

Penalties

Failure to File	5% of net tax
Failure to Pay	0.5% of net tax
Accuracy Related	20% of under payment
Fraud (underpmt)	75% of underpmt

Accuracy Related Penalties (IRC Sec. 6662)

- (1) Negligence or disregard of rules/regs.
- (2) Subst. understmt of income tax
- (3) subst. valuation misstatement
- (4) subst. overstatement of pension liabilities
- (5) subst. estate/gift tax valuation understmt

Return Preparer Penalty

IRC Sec 6694, imposed on preparer who signs or prepares all or subst. return.
 Imposed if any part of understmt due to unreasonable position.
 Greater of \$1,000 or 50% of income derived
 Avoid if adequately disclosed and supported by subst authority
NO REASONABLE BASIS OR GOOD FAITH avoidance clause

Percentage Standards

MLTN	50% chance	TPs, RPs, TaxShelt P
Subst. Authority	35%-40%	TPs and RP (non taxshelt)
Realistic Possibility	1/3	Compliance
Reasonable Basis	10%-20%	TPs/RPs, SSTS (disclosure)

Judicial Doctrines

Business Purpose	txs should have legit nontax biz purpose
Substance over Form	form of tx will not govern tax-- >form does not match economic reality (substance) of the tx
Sham Transaction	tx sole purpose=prod. of tax deducts; false/incomplete facts to achieve results; arms length issue
Step Transaction	all steps of tx merged to det. true nature (start and finished)
Assignment of income	IRC Sec. 61; income matches owner/provider
Economic Substance (Codified)	tx as real, nontax econ benefit (tx changes in a meaningful way)
Econ substance penalty	20%, if nondisclosed= 20%-40%

