

## Internal Revenue Service, Treasury

## § 1.6851-1

date payment is received by the Internal Revenue Service or, where applicable, on the date an amount is credited in satisfaction of the penalty.

(2) The rules under sections 7502 and 7503 and the regulations thereunder apply to the timely filing of a claim as provided in this section.

(h) *Application of refund to outstanding liability of income tax return preparer.* The Internal Revenue Service may, within the applicable period of limitation, credit any amount of an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the preparer making the overpayment. If a portion of an overpayment is so credited, only the balance will be refunded to the preparer.

(i) *Interest.* (1) Section 6611 and the regulations thereunder apply to the payment by the Internal Revenue Service of interest on an overpayment by a preparer of a penalty (or penalties) paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

(2) Section 6601 and the regulations thereunder apply to the payment of interest by a preparer to the Internal Revenue Service on any penalty (or penalties) assessed against the preparer under section 6694 and § 1.6694-1 or under section 6695 and § 1.6695-1.

(j) *Suits for refund of preparer penalty.* (1) A preparer may not maintain a civil action for the recovery of any penalty paid under section 6694 and § 1.6694-1 or under section 6695 and § 1.6695-1, unless the preparer has previously filed a claim for credit or refund of the penalty as provided in this section (and the court has jurisdiction of the proceeding). See sections 6694(c) and 7422.

(2)(i) Except as provided in section 6694(c)(2) and § 1.6694-2(b), the periods of limitation contained in section 6532 and the regulations thereunder apply to a preparer's suit for the recovery of any penalty paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

(ii) The rules under section 7503 and the regulations thereunder apply to the timely commencement by a preparer of

a suit for the recovery of any penalty paid under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1.

[T.D. 7621, 44 FR 27985, May 14, 1979]

### § 1.6709-1T Penalties with respect to mortgage credit certificates (temporary).

(a) *Material misstatement*—(1) *Negligence.* If any person makes a material misstatement in any affidavit or other statement under a penalty of perjury made with respect to the issuance of a mortgage credit certificate and such misstatement is due to the negligence of that person, that person shall pay a penalty of \$1,000 for each mortgage credit certificate with respect to which that misstatement was made.

(2) *Fraud.* If a misstatement described in subparagraph (1) is due to fraud on the part of the person making the misstatement, that person shall pay a penalty of \$10,000 for each mortgage credit certificate with respect to which the fraudulent misstatement was made. The penalty imposed by this paragraph (a)(2) is in addition to any criminal penalty.

(b) *Reports.* (1) Any person required by § 1.25-8T to file a report with respect to any mortgage credit certificate who fails to file the report at the time and in the manner required by § 1.25-8T shall pay a penalty of \$200 for each mortgage credit certificate with respect to which that failure occurred. The preceding sentence shall not apply if it is shown that such failure is due to reasonable cause and not to willful neglect.

(2) In the case of any report required under § 1.25-8T(b), the aggregate amount of the penalty imposed by this paragraph shall not exceed \$2,000.

[T.D. 8023, 50 FR 19355, May 8, 1985]

### JEOPARDY, BANKRUPTCY, AND RECEIVERSHIPS

### § 1.6851-1 Termination assessments of income tax.

(a) *Authority for making*—(1) *In general.* This section applies to assessments authorized by a district director under section 6851(a) (hereinafter referred to as termination assessments). The district director shall immediately authorize a termination assessment of