

26 CFR 601.602: Tax forms and instructions.  
(Also Part I, §§ 6651, 6652, 6695, 6698, 6699, 6721, 6722)

Rev. Proc. 2016-11

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## SECTION 1. PURPOSE

Rev. Proc. 2015-53, I.R.B. 2015-44, provides inflation-adjusted items for 2016 for certain Civil Penalties under the Internal Revenue Code (§§ 6651, 6652(c), 6695, 6698, 6699, 6721 and 6722) for returns and statements required to be filed after December 31, 2016. This revenue procedure sets forth inflation-adjusted items for 2015 for certain Civil Penalties under the Code (§§ 6651, 6652(c), 6695, 6698, 6699, 6721, and 6722) for returns and statements required to be filed after December 31, 2015. In addition, this revenue procedure corrects section 3.48(3), Failure to File Correct Information Returns, of Rev. Proc. 2015-53.

## SECTION 2. LEGISLATIVE HISTORY

Section 2102 of the Small Business Jobs Act of 2010, Pub. L. 111-240, 124 Stat. 2504, provides that for each fifth calendar year beginning after 2012, the penalty under § 6721, Failure to File Correct Information Returns, and the penalty under § 6722, Failure to Furnish Correct Payee Statements, will be adjusted for inflation.

Section 208 of the Tax Increase Prevention Act of 2014, Achieving a Better Life Experience (ABLE) Act, Pub. L. 113-295, 128 Stat. 4010, provides for inflation adjustments for certain Civil Penalties under the Code (§§ 6651, 6652(c), 6695, 6698, 6699, 6721, and 6722) for returns and statements required to be filed after December 31, 2014. For returns and statements required to be filed after December 31, 2015, Section 806 of the Trade Preferences Extension Act of 2015, Pub. L. 114-27, 129 Stat. 362, increased the tax penalties for failure to file correct information returns and furnish correct payee statements under §§ 6721 and 6722, respectively.

SECTION 3. 2015 PENALTY ADJUSTED ITEMS

.01 Failure to File Tax Return. For taxable years beginning in 2015, the amount of the additional tax under § 6651(a) for failure to file a tax return within 60 days of the due date of such return (determined with regard to any extensions of time for filing) shall not be less than the lesser of \$135 or 100 percent of the amount required to shown as tax on such returns.

.02 Failure to File Certain Information Returns, Registration Statements, etc. For taxable years beginning in 2015, the penalty amounts under § 6652(c) are:

(1) for failure to file a return required under § 6033(a)(1) (relating to returns by exempt organization) or § 6012(a)(6) (relating to returns by political organizations):

Scenario	Daily Penalty	Maximum Penalty
Organization (§ 6652(c)(1)(A))	\$20	Lessor of \$10,000 or 5% of gross receipts of the organization for the year.
Organization with gross receipts exceeding \$1,015,500 (§ 6652(c)(1)(A))	\$100	\$50,500
Managers (§ 6652(c)(1)(B))	\$10	\$5,000
Public inspection of annual returns and reports (§ 6652(c)(1)(C))	\$20	\$10,000
Public inspection of applications for exemption and notice of status (§ 6652(c)(1)(D))	\$20	No Limits

(2) for failure to file a return required under § 6034 (relating to returns by certain trust) or § 6043(b) (relating to terminations, etc., of exempt organizations):

Scenario	Daily Penalty	Maximum Penalty
Organization or trust (§ 6652(c)(2)(A))	\$10	\$5,000
Managers (§ 6652(c)(2)(B))	\$10	\$5,000
Split-Interest Trust (§ 6652(c)(2)(C)(ii))	\$20	\$10,000

Any trust with gross receipts exceeding \$253,500 (§ 6652(c)(2)(C)(ii))	\$100	\$50,500
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(3) for failure to file a disclosure required under § 6033(a)(2):

Scenario	Daily Penalty	Maximum Penalty
Tax-exempt entity (§ 6652(c)(3)(A))	\$100	\$50,500
Failure to comply with written demand (§ 6652(c)(3)(B)(ii))	\$100	\$10,000

.03 Other Assessable Penalties With Respect to the Preparation of Tax Returns for Other Persons. For taxable years beginning in 2015, the penalty amounts under § 6695 are:

Scenario	Per Return or Claim for Refund	Maximum Penalty
Failure to furnish copy to taxpayer (§ 6695(a))	\$50	\$25,000
Failure to sign return (§ 6695(b))	\$50	\$25,000
Failure to furnish identifying number (§ 6695(c))	\$50	\$25,000
Failure to retain copy or list (§ 6695(d))	\$50	\$25,000
Failure to file correct information returns (§ 6695(e))	\$50 per return or item in return	\$25,000
Negotiation of check (§ 6695(f))	\$505 per check	No limit
Failure to be diligent in determining eligibility for earned income credit (§ 6695(g))	\$505	No limit

.04 Failure to File Partnership Return. For taxable years beginning in 2015, the dollar amount used to determine amount of the penalty under § 6698(b)(1) is \$195.

.05 Failure to File S Corporation Return. For taxable years beginning in 2015, the dollar amount used to determine amount of the penalty under § 6699(b)(1) is \$195.

.06 Failure to File Correct Information Returns. For taxable years beginning in 2015, the penalty amounts under § 6721 are:

(1) for persons with average annual gross receipts for the most recent three taxable years of more than \$5,000,000, for failure to file correct information returns are:

Scenario	Penalty Per Return	Calendar Year Maximum
General Rule (§ 6721(a)(1))	\$260	\$3,178,500
Corrected on or before 30 days after required filing date (§ 6721(b)(1))	\$50	\$529,500
Corrected after 30 <sup>th</sup> day but on or before August 1 (§ 6721(b)(2))	\$100	\$1,589,000

(2) for persons with average annual gross receipts for the most recent three taxable years of \$5,000,000 or less, for failure to file correct information returns are:

Scenario	Penalty Per Return	Calendar Year Maximum
General Rule (§ 6721(d)(1)(A))	\$260	\$1,059,500
Corrected on or before 30 days after required filing date (§ 6721(d)(1)(B))	\$50	\$185,000
Corrected after 30 <sup>th</sup> day but on or before August 1 (§ 6721(d)(1)(C))	\$100	\$529,500

(3) for failure to file correct information returns due to intentional disregard of the filing requirement (or the correct information reporting requirement) are:

Scenario	Penalty Per Return	Calendar Year Maximum
Return other than a return required to be filed under §§ 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L (§ 6721(e)(2)(A))	Greater of (i) \$520, or (ii) 10% of aggregate amount of items required to be reported correctly	No limit
Return required to be filed under §§ 6045(a), 6050K, or 6050L (§ 6721(e)(2)(B))	Greater of (i) \$520, or (ii) 5% of aggregate amount of items required to be reported correctly	No limit
Return required to be filed under § 6050I(a)	Greater of (i)	No limit

(§ 6721(e)(2)(C))	\$26,480, or (ii) amount of cash received up to \$105,500	
Return required to be filed under § 6050V ( § 6721(e)(2)(D))	Greater of (i) \$520, or (ii) 10% of the value of the benefit of any contract with respect to which information is required to be included on the return	No limit

.07 Failure to Furnish Correct Payee Statements. For taxable years beginning in 2015, the penalty amounts under § 6722 are:

(1) for persons with average annual gross receipts for the most recent three taxable years of more than \$5,000,000, for failure to file correct payee statements are:

Scenario	Penalty Per Return	Calendar Year Maximum
General Rule ( § 6722(a)(1))	\$260	\$3,178,500
Corrected on or before 30 days after required filing date ( § 6722(b)(1))	\$50	\$529,500
Corrected after 30 <sup>th</sup> day but on or before August 1 ( § 6722(b)(2))	\$100	\$1,589,000

(2) for persons with average annual gross receipts for the most recent 3 taxable years of \$5,000,000 or less, for failure to file correct payee statements are:

Scenario	Penalty Per Return	Calendar Year Maximum
General Rule ( § 6722(d)(1)(A))	\$260	\$1,059,500
Corrected on or before 30 days after required filing date ( § 6722(d)(1)(B))	\$50	\$185,000
Corrected after 30 <sup>th</sup> day but on or before August 1 ( § 6722(d)(1)(C))	\$100	\$529,500

(3) for failure to file correct payee statements due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement) are:

Scenario	Penalty Per Return	Calendar Year Maximum
Statement other than a statement required under §§ 6045(b), 6041A(e) (in respect of a return required under § 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c) (§ 6722(e)(2)(A))	Greater of (i) \$520, or (ii) 10% of aggregate amount of items required to be reported correctly	No limit
Payee statement required under §§ 6045(b), 6050K(b), or 6050L(c) (§ 6722(e)(2)(B))	Greater of (i) \$520, or (ii) 5% of aggregate amount of items required to be reported correctly	No limit

SECTION 4. CORRECTION OF SECTION 3.48(3), FAILURE TO FILE CORRECT INFORMATION RETURNS, OF REV. PROC. 2015-53.

For taxable years beginning in 2016, section 3.48(3) of Rev. Proc. 2015-53 provides the penalty amounts under § 6721 for failure to file correct information returns due to intentional disregard of the filing requirement (or the correct information reporting requirement). The scenario for a return required to be filed under § 6050V (§ 6721(e)(2)(D)) is corrected to provide as follows :

Scenario	Penalty Per Return	Calendar Year Maximum
Return required to be filed under § 6050V (§ 6721(e)(2)(D))	Greater of (i) \$530, or (ii) 10% of the value of the benefit of any contract with respect to	No limit

	which information is required to be included on the return	
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**SECTION 5. EFFECTIVE DATES**

Section 3 of this revenue procedure applies to taxable years beginning in 2015.

Section 4 of this revenue procedure applies to taxable years beginning in 2016.

**SECTION 6. DRAFTING INFORMATION**

The principal author of this revenue procedure is William Ruane of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Ruane at (202) 317-4718 (not a toll-free call).