

Failure to File Penalty Increase

Cross References

- IRC §6651

On February 24, 2016, the President signed into law H.R. 644, the Trade Facilitation and Trade Enforcement Act of 2015. The law authorizes U.S. Customs and Border Protection to put in place tools to strengthen trade enforcement at the border and facilitate the efficient movement of legitimate trade and travel. The law contains one amendment to the Internal Revenue Code.

Under IRC section 6651, the failure to file penalty is equal to 5% of the amount of tax shown on the return if the failure to file is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not to exceed 25% in the aggregate. If the tax return is more than 60 days late, the penalty is at least the lesser of \$135 or 100% of the amount required to be shown as tax on the return. If both the failure to file penalty and the failure to pay penalty applies, the failure to file penalty is reduced by the amount of the failure to pay penalty. In no case is there a late filing penalty if the taxpayer is due a refund.

New law. Effective for returns required to be filed in calendar years after 2015, the \$135 minimum penalty amount is increased to the lesser of \$205 or 100% of the amount required to be shown as tax on the return. The new \$205 minimum amount is indexed annually for inflation.