IRM PROCEDURAL UPDATE

DATE: 12/20/2016

NUMBER: sbse-20-1216-1783

SUBJECT: Updates for 6694(b) - PATH Act and Penalty Rates Subject to Inflationary Increases

AFFECTED IRM(s)/SUBSECTION(s): 20.1.6

CHANGE(s):

Exhibit 20.1.6-1 Changes made to update IRC 6695 (a)-(g) for inflationary increases.

IRC	Title	Tax Years 2014 & prior (Base rate)	Tax year 2015	Tax Year 2016	Tax Year 2017
6695(a)	Failure to Furnish Copy to Taxpayer	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,500 maximum	$50 per return or claim; $25,500 maximum
6695(b)	Failure to Sign Return	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,500 maximum	$50 per return or claim; $25,500 maximum
6695(c)	Failure to Furnish Identifying Number	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,500 maximum	$50 per return or claim; $25,500 maximum
6695(d)	Failure to Retain Copy or List	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,000 maximum	$50 per return or claim; $25,500 maximum	$50 per return or claim; $25,500 maximum
6695(e)	Failure to File Correct Information Returns	$50 per return and item in return; $25,000	$50 per return and item in return; $25,000	$50 per return and item in return; $25,500	$50 per return and item in return; $25,500

		maximum	maximum	maximum	maximum
6695(f)	Negotiation of Check	$500 per check; No maximum	$505 per check; No maximum	$510 per check; No maximum	$510 per check; No maximum
6695(g)	Failure to Exercise Due Diligence	$500 per return or item in return; No maximum	$505 per return or item in return; No maximum	$510 per return or item in return; No maximum	$510 per return or item in return; No maximum

IRM 20.1.6.4.13.2 Changes made to update IRC 6694(b) to a potentially increased penalty amount as a result of changes made by the PATH Act.

1. SBWOTA increased the IRC 6694(b) penalty to the greater of $5,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to returns, amended returns, and claims for refund prepared on or after May 26, 2007.
2. The PATH Act increased the IRC 6694(b) penalty to the greater of $5,000 or 75 percent of income derived (or to be derived) by the tax return preparer with respect to returns, amended returns, and claims for refund prepared for tax years ending after December 18, 2015.
3. If both IRC 6694(a) and IRC 6694(b) penalties apply to a tax return preparer, the IRC 6694(b) penalty amount must be reduced by the IRC 6694(a) penalty amount per IRC 6694(b)(3), *Reduction in Penalty*.
4. Examiners should ensure that the combined assessment of IRC 6694(a) and IRC 6694(b) penalties against a preparer do not exceed the greater of $ 5,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to returns, amended returns, and claims for refund prepared on or after May 26, 2007.
5. Examiners calculating the IRC 6694(b) penalty using 75 percent (or 50 percent) of the income derived (or to be derived) by the tax return preparer from the preparation of a return or claim must elevate the calculation determination through his or her manager to the functional RPC. The RPC will then consult with the appropriate local Counsel contact person.