

## Sec. 6662. Imposition of Accuracy-Related Penalty on Underpayments.

**(a) Imposition of Penalty.** If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

**(b) Portion of Underpayment to Which Section Applies.** This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

- (1) Negligence or disregard of rules or regulations.
- (2) Any substantial understatement of income tax.
- (3) Any substantial valuation misstatement under chapter 1.
- (4) Any substantial overstatement of pension liabilities.
- (5) Any substantial estate or gift tax valuation understatement.
- (6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.
- (7) Any undisclosed foreign financial asset understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663. Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.

**(c) Negligence.** For purposes of this section, the term “negligence” includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term “disregard” includes any careless, reckless, or intentional disregard.

## **(d) Substantial Understatement of Income Tax.**

### **(1) Substantial understatement.**

**(A) In general.** For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of-

**(i)** 10 percent of the tax required to be shown on the return for the taxable year, or

**(ii)** \$5,000.

**(B) Special rule for corporations.** In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

**(i)** 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, \$10,000), or

**(ii)** \$10,000,000.

### **(2) Understatement.**

**(A) In general.** For purposes of paragraph (1), the term “understatement” means the excess of—

**(i)** the amount of the tax required to be shown on the return for the taxable year, over

**(ii)** the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.

**(B) Reduction for understatement due to position of taxpayer or disclosed item.** The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

(i) the tax treatment of any item by the taxpayer if there is or was **substantial authority** for such treatment, or

(ii) any item if-

(I) the relevant facts affecting the item's tax treatment are **adequately disclosed** in the return or in a statement attached to the return, and

(II) there is a **reasonable basis** for the tax treatment of such item by the taxpayer.

For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.

**(C) Reduction not to apply to tax shelters.—**

(i) **In general.** Subparagraph (B) shall not apply to any item attributable to a tax shelter.

(ii) **Tax shelter.** For purposes of clause (i), the term "tax shelter" means—

(I) a partnership or other entity,

(II) any investment plan or arrangement, or

(III) any other plan or arrangement, if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.