

Federal tax return preparer penalties quick reference chart

Purpose: This chart summarizes various federal penalties that the IRS may assess against an individual or a firm meeting the definition of a tax return preparer as defined under Sec. 7701(a)(36) / Regs. Sec. 301.7701-15 and Sec. 7216 / Regs. Sec. 301.7216-1. Although comprehensive, this list is not all-inclusive and has been developed to help tax practitioners understand potential penalty exposure and ways to have any penalty assessment abated.

Penalty	How is it calculated or assessed?	How is it abated?	Authorities	Tips
Failure to furnish copy of return/claim for refund to taxpayer	<ul style="list-style-type: none"> The penalty is \$50 for each failure to furnish a copy of a return or claim for refund to a taxpayer; the maximum penalty imposed on any tax return preparer shall not exceed \$25,000 in a calendar year (adjusted for inflation). 	<ul style="list-style-type: none"> Reasonable cause 	<ul style="list-style-type: none"> Sec. 6695(a) Sec. 6107(a) Regs. Sec. 1.6695-1(a) Regs. Sec. 1.6107-1 IRM 20.1.6.5.1 	<ul style="list-style-type: none"> A tax preparer should always provide a copy of the return or claim prepared by him or her to the client if the preparer delivers the filing copy or issues Form 8879 to the taxpayer (even if the client has not paid them). All client-provided documents must also be returned to the client. However, CPAs are not required to provide their workpapers to clients (e.g., basis worksheets or depreciation schedules).
Failure to sign return/claim for refund	<ul style="list-style-type: none"> The penalty is \$50 for each failure to sign a return or claim for refund as required by regulations; the maximum penalty imposed on any tax return preparer shall not exceed \$25,000 in a calendar year (adjusted for inflation). The penalty applies only to a "signing tax return preparer" as defined in Regs. Sec. 301.7701-15(b)(1). A preparer is not required to sign the taxpayer's copy of the return. 	<ul style="list-style-type: none"> Reasonable cause 	<ul style="list-style-type: none"> Sec. 6695(b) Regs. Sec. 1.6695-1(b) Regs. Sec. 301.7701-15(b)(1) IRM 20.1.6.5.2 	<ul style="list-style-type: none"> Provide a written statement to substantiate a claim of reasonable cause. A preparer is a person who signs the return and/or prepares a substantial portion of the return, e.g., a professional who conducts a research credit study used to prepare Form 6765 is a preparer for purposes of Form 6765 if the "substantial portion" threshold is met; that person may or may not meet the definition of a "signing tax preparer."
Failure to furnish identifying number	<ul style="list-style-type: none"> The penalty is \$50 for each failure to furnish an identifying number on a return or claim for refund; the maximum penalty imposed on any tax return preparer shall not exceed \$25,000 in a calendar year (adjusted for inflation). 	<ul style="list-style-type: none"> Reasonable cause 	<ul style="list-style-type: none"> Sec. 6695(c) Sec. 6109(a)(4) Regs. Sec. 1.6695-1(c) IRM 20.1.6.5.3 	<ul style="list-style-type: none"> The return or claim for refund must contain the identifying number of the preparer required to sign the return or claim for refund and the identifying number of the taxpayer. Identifying numbers include the preparer tax identification number (PTIN) and the taxpayer's identification number.

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Failure to retain copy or list	<ul style="list-style-type: none"> The penalty is \$50 for each failure to retain a copy of a return or claim for refund or retain, on a list, the name and identification number of the taxpayer for whom such return or claim was prepared and to make such copy or list available for inspection upon request by the IRS. The maximum penalty imposed on any tax return preparer shall not exceed \$25,000 in a return period (adjusted for inflation). 	<ul style="list-style-type: none"> Reasonable cause 	<ul style="list-style-type: none"> Sec. 6695(d) Sec. 6107(b) Sec. 6060 Regs. Sec. 1.6695-1(d) Regs. Sec. 1.6107-1 IRM 20.1.6.5.4 	<ul style="list-style-type: none"> Tax return preparers must be diligent in their retention of copies of returns and claims. Make such copy or list available for inspection upon request by the IRS for a three-year period following the close of the return period (twelve-month period beginning on July 1 of each year).
Failure to file correct information returns	<ul style="list-style-type: none"> Any person who fails to comply with the requirements under Sec. 6060 related to the required information for each tax return preparer shall pay a penalty of \$50 for each failure to keep a record and \$50 for each failure to include a required item in a record. The maximum penalty imposed on any tax return preparer shall not exceed \$25,000 in a calendar year (adjusted for inflation). 	<ul style="list-style-type: none"> Reasonable cause 	<ul style="list-style-type: none"> Sec. 6695(e) Sec. 6060 Regs. Sec. 1.6695-1(e) Regs. Sec. 1.6060-1 IRM 20.1.6.5.5 	<ul style="list-style-type: none"> Carefully review the rules in Sec. 6060 related to any person who employs a tax return preparer to prepare any return or claim for refund.
Negotiation of check	<ul style="list-style-type: none"> The penalty is \$500 (adjusted for inflation) for a tax return preparer who endorses or negotiates any check made in respect of the taxes imposed by the Internal Revenue Code which is issued to a taxpayer. There is no maximum amount. 	<ul style="list-style-type: none"> Specific acts excluded from penalty No reasonable cause exception 	<ul style="list-style-type: none"> Sec. 6695(f) Regs. Sec. 1.6695-1(f) IRM 20.1.6.5.6 	<ul style="list-style-type: none"> Tax return preparers are generally prohibited from endorsing or negotiating checks for a taxpayer (even if the preparer is a designated representative on Form 2848). See Regs. Sec. 1.6695-1 and IRM 20.1.6.5.6.1 for a discussion on exceptions to this penalty.
Failure to be diligent in determining eligibility for certain tax benefits	<ul style="list-style-type: none"> The penalty is \$500 (adjusted for inflation) for each failure to comply with the due diligence requirements (eligibility to claim the child tax credit, additional child tax credit, earned income tax credit, or the American opportunity tax credit). There is no maximum amount. For years beginning after Dec. 31, 2017, the penalty also applies to each failure to comply with due diligence requirements with regard to determining the eligibility to file as head of household (not effective until regulations are issued). 	<ul style="list-style-type: none"> Normal office procedures were in place to ensure compliance and failure was isolated or inadvertent 	<ul style="list-style-type: none"> Sec. 6695(g) Regs. Sec. 1.6695-2 IRM 20.1.6.5.7 	<ul style="list-style-type: none"> The Code and regulations do not specifically state a reasonable cause exception to this penalty. However, the IRS can remove the penalty based on reasonable cause-like factors (see Regs. Sec. 1.6695-2(d)). Generally, practitioners need to keep all records including questions asked of clients and answers received from them for three years after the return is filed. Refer to Form 8867, Paid Preparer's Due Diligence Checklist, and Publication 4687, Refundable Credits Due Diligence.

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Understatement of a taxpayer's liability by a return preparer	<ul style="list-style-type: none"> The penalty is the greater of \$1,000 or 50% of the income derived by the tax return preparer with respect to the return or claim for refund. The penalty will not apply if the position was: <ul style="list-style-type: none"> adequately disclosed and there was reasonable basis for the position, or not disclosed but there was substantial authority for the position If the preparer is proven to have willfully or recklessly disregarded the rules, the penalty increases to the greater of \$5,000 or 75% of the income derived by the tax return preparer with respect to the return or claim for refund. 	<ul style="list-style-type: none"> Reasonable cause (N/A for willful/reckless conduct) Final administrative determination or final judicial decision that there was no understatement of liability 	<ul style="list-style-type: none"> Sec. 6694 Regs. Sec. 1.6694 IRM 20.1.6.4 	<ul style="list-style-type: none"> Often this penalty is assessed against the preparer when the accuracy-related penalty (Sec. 6662 or 6662A) or the erroneous claim for refund or credit penalty (Sec. 6676) is assessed against the taxpayer/client. Consider disclosing a position on Forms 8275 or 8275-R to potentially avoid the penalty. Non-signing preparers can also be penalized under this section.
Promoting abusive tax shelters	<ul style="list-style-type: none"> For activities involving material false or fraudulent tax statements, the penalty is equal to 50% of the gross income derived (or to be derived) by the promoter. For all activities that involve gross valuation overstatements, the penalty is equal to \$1,000 for each organization or sale of an abusive plan or arrangement (or 100% of income derived if it is less than \$1,000). 	<ul style="list-style-type: none"> Promoter to pay 15% of the amount of the penalty within 30 days of the assessment and file a refund claim (Form 6118) 	<ul style="list-style-type: none"> Sec. 6700 IRM 20.1.6.13 	<ul style="list-style-type: none"> There are no pre-assessment appeal rights. Within 30 days after the day that a claim for refund (Form 6118) is disallowed or within 30 days after the expiration of six months after the day that a claim for refund was filed, whichever is earlier, a promoter can file suit in U.S. District Court. Collection action is suspended pending final resolution of any court proceeding.
Penalties for aiding and abetting the understatement of tax liability	<ul style="list-style-type: none"> The penalty is \$1,000 for each document (or \$10,000 if the conduct relates to a corporation's tax return). S corporations are not subject to the higher amount. 	<ul style="list-style-type: none"> Promoter to pay 15% of the amount of the penalty within 30 days of the assessment and file a refund claim (Form 6118) 	<ul style="list-style-type: none"> Sec. 6701 IRM 20.1.6.14 	<ul style="list-style-type: none"> The procedures work similarly to the above Sec. 6700 penalty.
Penalty for disclosure of use of information by preparers of income tax returns	<ul style="list-style-type: none"> The penalty is \$250 for each unauthorized disclosure or use of information furnished for, or in connection with, the preparation of a return. The maximum penalty per preparer in any calendar year is \$10,000. 	<ul style="list-style-type: none"> Pre-assessment appeal rights 	<ul style="list-style-type: none"> Sec. 6713 Regs. Sec. 301.7216 IRM 20.1.6.7 	<ul style="list-style-type: none"> Safeguarding taxpayer data continues to be a focus of the IRS. See Publication 4557, Safeguarding Taxpayer Data, for tips and guidance. The Sec. 6713 penalty can be asserted in conjunction with other preparer penalties. The penalty can be assessed for any improper disclosure of tax return information. If the preparer "knowingly" or "recklessly" discloses information, possible criminal referral (Sec. 7216).

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Fraud and false statements	<ul style="list-style-type: none"> Criminal offense punishable by fine of not more than \$100,000 (\$500,000 in the case of a corporation), imprisonment of not more than three years, or both, together with the costs of prosecution. 	<ul style="list-style-type: none"> No administrative-level relief available Must prove the act was non-willful to avoid prosecution 	<ul style="list-style-type: none"> Sec. 7206 IRM 25.1.1 	<ul style="list-style-type: none"> The government must typically prove that the preparer aided or assisted in preparation of the return, the return was false or fraudulent to any material matter, and the act was willful. It isn't necessary for the preparer to sign the return to be subject to this penalty. This penalty is usually assessed against tax preparers, accountants and lawyers who help clients to prepare false or fraudulent documents.
Fraudulent returns, statements or other documents	<ul style="list-style-type: none"> Criminal offense punishable by fine of not more than \$10,000 (\$50,000 in the case of a corporation), imprisonment of not more than one year, or both, together with the cost of prosecution. 	<ul style="list-style-type: none"> No administrative-level relief available Must prove the act was non-willful to avoid prosecution 	<ul style="list-style-type: none"> Sec. 7207 IRM 25.1.1 	<ul style="list-style-type: none"> The government must prove that there was a willful delivery or disclosure of a fraudulent document to the IRS. This penalty is often applied to taxpayers who submit false documents to the IRS during an audit.
Action to enjoin tax return preparers	<ul style="list-style-type: none"> The U.S. District Court can enjoin a tax return preparer from engaging in certain misconduct. 	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Sec. 7407 IRM 20.1.6.10 	<ul style="list-style-type: none"> The court may enjoin the preparer if he or she engaged in prohibited conduct and injunctive relief is appropriate to prevent recurrence of conduct.
Disclosure or use of information by preparers of income tax returns	<ul style="list-style-type: none"> Criminal offense punishable by fine of not more than \$1,000, imprisonment of not more than one year, or both, together with the costs of prosecution. 	<ul style="list-style-type: none"> No administrative-level relief is available Must prove the preparer did not knowingly or recklessly disclose or use the information 	<ul style="list-style-type: none"> Sec. 7216 Regs. Sec. 301.7216 Rev. Proc. 2013-14 (as modified by Rev. Proc. 2013-19) 	<ul style="list-style-type: none"> Sec. 7216 is the criminal penalty equivalent of the civil penalty under Sec. 6713. The preparer must have "knowingly" or "recklessly" disclosed the information for the penalty to be assessed. Neither the Code nor Committee Reports define "knowingly" or "recklessly." Unless an exception applies, the preparer must obtain written consent before disclosing or using a taxpayer's tax return information. See additional information on the AICPA's Section 7216 Guidance and Resources page.
Actions to enjoin specified conduct related to tax shelters and reportable transactions	<ul style="list-style-type: none"> The U.S. District Court can enjoin any person from engaging in certain tax shelter or reportable transactions misconduct. 	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Sec. 7408 IRM 20.1.6.15 	<ul style="list-style-type: none"> The court may enjoin any person from promoting abusive tax shelters, including material advisors who fail to report a reportable transaction or maintain or furnish on request a list of investors for a reportable transaction. Injunctive relief must be appropriate to prevent recurrence of such conduct.

Other considerations and penalty abatement tips for preparers

- See [IRM Part 20, Penalty and Interest](#). This is the section of the IRM that provides IRS employees guidance on assessing and abating many different types of penalties. Most preparer penalties are covered under IRM Part 20.1.6.
- Circular 230, *Regulations Governing Practice before the Internal Revenue Service*, also contain provisions which govern actions of tax return preparers who practice before the Internal Revenue Service. Additional penalties may also be assessed under Circular 230.
- Always consider [statutory exceptions](#). Tax legislation may provide for an exception to a penalty.
- See [The Preparer Penalties of Sec. 6694 and Sec. 6695](#) (*The Tax Adviser*, Feb. 1, 2017) for additional guidance.
- For many preparer penalties, it's often best to request a meeting or telephone conference with the supervisor of the person who is trying to assess the penalty. Provide a thorough protest document to substantiate your case (outline facts and circumstances, the applicable law and authority and how the law and authority relates to your facts and circumstances). If not successful, many penalties allow you to discuss the issues with the IRS Office of Appeals.
- Consider using [Form 6118, Claim for Refund of Tax Return Preparer and Promoter Penalties](#). Paying 15% or more of the penalty can suspend collection activity and the running of the statute of limitations until the penalty case is resolved. Refer to Sec. 6694(c) and Sec. 6703(c).
- The statute of limitations on assessment of penalties depends on the applicable penalty. Sec. 6694(a) and Sec. 6695 penalties expire three years from the later of the due date of the underlying related return or the date the return was filed. There is no statute of limitations on assessment for Sec. 6694(b), Sec. 6700, Sec. 6701, Sec. 6713, Sec. 7407 and Sec. 7408 penalties.
- Extending the statute using [Form 872, Consent to Extend the Time to Assess Tax](#), on a taxpayer's return does not extend the statute for the return preparer penalty case. The statute on a return preparer penalty case under Sec. 6694(a) and Sec. 6695 can be extended using Form 872-D, *Consent to Extend the Time on Assessment of Tax Return Preparer Penalty* (form usually provided by an IRS revenue agent).
- A referral of a practitioner to the IRS Office of Professional Responsibility (OPR) as a result of a penalty assessment varies based on the applicable penalty. In many cases, examiners have discretion in making referrals to OPR. For penalties assessed under Sec. 6695(b), Sec. 6700, and Sec. 6701, referral to OPR is mandatory.
- In March 2018, the IRS Return Preparer Office launched an email campaign entitled, "Did You Know" in an effort to make sure practitioners are not engaging in return preparation practices that may subject them to a preparer penalty.
- Consider [state boards of accountancy](#) rules and requirements.
- Consider [Statements on Standards for Tax Services](#).