

Report of Tax Return Preparer Penalty Case

Preparer's name		Preparer's PTIN, SSN, or EIN	
Street address	City	State	ZIP code
Select one box. Preparer is <input type="checkbox"/> Employer preparer <input type="checkbox"/> Self-employed preparer <input type="checkbox"/> Employee preparer			
Examining Area/Function	Agreement <input type="checkbox"/> Full <input type="checkbox"/> None	In reply refer to	
Name and title of person with whom penalty was discussed		Date of report	

The following information identifies the tax return or claim for which penalty is being charged

Taxpayer's name		Taxpayer's SSN or EIN	
Street address	City	State	ZIP code
Tax period	Master file tax code		

Kind of Preparer Penalty Charged	Amount
A. Understatement of tax due to an unreasonable position. (IRC Sec. 6694(a))	
B. Understatement of tax due to willful or reckless conduct. (IRC Sec. 6694(b))	
C. Failure to furnish a copy of the return or claim to the taxpayer. (IRC Sec. 6695(a))	
D. Failure to sign return or claim. (IRC Sec. 6695(b))	
E. Failure to furnish identifying number on return or claim. (IRC Sec. 6695(c))	
F. Failure to keep a copy or list of the returns or claims prepared. (IRC Sec. 6695(d))	
G. Failure to file certain information returns. (IRC Sec. 6695(e))	
H. Negotiating or endorsing a refund check issued to a taxpayer (other than the preparer). (IRC Sec. 6695(f))	
I. Failure to comply with due diligence requirements. (IRC Sec. 6695(g))	
J. Disclosure or use of information, other than to prepare or assist in preparing returns, (IRC Sec. 6713)	
Total penalties	0

Examiner's signature

Other information

Note - Examiner Remove Appeals Message on Unagreed Cases

I have read the information on the back of this form that explains these penalties as they relate to tax return preparers. I agree to comply with those provisions in the future.

Consent to Assessment and Collection - I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States District Court the findings in this report, therefore, I give my consent to the immediate assessment and collection of the tax return preparer penalty.

Preparer's signature	Date
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Instructions for Form 5816, Report of Tax Return Preparer Penalty Case

In general, under IRC Sec. 7701(a)(36), any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax or any claim for refund, is considered a tax return preparer.

The penalties in A through J will be imposed against a tax return preparer in the appropriate circumstances for the conduct described below. The penalties in A, C, D, E, F, and G do not apply if it can be shown that the failure to comply was due to reasonable cause and not due to willful neglect. The penalties in B, H, I, and J do not have a reasonable cause exception. **The penalties in C, D, E, F, G, H, and I are subject to annual inflation.** For inflated rates and maximum penalty amounts, see IRM Exhibit 20.1.6-1.

- A. A penalty is charged the tax return preparer for understating a taxpayer's tax liability when the understatement is due to an unreasonable position. The penalty is the greater of \$1,000 or 50% of the income derived (or to be derived) by the preparer for the preparation of each return or claim that shows such understatement. (IRC Sec. 6694(a)).
- B. A penalty is charged the tax return preparer for understating a taxpayer's tax liability when the understatement is due to willful or reckless conduct. The penalty is the greater of \$5,000 or 75% (50% for tax years ending on or before December 18, 2015) of the income derived (or to be derived) by the preparer for the preparation of each return or claim that shows such understatement, less any penalty paid under IRC Sec. 6694(a). (IRC Sec. 6694(b)).
- C. A penalty is charged the tax return preparer for not furnishing a copy of the return or claim to the taxpayer. The penalty is base rate of \$50 for each return or claim not so provided, to a base maximum of \$25,000, with respect to documents filed in any calendar year. (IRC Sec. 6695(a)).
- D. A penalty is charged the tax return preparer for failing to sign a return or claim when required to do so. The penalty is a base rate of \$50 for each return or claim not signed. The base maximum penalty, with respect to documents filed during any calendar year, shall not exceed \$25,000. (IRC Sec. 6695(b)).
- E. A penalty is charged the tax return preparer for not providing the appropriate identification number on a return or claim. The penalty is a base rate of \$50 for each return or claim that does not show an identifying number, to a base maximum of \$25,000, with respect to documents filed in any calendar year. For an individual who prepares returns or claims filed on or before December 31, 2010, the identifying number is the individual's social security number or preparer tax identification number (PTIN). For an individual who prepares tax returns or claims filed after December 31, 2010, the identifying number is the individual's PTIN. An individual who is employed by another preparer should also provide the employer identification number of his or her employer and the business address where the return or claim was prepared. For this purpose, a partner in a partnership is considered an employee and should use the partnership's employer identification number. The number must be entered on the return or claim in the space provided. (IRC Sec. 6695(c)).
- F. A penalty is charged the tax return preparer for not keeping a copy or list of the returns or claims prepared. These records must be kept for 3 years. The penalty is a base rate of \$50 for each return or claim not recorded, with a base maximum penalty of \$25,000 for each return period. (IRC Sec. 6695(d)).
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- I. A penalty is charged the tax return preparer for failure to meet any of the due diligence requirements with respect to determining the eligibility for, or the amount of, the Earned Income Credit, American Opportunity Tax Credit, or Child Tax Credit on any return or claim. For tax year 2018 and later, this penalty has been expanded to include the determination of the head of household filing status. (Note: For tax years ending prior to December 31, 2015, the due diligence requirements applied only to the Earned Income Credit). For returns and claims for tax years ending after December 31, 2011, the penalty is a base rate of \$500 per failure. There is no maximum amount. (IRC Sec. 6695(g)).
- J. A penalty is charged the tax return preparer if information furnished to him for, or in connection with, the preparation of returns is disclosed or used for any other purpose other than to prepare or to assist in preparing returns. The penalty is \$250 for each disclosure or use, with a maximum of \$10,000 per person for any calendar year. For disclosure or uses made on or after July 1, 2019, if the disclosure or use is made in connection with a crime relating to the misappropriation of another person's taxpayer identity, whether or not such crime involves any tax filing, the penalty increases to \$1,000 for each use or disclosure, with a maximum of \$50,000 per person per calendar year. (IRC Sec. 6713).

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Examining Area/Function	Agreement <input type="checkbox"/> Full <input type="checkbox"/> None	In reply refer to	
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The following information identifies the tax return or claim for which penalty is being charged

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J. Disclosure or use of information, other than to prepare or assist in preparing returns, (IRC Sec. 6713)	
Total penalties	0

Examiner's signature _____

Other information _____

Note - Examiner Remove Appeals Message on Unagreed Cases

I have read the information on the back of this form that explains these penalties as they relate to tax return preparers. I agree to comply with those provisions in the future.

Consent to Assessment and Collection - I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States District Court the findings in this report, therefore, I give my consent to the immediate assessment and collection of the tax return preparer penalty.

Preparer's signature	Date
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Instructions for Form 5816, Report of Tax Return Preparer Penalty Case

In general, under IRC Sec. 7701(a)(36), any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax or any claim for refund, is considered a tax return preparer.

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Name and title of person with whom penalty was discussed		Date of report	

The following information identifies the tax return or claim for which penalty is being charged

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J. Disclosure or use of information, other than to prepare or assist in preparing returns, (IRC Sec. 6713)	
Total penalties	0

Examiner's signature _____

Other information _____

Note - Examiner Remove Appeals Message on Unagreed Cases

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