

Tax Changes Included in the Trade Preferences Extension Act of 2015

The recently enacted Trade Preferences Extension Act of 2015 (the "Act") contains a number of tax provisions affecting businesses and individuals which have not been widely reported. The Act adds a requirement for claiming certain educational credits and deductions and increases the penalties associated with failures to file correct payee statements and information returns.

The provision of the Act which is most likely to affect individual taxpayers relates to a new requirement imposed before one can claim certain educational credits and deductions. For tax years beginning after the June 29, 2015 enactment of the Act (calendar year 2016 for most individual taxpayers), a taxpayer claiming the (1) American Opportunity Tax Credit, (2) Hope Scholarship Credit, (3) Lifetime Learning Credit, and/or (4) deduction for qualified tuition and related expenses must have been issued a Form 1098-T, which is issued by a college or university and contains the information necessary to claim certain education credits and deductions. This requirement is also satisfied where the required Form 1098-T is received by the taxpayer's dependent.

However, the most important aspects of the Act are those which impact businesses; the revisions to the penalties for failure to file correct information returns and correct payee statements. The Act increases many of the penalties set forth in Section 6721 and Section 6722 of the Internal Revenue Code (the "IRC"). The Joint Committee on Taxation estimates that the increased penalty amounts established by the Act will raise revenue by \$136 million over 10 years, which some industry professionals believe to be a considerable understatement. The Act increases the amount of the penalties attributable to those information returns and payee statements due on or after January 1, 2016.

The changes in the amount of penalties set forth in IRC Sections 6721 and 6722 are reflected in the chart on the following page.

IRC Sections 6721 and 6722 Penalties	Penalty Where Failure Corrected Within 30 Days Of Due Date			Penalty Where Failure Corrected By August 1 Of Year In Which Filing Is Due			Penalty For Complete Failure To Timely File Correct Information Return And/Or Payee Statement		
	Returns Due Prior To 1/1/2016	Returns Due After 12/31/2015	Increase	Returns Due Prior To 1/1/2016	Returns Due After 12/31/2015	Increase	Returns Due Prior To 1/1/2016	Returns Due After 12/31/2015	Increase
Per Occurrence	\$30	\$50	\$20	\$60	\$100	\$40	\$100	\$250	\$150
Calendar Year Maximum Of All Such Occurrences	\$250,000	\$500,000	\$250,000	\$500,000	\$1,500,000	\$1,000,000	\$1,500,000	\$3,000,000	\$1,500,000
Calendar Year Maximum Of All Such Occurrences Where Taxpayer's Gross Receipts Do Not Exceed \$5,000,000	\$75,000	\$175,000	\$100,000	\$200,000	\$500,000	\$300,000	\$500,000	\$1,000,000	\$500,000
Per Occurrence Where Taxpayer Intentionally Disregards Filing Requirement							\$250 OR GREATER	\$500 OR GREATER	\$250 OR GREATER
Calendar Year Maximum Of All Occurrences Where Taxpayer Intentionally Disregarded Filing Requirement							NONE	NONE	

Though the penalties imposed pursuant to Section 6721 and Section 6722 are substantially similar, each section imposes a separate and distinct penalty. The penalties imposed pursuant to Section 6721 result from a taxpayer's failure to timely file correct information returns, whereas the penalties imposed pursuant to Section 6722 result from a taxpayer's failure to timely furnish a payee with a correct payee statement. Accordingly, taxpayers could find themselves subject to two penalties arising from the same misunderstanding or oversight.

The provisions of the Act increasing the information return and payee statement penalties will have a substantial impact on business and individual taxpayers who fail to timely comply with those requirements. Although many taxpayers simply associate information returns with Form 1099, there are many other types of information returns which taxpayers are required to file and a number of other IRS Forms on which those returns must be made. Taxpayers should also be aware that the penalties discussed herein may be imposed where hard copies of information returns are filed when electronic filing is required. However, these penalties are subject to mitigation, and taxpayers are not required to file information returns and furnish payee statements under all circumstances.

If you would like more information on the tax impacts of the Trade Preferences Extension Act of 2015, compliance with information return and payee statement compliance, or to discuss the impact of either on you or your business, please contact:

[Ed Brown](#), [Jim McCarten](#) or [Reid Barrineau](#) in Burr's Atlanta office at (404) 815-3000;

[Jim McCarten](#) or [Josh Ehrenfeld](#) in Burr's Nashville office at (615) 724-3200;

[Allen Sullivan](#) or [Bruce Rawls](#) in Burr's Birmingham office at (205) 251-3000; or

[Warren Matthews](#) in Burr's Montgomery office at (334) 241-7000.