

Resources

President Obama Signs Trade Preferences and Extension Act of 2015, Increasing Penalties

July 14, 2015

On June 29, President Obama signed the Trade Preferences and Extension Act of 2015, which significantly increases penalties for the failure to file correct information returns under I.R.C. § 6721 and the failure to furnish statements to payees pursuant to I.R.C. § 6722. The new law increases the penalty from \$100 to \$250 for each violation of either statute. The penalty is reduced if the failure is corrected within 30 days or by August 1, and may be eliminated with a showing of reasonable cause for the failure. The maximum annual penalty is raised from \$1.5 million to \$3 million for both penalty sections, so the new total annual maximum for violations of sections 6721 and 6722 is \$6 million. The result is a five-fold increase in the penalty since 2010, and a new aggregate maximum that is 12 times the maximum penalty in 2010. The lower annual maximum penalty under each section for filers with gross receipts of less than \$5 million is also increased and all penalty amounts continue to be indexed for inflation.

Information returns and payee statements subject to these penalties include Forms 1099, 1098, W-2, 1042-S, as well as the new Forms 1094-B, 1095-B, 1094-C, and 1095-C required under the Affordable Care Act. The new penalties apply to returns and statements required to be filed or furnished after December 31, 2015. Thus, the new penalties are effective for returns and statements filed in early 2016 that will include information from 2015. The number of information filings required of businesses has increased significantly over the past few years, due in part to additional requirements under the Affordable Care Act, and as a result the IRS is expected to impose a greater number of penalties than in previous years. In this environment, taxpayers should take great care to ensure that required filings are made on time and accurately.

If you have questions about the issues covered in this alert, you may contact Jeffrey A. Goldman (jgoldman@dykema.com or 312-627-2188), or your Dykema relationship attorney.

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Practice Areas

Taxation

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