

Department of the Treasury
Internal Revenue Service

Date:

Account Holder SSN / EIN:

Form:

Tax Period(s) Ended:

Person to Contact:

Contact Telephone Number:

Contact Fax Number:

Employee Identification Number:

Refer Reply To:

Last Date to Respond to this Letter:

Dear

Why We Are Sending You This Letter

We are proposing a penalty for violating the reporting or record keeping requirements relating to accounts you maintain with financial institutions overseas. Below are paragraphs describing related penalties. We have check-marked the box along side the paragraph(s) describing the penalty that applies to you. Please review this proposed assessment and let us know whether or not you agree by following directions provided toward the end of this letter.

Proposed Assessment (See the checked box.)

- We are proposing the assessment of a penalty under 31 U.S.C. § 5321(a)(5) for failing to meet the filing requirements of 31 U.S.C. § 5314. For each calendar year, any U.S. person having one or more foreign accounts with maximum balances aggregating over \$10,000 is required to file Form TDF 90-22.1, *Report of Foreign Bank and Financial Accounts* with the Internal Revenue Service by June 30th of the following year.
- For the failure to file TDF 90-22.1 due on or after June 30, 2005, the penalty cannot exceed \$10,000.
- For the willful failure to file TDF 90-22.1 due on or after June 30, 2005, the penalty cannot exceed the greater of 1.) \$100,000 or 2.) 50% of the amount of the transaction (in such case as a violation involving a transaction) or the balance in the account (in such case as a violation involving a failure to report the existence of an account or a failure to provide identifying information with respect to an account).
- For the willful failure to file TDF 90-22.1 due on or before June 30, 2004, the penalty cannot exceed the greater of an amount (not to exceed \$100,000) equal to the balance in the account or \$25,000.

- We are proposing the assessment of a penalty under 31 U.S.C. § 5321(a)(5) for failing to meet the record keeping requirements under 31 U.S.C. § 5314. For any calendar year, any U.S. person having one or more foreign accounts with maximum balances aggregating over \$10,000 is required to keep certain records identifying the foreign financial agencies and their maximum value during the year.
 - For failure to meet the record keeping requirement occurring after October 22, 2004, the penalty cannot exceed \$10,000.
 - 1. For willful failure to meet the record keeping requirement occurring after October 22, 2004, the penalty cannot exceed the greater of 1.) \$100,000 or 2.) 50% of the amount of the transaction (in such case as a violation involving a transaction) or the balance in the account (in such case as a violation involving a failure to report the existence of an account or a failure to provide identifying information with respect to an account).
 - 2. For willful failure to meet the record keeping requirement occurring before October 23, 2004, the penalty cannot exceed the greater of an amount (not to exceed \$100,000) equal to the balance in the account or \$25,000.
- We are proposing the assessment of a penalty under 31 U.S.C. § 5321(a)(6)(A) for negligently failing to meet the filing requirements for financial institutions or non-financial trades or businesses under 31 U.S.C. § 5314 and 31 C.F.R. § 1010.350 (formerly 31 C.F.R. § 103.24). The penalty cannot exceed \$500.
- We are proposing the assessment of a penalty under 31 U.S.C. § 5321(a)(6)(A) for negligently failing to meet the record keeping requirements for financial institutions or non-financial trades or businesses under 31 U.S.C. § 5314 and 31 C.F.R. § 1010.420 (formerly 31 C.F.R. § 103.32). The penalty cannot exceed \$500.
- We are proposing the assessment of a penalty under 31 U.S.C. § 5321(a)(6)(B) for a pattern of negligent violations of any provision of 31 U.S.C. § § 5311-5332 and the regulations thereunder. The penalty will be in addition to any penalties imposed under 31 U.S.C. § 5321 (a)(6)(A) but cannot exceed \$50,000.

What To Do If You Agree

If you agree to the assessment and collection of the proposed penalty or penalties, please sign, date, and return one copy of the enclosed Form 13449, *Agreement to Assessment and Collection of Penalties Under 31 USC 5321(a)(5) and 5321(a)(6)*, in the envelope provided. Make your check or money order payable to the United States Treasury for the amount indicated on the agreement form. If you agree but cannot pay in full, pay what you can within 30 days from receipt of this notice and we will send you a bill for the remaining amount with information on your payment options.

What To Do If You Disagree

If you do not agree to the assessment and collection of the proposed penalty or penalties, you can request a conference with our Appeals Office. To do so, forward a written protest in duplicate before the designated response date, which is listed in the header of this letter, and mail it to the revenue agent indicated above. Include the following:

1. A request for conference;
2. Your name, address, and daytime telephone number;

3. Your social security number or employer identification number;
4. The date and number of this letter;
5. The calendar years involved;
6. The penalties that you contest;
7. An explanation of why you contest those penalties;
8. All information pertinent to your position;
9. A statement of law or other authority that you relied on, and how that law or other authority applies to your case; and
10. The following signed statement: "Under penalties of perjury, I declare that I have examined the facts presented in this statement and any accompanying information, and, to the best of my knowledge and belief, they are true and complete." A representative who submits a protest should substitute for this declaration a statement that he or she prepared the protest and accompanying documents, and knows personally that the statement of facts contained in the protest and the documents are true and correct.

What Will Happen If You Do Nothing

If you do not take any action by the response date noted above, we will assess the penalty and begin collection procedures.

If you have any questions, please contact the person identified in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Group Manager

Enclosures:
Copy of this letter
Form 13449
Envelope