



Effective with returns due after January 1, 2016, penalties for not filing correct information returns and/or not furnishing correct payee statements have increased and are now subject to inflationary adjustments.

Examples of affected forms include: Forms 1098, 1099, W-2G and W-2.

The amount of the penalty is based on when you file the correct information return or furnish the correct payee statement. The penalty for not filing a correct information return is separate from the penalty for not providing the correct payee statement. For example, if you don't file a correct Form 1099-MISC with the IRS and don't provide a correct Form 1099-MISC statement to the payee, you may be subject to two separate penalties.

To Avoid Penalties

Beginning with the 2016 tax year:

Employers must send Copy A of Forms W-2 and W-3 to the Social Security Administration by **January 31** of the following year for both paper and electronic forms.

Employers must furnish Copy B and any other applicable copies of information returns to the employee by January 31 of the following year.

Businesses, including tax exempt and government entities, must send Copy A of Form 1099-MISC to the IRS by:

- **January 31** of the following year when you're reporting non-employee compensation payments in Box 7;
- **February 28** if filing by paper when you're **NOT** reporting non-employee compensation in Box 7; or
- **March 31** if filing electronically when you're **NOT** reporting non-employee compensation in Box 7.

In years prior to the 2016 tax year:

Businesses, including tax exempt and government entities, must send Copy A of Forms 1098, 1099, W-2G and other information returns to the Internal Revenue Service with transmittal Form 1096 by:

- **The last day of February** of the following year if filing by paper; or
- **March 31** if filing electronically.

Employers were also required to send Copy A of Form W-2 to the Social Security Administration with transmittal Form W-3 by:

- **The last day of February** of the following year if filing by paper; or
- **March 31** if filing electronically.

In addition, employers filing 250 or more information returns must [file electronically](#) unless granted a waiver by the IRS.

Penalty Rates

The penalty rates and maximums for not filing correct information returns and/or not furnishing correct payee statements, including inflationary adjustments if applicable, are reflected in the following table (*-as adjusted for inflation):

| Large Businesses with Gross Receipts of More Than \$5 Million and Government Entities (*Average annual gross receipts for the most recent 3 taxable years) IRC 6721 & IRC 6722 | | | | |
|--|--|--|--|--|
| Time returns filed/furnished | Due 01-01-2011 thru 12-31-2015 | Due 01-01-16 thru 12-31-2016 (inflation adjusted) | Due 01-01-17 thru 12-31-2017 (inflation adjusted) | Due 01-01-18 thru 12-31-2018 (inflation adjusted) |
| Not more than 30 days late (by March 30 if the due date is February 28) | \$30 per return/ \$250,000 maximum | \$50 per return/ \$529,500 maximum | \$50 per return/ \$532,000 maximum | \$50 per return/ \$536,000 maximum |
| 31 days late – August 1 | \$60 per return/ \$500,000 maximum | \$100 per return/ \$1,589,000 maximum | \$100 per return/ \$1,596,500 maximum | \$100 per return/ \$1,609,000 maximum |
| After August 1 or Not At All | \$100 per return/ \$1,500,000 maximum | \$260 per return/ \$3,178,500* maximum | \$260 per return/ \$3,193,000 maximum | \$260 per return/ \$3,218,500 maximum |
| Intentional Disregard | \$250 per return/ No limitation | \$520 per return/ No limitation | \$530 per return/ No limitation | \$530 per return/ No limitation |

Note: Increased penalty amounts may apply for certain failures in the case of intentional disregard. See IRC 6721(e)(2) and IRC 6722(e)(2).

Small Businesses with Gross Receipts \$5 Million or Less (*Average annual gross receipts for the most recent 3 taxable years) IRC 6721 & IRC 6722

| Time returns filed/furnished | Due 01-01-2011 thru 12-31-2015 | Due 01-01-16 thru 12-31-2016 (inflation adjusted) | Due 01-01-17 thru 12-31-2017 (inflation adjusted) | Due 01-01-18 thru 12-31-2018 (inflation adjusted) |
|---|--|--|--|--|
| Not more than 30 days late (by March 30 if the due date is February 28) | \$30 per return/ \$75,000 maximum | \$50 per return/ \$185,000 maximum | \$50 per return/ \$186,000 maximum | \$50 per return/ \$187,500 maximum |
| 31 days late – August 1 | \$60 per return/ \$200,000 maximum | \$100 per return/ \$529,500 maximum | \$100 per return/ \$532,000 maximum | \$100 per return/ \$536,000 maximum |
| After August 1 or Not At All | \$100 per return/ \$500,000 maximum | \$260* per return/ \$1,059,500 maximum | \$260 per return/ \$1,064,000 maximum | \$260 per return/ \$1,072,500 maximum |
| Intentional Disregard | \$250 per return/ No limitation | \$520 per return/ No limitation | \$530 per return/ No limitation | \$530 per return/ No limitation |

Penalties for not filing correct information returns (Code Section 6721) may apply if you:

- Don't file a correct information return by the due date and a reasonable cause is not shown;
- File on paper when you were required to file electronically;
- Don't report a Taxpayer Identification Number (TIN);
- Report an incorrect TIN; or
- Don't file paper forms that are machine readable.

Penalties for not providing correct payee statements (Code Section 6722) may apply if:

- You don't provide a correct payee statement by the applicable date and a reasonable cause isn't shown;
- All required information isn't shown on the statement; or
- Incorrect information is included on the statement.

For more information on penalties, information returns and payee statements, see [General Instructions for Certain Information Returns \(PDF\)](#) and [General Instructions for Forms W-2 and W-3 \(PDF\)](#).