the months with no MEC when the 2014 income tax return is filed.

**Example:** Married couple with 2 children, \$70,000 income. Eduardo and Julia are married and have two children under 18. They did not have MEC for any family member for any month during 2014 and no one in the family qualifies for a coverage exemption. For 2014, their household income was \$70,000 and their filing threshold is \$20,300. To determine their payment using the income formula, subtract \$20,300 (filing threshold) from \$70,000 (2014 household income). The result is \$49,700. 1% of \$49,700 equals \$497. Eduardo and Julia's flat dollar amount is \$285, or \$95 per adult and \$47.50 per child. The national average premium for a bronze level qualified health plan for Julia, Eduardo, and their two children is \$816 per month (or \$9,792 per year). Because \$497 is greater than \$285 (and is less than the national average premium for bronze level coverage of \$9,792), Eduardo and Julia's ISRP is \$497 for 2014, or \$41.41 per month for each month the family did not have MEC (1/12 of \$497 equals \$41.41).

- (3) For **2015**, the annual ISRP amount is the greater of:
- 2.0% of the household income that is above the tax return filing threshold for the taxpayer's filing status, or
  - The family's flat dollar amount, which is \$325 per adult and \$162.50 per child (under age 18), limited to a family maximum of \$975, but
  - Not to exceed the national average premium for a bronze level qualified health plan of \$207 per uncovered individual per month, limited to \$1,035 per month for 5 or more uncovered individuals.
- (4) For **2016**, the annual ISRP amount is the greater of:
- 2.5% of the household income that is above the tax return filing threshold for the taxpayer's filing status, or
  - The family's flat dollar amount, which is \$695 per adult and \$347.50 per child (under age 18), limited to a family maximum of \$2,085, but
  - Not to exceed the national average premium for a bronze level qualified health plan of \$223 per uncovered individual per month, limited to \$1,115 per month for 5 or more uncovered individuals.
- (5) After year 2016, the flat dollar amounts are based on the 2016 amounts plus an inflation adjustment.

- (6) Below is the summary table of 2014-2018 annual payment amounts and capped cost of the national average premium for a bronze level health plan available through the Marketplace:

Year	Percentage Amount	Flat Dollar Amount	National Average Premium for a Bronze Level Qualified Health Plan
2014	1% of income above filing threshold	\$95/adult, \$47.50/child Family Max: \$285	\$204 per uncovered individual per month, limited to \$1,020 per month for 5 or more uncovered individuals
2015	2% of income above filing threshold	\$325/adult, \$162.50/child Family Max: \$975	\$207 per uncovered individual per month, limited to \$1,035 per month for 5 or more uncovered individuals
2016	2.5% of income above filing threshold	\$695/adult, \$347.50/child Family Max: \$2,085	\$223 per uncovered individual per month, limited to \$1,115 per month for 5 or more uncovered individuals
2017	2.5% of income above filing threshold	\$695/adult, \$347.50/child Family Max: \$2,085	\$272 per uncovered individual per month, limited to \$1,360 per month for 5 or more uncovered individuals
2018	2.5% of income above filing threshold	\$695/adult, \$347.50/child Family Max: \$2,085	\$283 per uncovered individual per month, limited to \$1,415 per month for 5 or more uncovered individuals

20.1.11.2.2  
(08-15-2016)  
**Assertion/Assessment**

- (1) The PRN for ISRP is 692. This is assessed on MFT 35 using Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties. See IRM 20.2.11.14, Affordable Care Act (ACA), for interest information on this penalty.

20.1.11.2.3  
(05-29-2018)  
**Coverage Exemptions and Penalty Relief**

- (1) The law provides coverage exemptions such as the partial list below:
- **Unaffordable coverage** - The minimum amount the taxpayer would have paid for the lowest cost employer-sponsored coverage available or a bronze level health plan for coverage through the Marketplace is more than a certain percentage (8% for 2014, 8.05% for 2015, etc.) of the taxpayer's projected household income for the year.
  - **Short coverage gap** - The taxpayer went without coverage for less than three consecutive months during the year.
  - **Household income below the return filing threshold** - The taxpayer's household income is below the taxpayer's minimum threshold for filing a tax return.
  - **Certain noncitizens** - The taxpayer was neither a U.S. citizen, U.S. national, nor an alien lawfully present in the U.S.
  - **Members of a health care sharing ministry** - The taxpayer was a member of a health care sharing ministry, which is a tax-exempt organization whose members share a common set of ethical or religious beliefs and have shared medical expenses in accordance with those beliefs continuously since at least December 31, 1999.
  - **Members of Indian tribes** - The taxpayer was a member of a federally-recognized Indian tribe, including an Alaska Native Claims Settlement

Act (ANCSA) Corporation Shareholder (regional or village), or is otherwise eligible for services through an Indian health care provider or the Indian Health Service.

- **Incarceration** - The taxpayer was in jail, prison or similar penal institution or correctional facility after the disposition of charges.
- **Members of certain religious sects** - The taxpayer was a member of a religious sect that has been in existence since December 31, 1950, and is recognized by the Social Security Administration as conscientiously opposed to accepting insurance benefits, including Medicare and social security, or the taxpayer was a member of a religious sect who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual.

**Note:** There are also exemptions for certain hardships. In general, a hardship is an event or condition that prevents an individual from obtaining MEC, such as the taxpayer is ineligible for Medicaid solely because the state in which the individual resides does not participate in the Medicaid expansion under the Affordable Care Act.

- (2) There is no reasonable cause exception for failure to maintain MEC.
- (3) The law prohibits the IRS from using liens or levies to collect any ISRP. If taxpayers owe an ISRP, the IRS may offset that liability with any tax refund that may be due to them.
- (4) If a taxpayer fails to timely pay the ISRP, the taxpayer is not subject to any criminal prosecution or penalty for the failure.

20.1.11.2.4  
(05-29-2018)  
**IRC 4980H Employer  
Shared Responsibility  
Provisions**

- (1) Unlike the ISRP, the employer shared responsibility payment (ESRP) under IRC 4980H is considered a tax for purposes of the IRC, and not a penalty. ESRP is assessed on BMF MFT 43 with TC 298, see IRM 20.2.11.14(3), Affordable Care Act (ACA), and IRM 4.10.5.13, Health Coverage Information Returns.

20.1.11.3  
(08-15-2016)  
**IRC 6653 Failure to Pay  
Stamp Tax**

- (1) IRC 6653 provides for a penalty for a willful failure to pay any tax imposed that is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by regulations, or a willful attempt to evade or defeat the stamp tax.
- (2) The penalty is administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB).

20.1.11.3.1  
(05-18-2010)  
**Penalty Computation**

- (1) The penalty is 50% of the total amount of the underpayment of the tax for each failure to pay any tax that is payable by stamp, coupons, tickets, books, or other devices or methods.

20.1.11.3.2  
(08-15-2016)  
**Assertion/Assessment**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 574 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

20.1.11.3.3  
(05-18-2010)  
**Penalty Relief**

- (1) If taxpayers want to contest the penalty assessment, they must fully pay the entire penalty and then file a claim for refund with the IRS.

- 20.1.11.4  
(05-29-2018)  
**IRC 6672 Failure to Collect and Pay Over Tax, or Attempt to Evade or Defeat Tax**
- (1) For excise tax purposes, IRC 6672, Failure to collect and pay over tax, or attempt to evade or defeat tax, (Trust Fund Recovery Penalty) applies only to the communications, air transportation, and indoor tanning service taxes imposed by IRC 4251, IRC 4261, IRC 4271, and IRC 5000B, respectively.
  - (2) IRC 4251(b)(1) provides that the term “communications services” means:
    - a. Local telephone service,
    - b. Toll telephone service, and
    - c. Teletypewriter exchange service.
- 20.1.11.5  
(05-29-2018)  
**IRC 6675 Excessive Claims with Respect to the Use of Certain Fuels**
- (1) In addition to any criminal penalty provided by law, IRC 6675 imposes a penalty if a claim is made for an excessive amount under the following Code sections:
    - a. IRC 6416(a)(4), Registered ultimate vendor or credit card issuer to administer credits and refunds of gasoline tax;
    - b. IRC 6420, Gasoline used on farms;
    - c. IRC 6421, Gasoline used for certain non-highway purposes, used by local transit systems, or sold for certain exempt purposes; and
    - d. IRC 6427, Fuels not used for taxable purposes.
  - (2) **Excessive amount defined:** For purposes of this section, the term **excessive amount** means in the case of any person the amount by which the amount claimed under IRC 6416(a)(4), IRC 6420, IRC 6421, or IRC 6427, for any period, exceeds the amount allowable under such section for such period.
- 20.1.11.5.1  
(05-18-2010)  
**Penalty Computation**
- (1) The penalty for excessive claims for the use of certain fuels is an amount equal to the greater of:
    - a. Two times the excessive amount, or
    - b. \$10.
- 20.1.11.5.2  
(08-15-2016)  
**Assertion/Assessment**
- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 661 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.
  - (2) The amount of an excessive claim, as well as the penalty imposed by IRC 6675 is assessable under IRC 6206, Special Rules Applicable to Excessive Claims Under Certain Sections.
  - (3) If the taxpayer filed a quarterly claim, the penalty may apply to any excessive payment on the quarterly claim.
  - (4) The penalty **does not apply** to an excessive credit taken for taxes on Form 4136, Credit for Federal Tax Paid on Fuels, on an income tax return.
- 20.1.11.5.3  
(08-15-2016)  
**Penalty Relief**
- (1) The penalty will not be imposed if the taxpayer demonstrates that the claim for the excessive amount was due to reasonable cause. See IRM 20.1.1.3, Criteria for Relief from Penalties.

20.1.11.6  
(05-18-2010)

**IRC 6715 Dyed Fuel Sold  
for Use or Used in  
Taxable Use, etc.**

- (1) An excise tax is imposed on certain removals, entries and sales of diesel fuel and kerosene. However, tax is not imposed (other than at the Leaking Underground Storage Tank Trust Fund financing rate) on diesel fuel or kerosene that, among other requirements, is indelibly dyed according to Treasury Regulations.
- (2) Generally, a penalty is imposed by IRC 6715 if any dyed fuel is used, held for use, sold, or sold for use, for other than a nontaxable use.
- (3) For the purposes of this penalty, the term “nontaxable use” means:
  - a. Any use that is exempt from the tax imposed by IRC 4041(a)(1), Imposition of tax - Diesel fuel and special motor fuels - Tax on diesel fuel and kerosene in certain cases (such as off-highway business use);
  - b. Any use in a train; and
  - c. Any use described in IRC 4041(a)(1)(C)(iii)(II), Imposition of tax - Diesel fuel and special motor fuels - Tax on diesel fuel and kerosene in certain cases - Rate of tax on certain buses (relating to use in certain school buses and qualified local buses).
- (4) However, the term “nontaxable use” does not include any use of kerosene in an aircraft and any use described in IRC 6421(e)(2)(C), Gasoline used for certain non-highway purposes, used by local transit systems or sold for certain exempt purposes (relating to certain mobile machinery equipment).
- (5) The term “dyed fuel” means any dyed diesel fuel or kerosene, whether or not the fuel was dyed per IRC 4082, Exemptions for diesel fuel and kerosene.

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- b. After December 31, 2004, see IRC 6717 and IRM 20.1.11.8.2, IRC 6717 Penalty for Refusal of Entry.

- (6) IRC 6715 imposes an assessable penalty on the four types of misuse of dyed fuel described in the subsections below.

20.1.11.6.1  
(05-18-2010)

**Misuse**

- (1) The penalty is assessed for misuse.

20.1.11.6.1.1  
(05-18-2010)

**Improper Sale of Dyed  
Fuel**

- (1) If any dyed fuel is sold or held for sale by any person for any use that such person knows or has reason to know is not a nontaxable use of that fuel, then that person shall pay a penalty.

**Note:** “Nontaxable use” is defined in IRC 4082(b), Nontaxable Use and in (4) above.

20.1.11.6.1.2  
(05-18-2010)

**Improper Use of Dyed  
Fuel**

- (1) If any dyed fuel is held for use or used by any person for a use other than a nontaxable use and that person knew, or had reason to know, the fuel was dyed, then that person shall pay a penalty.



20.1.11.6.1.3  
(05-18-2010)

**Willful Alteration of Dye Concentration**

- (1) If any person willfully alters, chemically or otherwise, or attempts to alter, the strength or composition of any dye or marking done per IRC 4082 in any dyed fuel, then such person shall pay a penalty.
- (2) This penalty does not apply in the following cases:
  - a. Diesel fuel that is dyed per the regulations under IRC 4082 and is blended with any undyed liquid, if the final product meets the dyeing requirements of the regulations under IRC 4082.
  - b. Diesel fuel that is dyed per the regulations under IRC 4082 and is blended with any other liquid (diesel fuel or kerosene) that contains the type and amount of dye required for diesel fuel dyed according to the regulations under IRC 4082.
  - c. Diesel fuel that is not dyed per the regulations under IRC 4082 and is blended with diesel fuel that is dyed per IRC 4082 and the blending occurs as part of a nontaxable use.
  - d. The alteration or attempted alteration occurs in an exempt area of Alaska.

20.1.11.6.1.4  
(05-18-2010)

**Knowledge of Alterations or Attempted Alterations**

- (1) If any person who has knowledge that a dyed fuel has been altered as described in previous section, sells or holds for sale that fuel for any use that the person knows, or has reason to know, is not a nontaxable use of that fuel, then that person shall pay a penalty.

20.1.11.6.2  
(08-24-2020)

**Penalty Computation**

- (1) For the first violation, the amount of the penalty on each act is the greater of:
  - a. \$1,000, or
  - b. \$10 for each gallon of the dyed fuel involved.
- (2) For additional violations, the amount of the penalty is the greater of:
  - a. \$1,000 multiplied by the sum of one plus the number of prior violations assessed per IRC 6715 on that person (or any related person or predecessor of that person or related person), or
  - b. \$10 for each gallon of dyed fuel involved.

**Example:** If a person's first violation involved 150 gallons of dyed fuel, the penalty would be \$1,500 (150 gallons x \$10 per gallon) because that amount is greater than \$1,000 (\$1,000 x 1 violation). If that person's second violation involved another 150 gallons of dyed fuel, the penalty would be \$2,000 because that amount (\$1,000 X 2 violations) is greater than \$1,500 (150 gallons X \$10).

20.1.11.6.3  
(08-15-2016)

**Assertion/Assessment**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 656 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

20.1.11.6.4  
(08-15-2016)

**Penalty Relief and Challenging the Penalty**

- (1) There is no reasonable cause exception to this penalty.
- (2) The IRS notifies the taxpayer in writing that the IRS intends to impose the IRC 6715 penalty. Within 30 days from the date of the notification, a taxpayer can contest the penalty by completing Form 12009, Request for an Informal Conference and Appeals Review. If, after the conference, the IRS still proposes to

assert the penalty and the taxpayer still disagrees with the decision, the taxpayer can request an Appeals review of the case.

- (3) Any person subject to the IRC 6715 penalty at least twice after 10/22/2004 will be denied the right to an administrative appeal of a subsequent IRC 6715 penalty, unless the claim asserts:
  - a. Fraud, or
  - b. Mistakes in the chemical analysis, or
  - c. Mistakes in the mathematical calculation in the amount of the penalty.

20.1.11.6.5  
(05-29-2018)  
**Joint and Several Liability**

- (1) If the penalty is assessed on any business, each officer, employee or agent of the business, who willfully participated in any part of the act giving rise to the penalty, is jointly and severally liable with the business for the penalty, per IRC 6715(d), Joint and several liability of certain officers and employees.

20.1.11.7  
(08-15-2016)  
**IRC 6715A Tampering With or Failing to Maintain Security Requirements for Mechanical Dye Injection Systems**

- (1) IRC 6715A imposes a penalty for tampering with or failing to maintain security requirements for mechanical injection systems for purposes of IRC 4082.

20.1.11.7.1  
(05-18-2010)  
**Penalty Computation**

- (1) The penalty for tampering with mechanical dye injection systems is the greater of:
  - a. \$25,000 per violation, or
  - b. \$10 per gallon of fuel involved.
- (2) The penalty for failure to maintain security standards is:
  - a. \$1,000, and
  - b. \$1,000 per day for each day after the day such violation was discovered or the person should have reasonably known of such violation.

20.1.11.7.2  
(08-15-2016)  
**Assertion/Assessment**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 665 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

20.1.11.7.3  
(05-18-2010)  
**Penalty Relief**

- (1) There is no reasonable cause exception for tampering with or failing to maintain security requirements for mechanical dye injection systems.

20.1.11.7.4  
(05-18-2010)  
**Joint and Several Liability**

- (1) If the penalty is assessed on any business, each officer, employee, or agent of the business, who willfully participated in any part of the act giving rise to the penalty is jointly and severally liable with the business, per IRC 6715A(c)(1), Joint and several liability - In general.
- (2) If a penalty under IRC 6715A is assessed against an entity that is part of an affiliated group (as defined in IRC 1504(a)), the parent corporation of the business will be jointly and severally liable with the business for the penalty under IRC 6715A(c)(2).



- 20.1.11.8  
(05-29-2018)  
**Fuel Tax Enforcement**
- (1) To aid in the enforcement of the fuel tax, the Internal Revenue Code provides penalties for refusing to allow entry to the premises, failing to register (e.g., by terminal operators and vessel operators), failing to display a registration on vessels and failing to file reports with the IRS.
- 20.1.11.8.1  
(05-18-2010)  
**IRC 7342 Penalty for Refusal to Permit Entry or Examination**
- (1) IRC 7342 penalizes any owner of a building or place, or any person managing or controlling the building, who refuses entry to the IRS under IRC 7606. IRC 7606, Entry of premises for examination of taxable objects, permits the IRS to enter any building or place where anything subject to tax is made, produced or kept for the purpose of examining those taxable articles or objects.
- 20.1.11.8.1.1  
(05-18-2010)  
**Computation for IRC 7342**
- (1) The penalty is \$500 for each refusal to permit entry or permit examination.
- 20.1.11.8.1.2  
(08-15-2016)  
**Refusing Entry Authorized by IRC 4083(d)(1)**
- (1) The IRC 7342 penalty is increased when the IRS is refused entry for purposes of:
- a. Examining the equipment used to determine the amount or composition of fuel, as defined in IRC 4083(a), and the equipment used to store the fuel,
  - b. Taking and removing samples of such fuel, or
  - c. Inspecting books and records as authorized by IRC 4083(d)(1), Definitions; special rule; administrative authority - Administrative authority.
- Note:** For additional information on the penalty for the refusal to admit entry or other refusal to permit an action, see IRM 20.1.11.8.2, IRC 6717 Penalty for Refusal of Entry.
- 20.1.11.8.1.3  
(05-18-2010)  
**Computation for Penalty with IRC 4083(d)(1)**
- (1) The IRC 7342 penalty is applied to each refusal of entry or other refusal to permit an action authorized by IRC 4083(d)(1) by substituting \$1,000 for \$500. See IRC 4083(d)(3)(A).
- (2) For an additional penalty for the refusal to admit entry or other refusal to permit an action, see IRC 6717. IRM 20.1.11.8.2, IRC 6717 Penalty for Refusal of Entry.
- 20.1.11.8.2  
(05-18-2010)  
**IRC 6717 Penalty for Refusal of Entry**
- (1) IRC 6717, enacted by the American Jobs Creation Act, adds an assessable penalty for refusing entry (or not permitting an action) per IRC 4083(d)(1). See IRM 20.1.11.8.1.3, Computation for Penalty with IRC 4083(d)(1), regarding IRC 4083(d)(1).
- (2) This penalty is effective for penalties assessed after December 31, 2004.
- 20.1.11.8.2.1  
(05-18-2010)  
**Penalty Computation**
- (1) The penalty is \$1,000 for each refusal (or for not permitting an action) authorized by IRC 4083(d)(1).
- 20.1.11.8.2.2  
(08-15-2016)  
**Assertion/Assessment**
- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 655 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

- (2) Penalty notices issued after July 1, 2005, include American Jobs Creation Act Section 859 provisions.
- 20.1.11.8.2.3  
(05-18-2010)  
**Penalty Relief**
- (1) The penalty will not be imposed if the taxpayer can demonstrate that the failure was due to reasonable cause.
- 20.1.11.8.2.4  
(05-18-2010)  
**Joint and Several Liability**
- (1) If the penalty is imposed on any business, each officer, employee or agent of the business, who willfully participated in any part of the act giving rise to the penalty, is jointly and severally liable with the business for the penalty, per IRC 6717(b)(1).
- (2) If a penalty under IRC 6715A is assessed against an entity that is part of an affiliated group (as defined in IRC 1504(a)), the parent corporation of the business shall be jointly and severally liable with the business for the penalty, per IRC 6717(b)(2).
- 20.1.11.8.3  
(05-18-2010)  
**IRC 7272 Penalty for Failure to Register or Reregister**
- (1) IRC 7272 (civil) provides for a penalty for failing to register or reregister when required to by the IRC.
- 20.1.11.8.3.1  
(08-15-2016)  
**Penalty Computation**
- (1) The penalty for failing to register or reregister is generally \$50, except that the penalty for failing to register under IRC 4101, Registration and bond, is \$10,000.
- Note:** For additional information on penalty for failure to register or reregister, see IRC 6719 and IRM 20.1.11.8.5, IRC 6719 Penalty for Failure to Register or Reregister.
- 20.1.11.8.4  
(05-18-2010)  
**IRC 6718 Failure to Display Tax Registration on Vessels**
- (1) Beginning on January 1, 2005, the American Jobs Creation Act provided for a penalty for any operator of a vessel who is required to register under IRC 4101 and who does not display proof of registration using an identification device as defined by the IRS on vessels transporting taxable fuel per IRC 4101(a)(3).
- 20.1.11.8.4.1  
(05-18-2010)  
**Penalty Computation**
- (1) The penalty for failure to display tax registration on vessels is \$500 per vessel for the first month the proof is not displayed. Only one penalty can be assessed per month per vessel.
- (2) In the case of multiple monthly violations, the penalty is \$500, plus the total from multiplying \$500 times the number of monthly penalties previously imposed.
- 20.1.11.8.4.2  
(08-15-2016)  
**Assertion/Assessment**
- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 657 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.
- (2) Notice 2005-4 provides at Section 6 that no penalty will be imposed until after the IRS provides guidance on the identification device and the manner of its display.

20.1.11.8.4.3  
(05-18-2010)  
**Penalty Relief**

- (1) The penalty will not be imposed if the taxpayer can demonstrate that the failure was due to reasonable cause.

20.1.11.8.5  
(05-18-2010)  
**IRC 6719 Penalty for Failure to Register or Reregister**

- (1) IRC 6719 provides that every person who is required to register or reregister under IRC 4101, Registration and bond and fails to do so shall pay an assessable penalty.

20.1.11.8.5.1  
(05-18-2010)  
**Penalty Computation**

- (1) The penalty is:
  - a. \$10,000 for each initial failure to register or reregister, and
  - b. \$1,000 for each day the failure continues.

20.1.11.8.5.2  
(08-15-2016)  
**Assertion/Assessment**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 670 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.
- (2) This penalty is not subject to deficiency procedures.

20.1.11.8.5.3  
(05-18-2010)  
**Penalty Relief**

- (1) The penalty will not be imposed if the taxpayer can demonstrate that the failure to register or reregister was due to reasonable cause.

20.1.11.8.6  
(05-18-2010)  
**IRC 6720A Penalty with Respect to Certain Adulterated Fuels**

- (1) IRC 6720A(a) provides for a penalty for any person who knowingly transfers for sale or resale, sells for resale or holds out for sale or resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable Environmental Protection Agency (EPA) regulations (as defined in IRC 45H(c)(3), Credit for production of low sulfur diesel fuel - Definitions and special rule - Applicable EPA regulations).
- (2) IRC 6720A(b) provides for a penalty for retailers who knowingly hold out for sale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train, which does not meet EPA regulations (as defined in IRC 45H(c)(3)).
- (3) For purposes of this penalty, the term "applicable EPA regulations" means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

20.1.11.8.6.1  
(08-15-2016)  
**Penalty Computation**

- (1) The penalty is \$10,000 for each transfer, sale or holding for resale for any person who knowingly holds out for sale any liquid described in IRC 6720A(a).
- (2) The penalty for retailers is \$10,000 for each instance of holding such liquid out for sale.

20.1.11.8.6.2  
(08-15-2016)  
**Assessment/Assertion**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 673 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

20.1.11.8.6.3  
(08-15-2016)  
**Penalty Relief**

- (1) There is no penalty relief for reasonable cause.

20.1.11.8.7  
(08-15-2016)  
**IRC 6725 Failure to Report Information Under IRC 4101**

- (1) The Excise Summary Terminal Activity Reporting System (ExSTARS) is the IRS's fuel information reporting system requiring terminal operators and bulk transport carriers to report monthly on the movement of any liquid product into or out of a terminal per IRC 4101(d).
- (2) IRC 6725, enacted by the American Jobs Creation Act, provides for an assessable penalty for failing to report as required by the ExSTARS system on a vessel or facility (e.g., a terminal). The failure includes providing inaccurate or incomplete information.

20.1.11.8.7.1  
(08-24-2020)  
**Penalty Computation**

- (1) The penalty is \$10,000 per failure to timely file a report on each vessel or facility.
- (2) The penalty is \$10,000 per failure to include all of the required information or for the inclusion of incorrect information.
- (3) See IRM 4.24.17.8, ExSTARS Information Report Filing Issues, for the guidelines of a timely filed ExSTARS report.

20.1.11.8.7.2  
(08-15-2016)  
**Assertion/Assessment**

- (1) The penalty is assessed on MFT 13 (for BMF) or MFT 55 (for IMF) using PRN 667 on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

20.1.11.8.7.3  
(05-18-2010)  
**Penalty Relief**

- (1) The penalty will not be imposed if the taxpayer can demonstrate that the failure was due to reasonable cause.

20.1.11.9  
(05-18-2010)  
**IRC 7270 Insurance Policies**

- (1) IRC 7270 provides for penalties for failure to comply with the requirements of IRC 4374, *Liability for tax*, for the issuance of insurance policies by foreign insurers with the intent to evade tax. See IRM 9.1.3, Criminal Statutory Provisions and Common Law.
- (2) Any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold, shall be liable for the tax imposed by IRC 4371, Imposition of tax. For purposes of this penalty, in the case of a reinsurance policy that is subject to the tax imposed by IRC 4371(3), Imposition of tax - Reinsurance, other than assumption reinsurance, the insured person on the underlying insurance policy, the risk of which is covered in whole or in part by such reinsurance policy, shall not constitute a person for whose use or benefit the reinsurance policy is made, signed, issued, or sold.
- (3) On each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:
  - a. Casualty insurance and indemnity bonds - 4 cents on each dollar or fractional part of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured;

- b. Life insurance, sickness and accident policies, and annuity contracts - 1 cent on each dollar or fractional part of the premium paid on the policy of life, sickness or accident insurance, or annuity contract; and
- c. Reinsurance - 1 cent on each dollar or fractional part of the premium paid on the policy of reinsurance covering any of the contracts taxable under a) and b).

20.1.11.9.1  
(05-18-2010)  
**Penalty Computation**

- (1) The penalty for failure to comply or the issuance of insurance policies by foreign insurers with the intent to evade tax is a fine of double the amount of the tax.

20.1.11.9.2  
(05-18-2010)  
**Assertion/Assessment**

- (1) The penalty is administered by the Excise tax examination function.

20.1.11.9.3  
(05-18-2010)  
**Penalty Relief**

- (1) Taxpayers must first fully pay the entire penalty and then file a claim for refund with the IRS within two years of the date of payment. If the IRS does not issue a determination allowing or disallowing the claim within six months, the taxpayer may file suit in the district court or U.S. Court of Federal Claims. If the IRS issues a disallowance letter, the taxpayer has two years from the date the disallowance letter was sent to the taxpayer to file suit contesting this penalty in the district court or U.S. Court of Federal Claims.

20.1.11.10  
(05-29-2018)  
**IRC 4103 Certain Additional Persons Liable for Tax Where There is Willful Failure to Pay**

- (1) IRC 4103 provides for a joint and several liability for persons liable for tax where there is a willful failure to pay. In any case in which there is a willful failure to pay the tax imposed by IRC 4041(a)(1) or IRC 4081, each person:
  - a. who is an officer, employee or agent of the taxpayer who is obligated to pay the tax, but willfully fails to perform such duty, or
  - b. who willfully causes the taxpayer to not pay the tax, shall be jointly and severally liable with the taxpayer for the tax that was not paid.

20.1.11.11  
(11-22-2023)  
**Form 720 Penalties**

- (1) For federal tax deposit penalties on Form 720 and other excise tax forms, see IRM 20.1.4, Failure to Deposit Penalty.
- (2) Excise tax returns are subject to penalties under IRC 6651, except they are not subject to the minimum penalty for filing late, see IRM 20.1.2, Failure to File/Failure to Pay Penalties.

**Note:** IRC 4501 was added to the Internal Revenue code by the Inflation Reduction Act in 2022, P.L. 117-169. IRC 4501 will impose a 1% tax on the repurchase of stock by a publicly traded corporation, effective for repurchases after December 31, 2022. The new excise tax must be reported on Form 7208 for attachment to Form 720 that is due the first full calendar quarter after the close of the entity's tax year. The Form 7208 will also be subject to penalties under IRC 6651, Failure to file tax return or to pay tax once final Treasury Regulations are published.

20.1.11.12  
(05-29-2018)

**Other Penalties Related  
to Filing Estate and Gift  
Tax Returns**

- (1) This section contains penalty information on Form 709 and Form 706 U.S. Estate and Gift Tax return series.
  - a. Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, is used to report transfers subject to federal gift and certain generation-skipping transfer taxes and to compute tax due, if any, on those transfers.
  - b. Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, is used by the executor of a decedent's estate to compute the estate tax imposed by Chapter 11 of the IRC and certain generation-skipping transfer taxes imposed at death under Chapter 13. Different types of Forms 706 are filed according to specific requirements of each estate.
- (2) IRC 6651 imposes penalties for both late filing and late payment, unless there is reasonable cause for the delay.
  - a. There are also penalties for failure to file a return on time and willful attempt to evade or defeat payment of tax.
  - b. See IRM 20.1.2, Failure to File/Failure to Pay Penalties for more information.
- (3) IRC 6662 provides penalties for underpayments of estate taxes due to negligence or intentional disregard of rules and regulations.
  - a. IRC 6662 also provides penalties if there is a substantial understatement of tax that exceeds the greater of 10 percent of the tax required to be shown on the return or \$5,000.
  - b. A substantial valuation understatement occurs when the value of property reported on the return is 65% or less of the actual value of the property. This penalty increases if there is a gross valuation misstatement. A gross valuation misstatement occurs if any property on the return is valued at 40% or less of the value determined to be correct.
  - c. See IRM 20.1.5, Return-Related Penalties for more information.
- (4) The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 added IRC 6035 to require executors of an estate and other persons who are required to file Form 706 series to report the final estate tax value of property distributed or to be distributed from the estate, if the estate tax return is filed after July 2015.
  - a. Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent, along with a copy of every Schedule A, is used to report values to the IRS. One Schedule A is provided to each beneficiary receiving property from an estate.
  - b. Form 8971 is a separate filing requirement from the estate's Form 706, Form 706-NA, or Form 706-A, and should not be attached to the respective estate tax return.
  - c. Failure to comply with the filing requirements for Form 8971 is subject to information return penalties under IRC 6721, Failure to file correct information returns and IRC 6722, Failure to furnish correct payee statements. See IRM 20.1.7, Information Return Penalties for more information.



- 20.1.11.13  
(08-24-2020)  
**IRC 6166 Extension of Time for Payment of Estate Tax Where Estate Consists Largely of Interest in Closely Held Business**
- (1) IRC 6166 provides that the executor of an estate may make an election to pay in as many as 10 annual installments that portion of the estate tax attributable to assets used in a qualifying closely held business.
  - (2) The type of business and the decedent's interest in the qualifying closely held business will determine whether the estate will qualify to pay only interest on the unpaid balance due on the first four anniversary dates after the due date, or if the first installment will be due when the estate tax return is filed.
  - (3) If the estate does qualify to pay interest only for the first four anniversary dates, the first installment must be paid on the fifth anniversary date after the due date for payment under IRC 6166(a)(3).
- 20.1.11.13.1  
(08-24-2020)  
**IRC 6166(g)(3) Failure to Make Payment of Principal or Interest**
- (1) IRC 6166(g)(3) provides for a penalty when an installment of principal and/or interest is not paid when due, but is paid within six months of the due date to avoid the acceleration of unpaid estate tax installments.
- 20.1.11.13.2  
(05-18-2010)  
**Penalty Computation**
- (1) A Late Installment (LI) Penalty is computed on the unpaid interest installment at 5% of the amount of the payment multiplied by the number of months (or fractions thereof) from the installment due date (including any extension of time to pay) until the payment is received.
- Note:** If the estate qualifies for the four-year principal deferral period (or shorter period if elected by the executor), the Estate is billed for interest only.
- (2) Input transaction code (TC) 240 on IDRS with the amount for the LI Penalty assessment.
- 20.1.11.13.3  
(08-24-2020)  
**Assertion/Assessment**
- (1) Campus Compliance Services, Estate and Gift Tax Campus Operation, process the requests for deferred tax and assert applicable penalties for defaulted payments.
  - (2) If the taxpayer fails to make the installment (principal and interest) payment, then:
    - a. Compute the Late Installment (LI) penalty on the unpaid installment (principal and interest) at 5% per month (or fraction thereof) from the installment due date to the date of Notice and Demand. Input TC 240 on IDRS for the LI Penalty;
    - b. Compute the Failure to Pay (FTP) Penalty on the principal portion of the installment from the installment due date to the date of Notice and Demand. Input TC 270 on IDRS for the FTP penalty. See IRM 20.1.2 , Failure To File/Failure To Pay Penalties;
    - c. Compute interest (at the prevailing rate) on the unpaid installment (principal and interest) from the installment due date to the date of Notice and Demand. Input TC 340 on IDRS for the amount of interest. Use a non-restricting TC 340 when possible. See IRM 20.2.10.2, Interest on Estate Tax Returns; and
    - d. Use the applicable Hold Codes, Priority Codes, Posting Delay Codes, Blocking Series, and Penalty Reason Codes. See IRM 21.5, Account Resolution, and Document 6209, IRS Processing Codes and Information, for additional information regarding these codes and indicators.

**Note:** The Late Installment Penalty is limited to a maximum of 30%.

- (3) If the payment is not received within 45 days of the first notice (Letter 6335, Estate Installment Program), then:
  - a. Compute the LI Penalty on the portion of the unpaid installment at 5% per month (or fraction thereof) from the payment due date of the first notice to the notice and demand date of the second notice ( Letter 6335, Estate Installment Program); and
  - b. Input TC 240 on IDRS for the amount of the LI Penalty.
- (4) If the payment is not received within 45 days of the second notice (Letter 6335), then:
  - a. Compute the LI Penalty on the portion of the unpaid installment at 5% per month (or fraction thereof) from the payment due date of the second notice to the notice and demand date of the third notice ( Letter 6335); and
  - b. Input TC 240 on IDRS for the amount of the LI Penalty.
- (5) If payment is not received by the payment due date (within 45 days of the third notice), and for more information on computing the Failure to Pay Penalty and Interest on LI payments and concerning defaulted payments, see IRM 4.25.2, Campus Estate and Gift.

**Note:** The late installment payment penalty under IRC 6166(g)(3) and the failure to pay penalty on the entire amount of estate tax should not overlap. Until the IRC 6166 election is terminated, the entire amount is not due and therefore the failure to pay penalty should not accrue until the election is terminated. The late installment penalty under IRC 6166(g)(3) should run from the installment due date until the IRC 6166 election is terminated.

20.1.11.13.4  
(05-18-2010)  
**Penalty Relief**

- (1) There is no penalty relief for reasonable cause.

**Note:** Prior to the due date of the payment, the estate may seek an extension of the time for payment under IRC 6161, Extension of Time for Paying Tax, for a reasonable period of time not to exceed 12 months for estate tax.

20.1.11.14  
(05-29-2018)  
**IRC 7271 Penalties for Offenses Relating to Stamps**

- (1) IRC 7271 provides for a penalty for any person who with respect to any tax payable by stamps:
  - a. Fails to attach or cancel stamps, etc. or to otherwise comply with IRC 6804, Attachment and Cancellation, (relating to attachment, cancellation, etc., of stamps);
  - b. Makes, signs, issues, or accepts, or cause to be made, signed, issued, or accepted, any instrument, document or paper without fully paying tax; or
  - c. Disposal and receipt of stamped, branded or marked packages, or containers, which are empty or contain any contents other than the contents when the container was lawfully stamped, branded or marked, and transfers or receives (whether by sale, gift or otherwise) the container, knowing it is empty or contains other contents, or stamps, brands, marks, or produces a container, knowing it is empty or contains other contents.



- (2) Except as otherwise expressly provided in this penalty, the stamps referred to in IRC 6801 Authority for Establishment, Alteration, and Distribution shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as required by rules or regulations.
- 20.1.11.14.1  
(05-18-2010)  
**Penalty Computation**
- (1) The penalty is \$50 per offense relating to stamps.
- 20.1.11.14.2  
(05-18-2010)  
**Assertion/Assessment**
- (1) The penalty is administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB).
- 20.1.11.14.3  
(05-18-2010)  
**Penalty Relief**
- #  
#  
#
- 20.1.11.15  
(05-18-2010)  
**IRC 7273 Penalties for Offenses Relating to Special Taxes**
- (1) IRC 7273 provides for a penalty for failure to place and keep stamps denoting the payment of the special tax under IRC 6806, Occupational Tax Stamps.
- (2) Every person engaged in any business, avocation or employment, who is liable for a special tax will place and keep visible in the establishment or place of business all stamps denoting payment of the special tax.
- 20.1.11.15.1  
(05-18-2010)  
**Penalty Computation**
- (1) The penalty is equal to the special tax the business is liable for, but not less than \$10.
- (2) If the failure is for willful neglect or refusal, then the penalty is twice the liability amount.
- 20.1.11.15.2  
(05-18-2010)  
**Assessment/Assertion**
- (1) The penalty is administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB).
- 20.1.11.15.3  
(05-18-2010)  
**Penalty Relief**
- #  
#  
#
- 20.1.11.16  
(05-18-2010)  
**IRC 7275 Penalty for Offenses Relating to Certain Airline Tickets and Advertising**
- (1) IRC 7275 provides for a penalty for offenses relating to certain airline tickets and advertising.
- 20.1.11.16.1  
(05-18-2010)  
**IRC 7275(a) Tickets**
- (1) IRC 7275(a) provides for a penalty for failure to show the total tax and transportation charge on tickets for airline passenger transportation.
- (2) In the case of transportation by air that is taxable transportation as defined in IRC 4262, Definition of Taxable Transportation, the ticket for such transportation shall show the total of:

- a. The amount paid for the transportation, and
- b. The taxes imposed by subsections (a) and (b) of IRC 4261, Imposition of Tax.

(3) For the purposes of this penalty, the term “taxable transportation” means:

- a. Transportation by air that begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone; and
- b. In the case of transportation by air other than transportation described in paragraph (a), that portion of transportation that is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if that portion is not a part of uninterrupted international air transportation (within the meaning of IRC 4262(c)(3), Uninterrupted International Air Transportation).

20.1.11.16.2  
(08-24-2020)

#### **IRC 7275(b) Advertising**

- (1) IRC 7275(b) provides for a penalty if in the case of taxable transportation, any advertising made by or on behalf of any person furnishing such transportation (or offering to arrange such transportation), which states the cost of such transportation does not:
- a. State the cost as the total of the amount to be paid for such transportation, and
  - b. State the taxes imposed by IRC 4261(a), (b), and (c), and
  - c. If any advertising states separately the amount paid for the transportation or the amount of taxes, will state the total as “user taxes to pay for airport construction and airway safety and operations.”

20.1.11.16.3  
(05-18-2010)

#### **Penalty Computation**

- (1) The penalty for any person who violates any provision of tickets and advertising will, for each violation be guilty of a misdemeanor, and upon conviction not be fined more than \$100.

20.1.11.17  
(05-18-2010)

#### **IRC 7304 Penalty for Fraudulently Claiming Drawback**

- (1) IRC 7304 provides for a penalty for:
- a. Fraudulently claiming or seeking an allowance of drawback on goods, wares or merchandise on which no tax was paid,
  - b. Fraudulently claiming more tax than actually paid.

20.1.11.17.1  
(05-18-2010)

#### **Penalty Computation**

- (1) The penalty is three times the fraudulent amount or \$500.

20.1.11.17.2  
(05-18-2010)

#### **Assertion/Assessment**

- (1) The penalty is administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB).

20.1.11.17.3  
(05-18-2010)

#### **Penalty Relief**

#  
#  
#

20.1.11.18  
(11-22-2023)  
**Statute of Limitations**

- (1) In general, the additions to tax, additional amounts and assessable penalties in IRC 6651 and IRC 6725 are assessed, collected and paid in the same manner as taxes. To the extent such an item pertains to a tax return, the assessment is subject to the period of limitation in IRC 6501, Limitations on Assessment and Collection, (generally, three years from the due date (before extension) or the filing of the return, whichever is later). See IRC 6665, Applicable Rules, and IRC 6671, Rules for Application of Assessable Penalties.
- (2) All penalties proposed under IRC 6715, Dyed Fuel Sold for Use or Used in Taxable Use, etc., IRC 6715A, Tampering with or Failing to Maintain Security Requirements for Mechanical Dye Injection Systems, IRC 6717, Refusal of Entry, and IRC 6720A, Penalty with Respect to Certain Adulterated Fuels, are assessable regardless of whether or not a return was filed. If no return was filed, they should be assessed within three years from the date of the infraction.
- (3) IRC 6719, a penalty for failure to register (or re-register), and IRC 6725, provides a penalty for failure to report as required, both of which are under IRC 4101, are subject to penalty amounts - a minimum of \$10,000 for each failure to comply. IRC 6719 also permits a \$1,000 penalty for each day thereafter that the person(s) does not re-register. In general, the IRS should make every effort to assess the IRC 6719 penalty within three years of the date of the failure to register first occurred and assess the IRC 6725 penalty within three years of the due date for the filing of the required forms. However, if the failure to assess is not due to any affirmative failure by the IRS to act within three years (that is, the IRS had information and reasonably could have assessed the penalties within three years of the taxpayer's violation), the IRS may assess the IRC 6719 and IRC 6725 penalties after three years of the taxpayer's failure to comply with IRC 4101. Assessments are not recommended for situations that are more than six years after the failure to comply occurred.

**Note:** For these situations, the examiner should document the facts and circumstances of the assessment in the case file.

20.1.11.19  
(08-24-2020)  
**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 this supervisory approval:
  - a. Penalties assessed 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.
  - 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.

20.1.11.19.1  
(08-24-2020)

**Timing of Supervisory  
Approval**

- (1) For all penalties subject to IRC 6751(b)(1), written supervisory approval required under IRC 6751(b)(1) must be obtained **prior to** issuing any written communication of penalties to a taxpayer that offers the taxpayer an opportunity to sign an agreement or consent to assessment or proposal of the penalty.

**Exhibit 20.1.11-1 (05-29-2018)****Acronyms**

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

<b>Acronym</b>	<b>Definition</b>
ACA	Affordable Care Act
ANCSA	Alaska Native Claims Settlement Act
BMF	Business Master File
BSO	Business Support Office
CFO	Chief Financial Officer
EPA	Environmental Protection Agency
ESRP	Employer Shared Responsibility Payment
ExSTARS	Excise Summary Terminal Activity Reporting System
FTP	Failure to Pay
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IPF	Insurance Provider Fee
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ISRP	Individual Shared Responsibility Payment
LB&I	Large Business and International
LI	Late Installment
MEC	Minimum Essential Coverage
MFT	Master File Tax
OS	Operations Support
OSP	Office of Servicewide Penalties
PRN	Penalty Reference Number
SB/SE	Small Business/Self Employed
TC	Transaction Code
TTB	Alcohol and Tobacco Tax and Trade Bureau

**Exhibit 20.1.11-2 (08-24-2020)****Penalty Reference Numbers (PRNs) for Excise Tax and Estate and Gift Tax Penalties**

Below are the PRNs related to assessing excise tax and estate and gift tax penalties. PRNs are generally used to assess non-tax return related 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 excise tax and estate and gift tax 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 in master file under Transaction Code (TC) 240, penalty abatements are posted under TC 241.

PRN	IRC	Penalty Description	Used By
574	6653	Failure to pay stamp tax	Field exam, Form 8278
655	6717	Refusal of entry	Field exam, Form 8278
656	6715	Dyed fuel sold for use or used in taxable use, etc.	Field exam, Form 8278
657	6718	Failure to display tax registration on vessels	Field exam, Form 8278
661	6675	Excessive claims with respect to the use of certain fuels	Field exam, Form 8278
665	6715A	Tampering with or failing to maintain security requirements for mechanical dye injection systems	Field exam, Form 8278
667	6725	Failure to report information under IRC 4101	Field exam, Form 8278
670	6719	Failure to register or reregister	Field exam, Form 8278
673	6720A	Penalty with respect to certain adulterated fuels	Field exam, Form 8278
690	N/A	Insurance Provider Fee (IPF) - Late filing penalty <b>Note:</b> The annual fee on health insurance providers no longer applies to calendar years beginning AFTER December 31, 2020, per H.R. 1865, Sec. 502. Therefore, the late filing penalty is not applicable for calendar years beginning after December 31, 2020.	Applicable under Section 9010(g)(2)(A) of the Patient Protection and Affordable Care Act of 2010 (ACA). Assessed on IPF application (non-legacy system) by Section 9010 analyst team in LB&I, using MFT 79. See IRM 25.21.2.10.

## Exhibit 20.1.11-2 (Cont. 1) (08-24-2020)

## Penalty Reference Numbers (PRNs) for Excise Tax and Estate and Gift Tax Penalties

PRN	IRC	Penalty Description	Used By
691	N/A	<p>Insurance Provider Fee (IPF) - Accuracy related penalty</p> <p><b>Note:</b> The annual fee on health insurance providers no longer applies to calendar years beginning AFTER December 31, 2020, per H.R. 1865, Sec. 502. Therefore, the accuracy related penalty is not applicable for calendar years beginning after December 31, 2020.</p>	Applicable under Section 9010(g)(3)(A) of the Patient Protection and Affordable Care Act of 2010 (ACA). Assessed on IPF application (non-legacy system) by Section 9010 analyst team in LB&I, using MFT 79. See IRM 25.21.2.10.
692	5000A(c)	<p>Requirement to maintain minimum essential coverage</p> <p><b>Note:</b> P.L. 115-97, Tax Cuts and Jobs Act of 2017, Sec. 11081, reduced the ISRP under IRC 5000A to 0 for months beginning after December 31, 2018</p>	Field exam, Form 8278

