

TABLE 11-1

SUMMARY OF PAYROLL TAX REPORTING PENALTIES

(continued)

CODE SECTION	ACTION	PENALTY
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3403	Failure to withhold payroll taxes	Employer liable for full amount of taxes (which can be deducted from future wages paid to the same employees)
3509	Failure to withhold payroll taxes from a self-employed worker the IRS later reclassifies as an employee	<ol style="list-style-type: none"> 1. Employer liable for penalty of 1.5 percent \times wages paid to the worker (3 percent if no Form 1099-MISC or 1099-NEC was filed) for income tax purposes, and 20 percent \times employee's share of FICA taxes (40 percent if no Form 1099-MISC or 1099-NEC was filed) 2. Employer liable for full employer's share of FICA taxes 3. Employer generally liable for full amount of taxes if intentionally disregards withholding rules
6721	<ol style="list-style-type: none"> 1. Failure to file a correct information return (Copy A of Forms W-2 with the SSA and Copy A of Forms 1099-MISC and 1099-NEC with the IRS 2. Failure to report all required information on a return 3. Including incorrect information on a return 	<ol style="list-style-type: none"> 1. A 3-tier penalty: \$50 per return (if correct return filed within 30 days after due date); \$110 per return (if correct return filed by August 1); \$290 per return (if correct return filed after August 1) 2. No penalty if failure due to reasonable cause (not willful neglect) 3. No penalty if no more than 10 returns filed without full information or with incorrect information, and errors corrected by August 1 (and error not due to willful neglect) 4. In case of intentional disregard of filing requirement, penalty of \$580 per return or 10 percent of the total amount of items required to be reported correctly, whichever is larger
6722	<ol style="list-style-type: none"> 1. Failure to furnish a correct payee statement (copies B, C, and 2 of Form W-2, and Copy B of Forms 1099-MISC and 1099-NEC) to workers by the due date (January 31 of the following year) 2. Failure to report all required information on a payee statement 	Same as section 6721 penalties (see above)

3. Including incorrect information on
a payee statement

6723	Failure to insert taxpayer identification number (employer identification number) on any return or statement (e.g., Forms W-2, 1099-MISC, 1099-NEC, W-3, 1096, 941)	\$50 per failure
6656	Failure to make timely deposits of payroll taxes	A 4-tier penalty: penalty equal to 2 percent of amount of underpayment if failure corrected not more than 5 days after due date; penalty equal to 5 percent of amount of underpayment if failure corrected after 5 days but not more than 15 days after due date; penalty equal to 10 percent of amount of underpayment if deposits made after 15 days, but on or before the 10th day after the date of the first notice from the IRS asking for the taxes owed; penalty equal to 15 percent of amount of underpayment if failure not corrected within 10 days after date of first delinquency notice to taxpayer
6672	Willful failure to withhold or deposit payroll taxes	Civil penalty equal to 100 percent of taxes not withheld or deposited assessed against either the employer or its officers (may apply to volunteer officers or directors of nonprofit organizations)
7201	Willful attempt to evade or defeat tax	A felony, with a criminal penalty of up to \$100,000 (up to \$500,000 for a corporation) and imprisonment of up to 5 years (or both)
7202	Willful failure to withhold or deposit payroll taxes	A felony, with a criminal penalty (in addition to the section 6672 civil penalty) of up to 5 years imprisonment or \$10,000 fine (or both), generally applies to officers
7203	Willful failure to file a return, pay a tax, or supply required information	A misdemeanor, with a criminal penalty of up to \$25,000 (\$100,000 for a corporation) and imprisonment of up to 1 year (or both)
7204	Willful failure to provide a Form W-2 to employees, or willfully including false information on a Form W-2	A misdemeanor, with a criminal penalty of up to \$1,000 and imprisonment of up to 1 year (or both)
7207	Willfully providing the IRS with a false return or statement	A misdemeanor, with a criminal penalty of up to \$10,000 (\$50,000 for a corporation) and imprisonment of up to 1 year (or both)
