

(ii) The date (or dates) of payment of the amount (or amounts) of the penalty (or penalties) included in the claim; and

(iii) The total amount claimed.

(6) A statement setting forth in detail:

(i) Each ground upon which each penalty overpayment claim is based; and

(ii) Facts sufficient to apprise the Internal Revenue Service of the exact basis of each such claim.

(e) *Form for filing claim.* Notwithstanding § 301.640-2(c), Form 6118 is the form prescribed for making a claim as provided in this section.

(f) *Place for filing claim.* A claim filed under this section shall be filed with the Internal Revenue Service Center (or district director) which issued to the preparer the statement (or statements) of notice and demand for payment of the penalty (or penalties) included in the claim.

(g) *Time for filing claim.* (1) Except as provided in section 6694(c)(1) and § 1.6694-2, (a)(3)(ii) and (4), and in section 6694(d) and § 1.6694-1(c):

(i) A claim for a penalty paid by a preparer under section 6694 and § 1.6694-1, or under section 6695 and § 1.6695-1, shall be filed within 3 years from the date the payment was made; and

(ii) A consolidated claim, permitted under paragraph (c)(2) of this section, shall be filed within 3 years from the first date of payment of any penalty included in the claim.

For purposes of this paragraph (g)(1), payment is considered made on the 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 the income tax for the current or preceding taxable year if the district director finds that a taxpayer designs to do an act which would tend to prejudice proceedings to collect the income tax for such year or years unless such proceedings are brought without delay. In addition, the district director shall immediately authorize such a termination assessment if the district director determines that the taxpayer designs to do any act which would tend to render such proceedings wholly or partially ineffective unless brought without delay. A termination assessment will be made if collection is determined to be in jeopardy because at least one of the following conditions exists.

(i) The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself or herself.

(ii) The taxpayer is or appears to be designing quickly to place his, her, or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to other persons.

(iii) The taxpayer's financial solvency is or appears to be imperiled.

Paragraph (a)(1)(iii) of this section does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, and penalty, if any. A tax assessed under this section shall become immediately due and payable and the district director shall serve upon such taxpayer notice and demand for immediate payment of such tax.

(2) *Computation of tax.* If a termination assessment of the income tax for the current year is made, the income tax for such year shall be computed for the period beginning on the first day of such year and ending on the day of the assessment. A credit shall be allowed for any tax for the taxable year previously assessed under section 6851. The taxpayer is entitled to a deduction for the personal exemptions (as limited in the case of certain non-resident aliens) without any proration for or because of the short taxable period.

(3) *Taxable year not affected by termination.* Notwithstanding any termination assessment a taxpayer shall file a return in accordance with section 6012 and the regulations thereunder for the taxpayer's full taxable year. The term "full taxable year" means the taxpayer's usual annual accounting period determined without regard to any action under section 6851 and this section. The return shall show all items of gross income, deductions, and credits for such taxable year. Any tax collected as a result of a termination assessment will be applied against the tax due for the taxpayer's full taxable year. Except as provided in § 1.6851-2 (relating to departing aliens), no return is required to be filed for a terminated period other than a full taxable year.