

**FREEFELLOW**

FORMULA & LIMITS SHEET

# EA PART 3

IRS · Representation, Practices & Procedures

**76**

ITEMS

**4**

TOPICS

[freefellow.org/ea-part3/formulas](https://freefellow.org/ea-part3/formulas)

PRACTICES AND PROCEDURES

12 items

**Section 10.50 monetary penalty cap on a practitioner**

$P_{max} = G - P_{max}$  = maximum monetary penalty under §10.50, G = gross income the practitioner derived (or would have derived) from the prohibited conduct

**Enrolled agent triennial continuing education requirement**

$CE_{cycle} = 72$  hours with  $CE_{year} \geq 16$  and  $Ethics_{year} \geq 2$  — totals over a 3-year enrollment cycle

**Maximum monetary penalty under Circular 230 section 10.50c**

$P_{max} = GI_{conduct} - GI_{conduct}$  = gross income the practitioner derived from the sanctionable conduct

**Prorated CE hours for mid-cycle EA enrollment**

$CE = 2m + 2y - m$  = months enrolled in cycle (round up partial months), y = full calendar years of enrollment (ethics hours)

**IRC §6702 frivolous return penalty (joint return)**

$P = \$5,000 \times s$  — s = number of spouses signing (1 for single, 2 for joint); penalty stacks on tax owed and other penalties

**Civil fraud penalty under IRC section 6663**

$P = 0.75 \times U_f$  — U\_f = portion of the underpayment attributable to fraud

**Section 6662 gross valuation misstatement penalty**

$P = 0.40 \times U$  when claimed value  $\geq 2 \times$  correct value — P = penalty, U = underpayment from the overstatement

**Section 6694(a) unreasonable position preparer penalty**

$P = \max(\$1,000, 0.50 \times F)$  — P = penalty, F = preparer fee for the return

**Section 6694(b) willful or reckless preparer penalty**

$P = \max(\$5,000, 0.75 \times F)$  — P = penalty, F = preparer fee for the return

**Section 6662 accuracy-related penalty (negligence or substantial understatement)**

$P = 0.20 \times U$  — P = penalty, U = underpayment attributable to the negligent or understated position

**Section 6695(g) due diligence penalty per return**

$P = \$635 \times n$  — n = covered items missed (EITC, CTC/ACTC/ODC, AOTC, HoH); 2025 indexed

**Substantial understatement threshold under Section 6662**

$T = \max(0.10 \times C, \$5,000)$  — T = threshold, C = correct tax; \ \$10M floor for C-corps

REPRESENTATION BEFORE THE IRS

12 items

**Allowable out-of-pocket health care expense under IRS Collection Financial Standards**

$E = \max(\text{actual}, \text{national standard})$  — E = allowable monthly health care expense

**Reasonable collection potential for an Offer in Compromise**

$RCP = NRE + FI$  — NRE = net realizable equity in assets, FI = future income component over the offer period

**Future income component for a 24-month periodic-payment OIC offer**

$FI = 24 \times DI$  — FI = future income component, DI = monthly disposable income

**Allowable housing or transportation expense under IRS Collection Financial Standards**

$E = \min(\text{actual}, \text{local standard})$  — E = allowable monthly expense category

**Net realizable equity in an asset (quick-sale)**

$NRE = (FMV \times 0.80) - E$  — FMV = fair market value, 0.80 = IRS quick-sale factor, E = encumbrances/liens on the asset

**Section 6713 civil penalty for unauthorized disclosure of return information**

$P = \min(250 \times n, 10,000)$  — P = annual penalty in dollars, n = number of unauthorized disclosures in the year

**Monthly disposable income for IRS collection**

$DI = NMI - AE$  — NMI = net monthly income, AE = allowable expenses (lesser of actual or standard, except out-of-pocket health care)

**Future income component for a 5-month lump-sum OIC**

$FI = 12 \times DI$  — DI = monthly disposable income (24 months instead of 12 for a periodic-payment offer)

**Section 6511 refund claim filing deadline**

deadline =  $\max(\text{filing date} + 3 \text{ yr}, \text{payment date} + 2 \text{ yr})$  — later of two windows controls

**Section 6502 IRS collection statute expiration date**

CSED = assessment date + 10 years — CSED = collection statute expiration date for assessed tax

**Section 6213(a) Tax Court petition filing deadline**

deadline = CP3219A date + 90 days (150 if addressed abroad) — only the statutory notice starts the clock

**Section 6501(e) substantial omission of gross income threshold**

omission ratio =  $\frac{\text{omitted gross income}}{\text{reported gross income}} \geq 25\%$  — triggers 6-year assessment SOL under §6501(e)

**Section 6511 refund claim statute of limitations**

Deadline = later of (filing date + 3 yr, payment date + 2 yr) — filing date = date original return filed or due date, payment date = date tax was paid

**Section 6651(a)(1) failure-to-file penalty**

$P_{FTF} = 0.05 \times T \times n$ , cap 25% — T = net unpaid tax, n = months (or fraction) the return is late

**Form 12153 CDP request deadline**

Deadline = notice date + 30 days — notice date = date of LT11/Letter 1058 or NFTL notice, 30 days = statutory CDP filing window

**Letter 1153 TFRP Appeals protest deadline**

Deadline = letter date + 60 days — letter date = date of Letter 1153 with Form 2751, 60 days = statutory protest window to Appeals

**Section 6672 Trust Fund Recovery Penalty**

$TFRP = 1.00 \times TF$  — TF = unpaid trust-fund portion of Form 941 (employee income-tax withholding + employee share of FICA)

**Offer in Compromise deemed-acceptance window**

Deemed accepted = submission date + 24 months with no IRS ruling — submission date = date Form 656 filed, 24 months = §7122 evaluation period

**Section 6651(a)(2) failure-to-pay penalty**

$P_{FTP} = 0.005 \times T \times n$ , cap 25% — T = unpaid tax shown on return, n = months (or fraction) tax remains unpaid

**Section 7491 burden-shift entity size eligibility**

$NW \leq \$7,000,000$  and  $E \leq 500$  — NW = entity net worth, E = number of employees; both conditions must hold to qualify for the shift

**Section 7609 third-party summons petition-to-quash deadline**

$D = N + 23$  days — D = last day to file petition to quash, N = date IRS mails notice of third-party summons to the taxpayer

**Section 469(c)(7) real estate professional qualification test**

$H_{RE} > 750$  and  $H_{RE} > 0.5 \times H_{total}$  — H\_RE = hours in real property trades, H\_total = total personal-service hours; both must hold

**Section 469 active-participation rental loss allowance (MFJ phaseout)**

$A = \max(0, \$25,000 - 0.5 \times \max(0, MAGI - \$100,000))$  — A = allowable loss, MAGI = modified AGI; fully phased out at \ \$150,000

**Section 7463 small tax case eligibility threshold**

$D \leq \$50,000$  per tax period — D = disputed deficiency amount; election makes the Tax Court decision final and non-appealable

## FILING PROCESS

**Records retention for a claim of loss from worthless securities**

*Retention = 7 years* from later of return due date or filing date — applies under §6511 to records supporting worthless securities or bad debt deduction

**E-file mandate threshold for a tax preparation firm under IRC §6011(e)(3)**

$N_{covered} \geq 11$  per calendar year — N\_covered = firm-wide count of Forms 1040, 1040-NR, 1040-SR, 1041, and 990-series returns expected to be filed

**Form 8453 mailing deadline after IRS e-file acceptance**

mail by = acceptance date + 3 business days — Form 8453 transmits paper-only attachments to an e-filed Form 1040

**FTC Safeguards Rule large-breach notification trigger**

$N_{affected} \geq 500$  consumers triggers FTC notice within 30 days — N\_affected = consumers whose unencrypted customer information was acquired without authorization

**EFIN proposed-sanction administrative appeal deadline**

*Appeal deadline = Notice date + 30 days* — Notice date = date IRS issues the proposed-sanction notice; written appeal filed with the issuing IRS office

**Paper-filing fallback deadline after an e-file rejection**

paper deadline = reject date + 10 calendar days — preserves timely filing if the original e-file was attempted by the due date

**Default tax preparer record retention end date**

end = max(due date w/ extensions, filing date) + 3 yrs — matches §6501(a) general assessment statute

**Form 8879 ERO retention end date**

end = max(return due date, IRS received date) + 3 yrs — Form 8879 = e-file signature authorization retained by the ERO

§6695(g) due diligence requires Form **8867**, with records retained for **3 years** and a penalty of **\$635** per failure per return for 2025.

Under §10.25, personal-and-substantial participation triggers a **permanent** bar, official responsibility a **2-year** bar, and rule development a **1-year** bar.

§10.27 permits contingent fees on amended returns or refund claims filed within **120 days** of a formal IRS examination notice or challenge.

EA renewal requires **72** CPE hours per 3-year cycle, with at least **16** hours per year and **2** ethics hours annually.

IRC §6702 imposes a **\$5,000** frivolous-return penalty applied **per spouse** on a joint return, so a joint frivolous 1040 triggers **\$10,000**.

OPR sanctions escalate from censure to monetary penalty (capped at **gross income** from the conduct) to suspension (**1-59 months**) to disbarment with a **5-year** reapply bar.

EA enrollment renewal is filed on Form **8554** every 3 years with a **\$140** user fee, and CE records must be retained for **4 years**.

EA continuing education requires **72** hours per 3-year cycle, with a minimum of **16** hours per year and **2** ethics hours per year.

§6662 imposes a **20%** accuracy penalty for negligence and 150%+ valuation misstatements, and **40%** for gross valuation misstatements at **200%** + of correct value.

§6695 fixed penalties are **\$60** per failure for copy/signature/PTIN/recordkeeping, **\$635** per credit per return for due diligence, and **\$600** per refund check negotiated.

§6694(a) unreasonable position penalty is greater of **\$1,000** or **50%** of fee; §6694(b) willful is greater of **\$5,000** or **75%** of fee.

To dispute a preparer penalty, pay **15%**, file Form **6118**, then sue for refund in district court within **2 years** of disallowance.

## REPRESENTATION BEFORE THE IRS

8 items

A representative may sign a taxpayer's return only for disease/injury, **60 days** continuous U.S. absence before the due date, or specific written IRS permission.

Streamlined installment agreements cover assessed balances of **\$50,000** or less paid within **72 months**, with non-streamlined available up to **\$250,000**.

IRC §7216 carries up to **\$1,000** fine and **1 year** imprisonment per violation, while §6713 civil penalty is **\$250** per disclosure capped at **\$10,000** /year.

Bankruptcy discharge of income tax requires the **3-year** due-date rule, **2-year** filing rule, and **240-day** assessment rule all satisfied with no fraud or willful evasion.

The §6501 assessment statute is **3 years** standard, **6 years** for 25%+ gross income omission, and **unlimited** for fraud or unfiled returns.

§7201 tax evasion is a felony punishable by up to **5 years** imprisonment and a fine of **\$100,000** (**\$500,000** corporate).

§6511 refund claims must be filed within the later of **3 years from filing** or **2 years from payment**, and §6502 collection runs **10 years**.

Response windows: CP2000 is **30 days**, math error abatement under §6213(b) is **60 days**, and the CP3219A Tax Court petition is **90 days**.

## SPECIFIC AREAS OF REPRESENTATION

8 items

Passport revocation under §7345 triggers at **\$62,000** (2025) of seriously delinquent tax debt, and the TFRP protest window on Letter 1153 is **60 days**.

Form 12153 (CDP) must be filed within **30 days** of an LT11/Letter 1058, and a CDP Notice of Determination is appealable to Tax Court within **30 days**.

An OIC requires Form 656, a **\$205** application fee, and **20%** lump-sum down, and is deemed accepted if the IRS does not rule within **24 months**.

Under §6502 the CSED is **10 years** from the date of assessment, tolled by a pending OIC plus **30 days** and bankruptcy stay plus **6 months**.

Form 12203 small case request applies when disputed tax per period is **\$25,000** or less; above that a **formal written protest** is required.

IRC §7491 shifts the burden to the IRS only if the entity has net worth under **\$7 million** and **500** or fewer employees.

The **30-day** letter accompanies the RAR and opens Appeals while the **90-day** letter under IRC **§6212** opens Tax Court jurisdiction.

A Tax Court petition must be filed within **90 days** of the notice date, or **150 days** if addressed to a person outside the US.

Rejected e-filed returns require taxpayer notification within **24 hours** and paper-filing fallback within **10 calendar days** to preserve timely filing.

The §6011(e)(3) e-file mandate triggers at **11** or more covered returns per firm per year, with **Form 8948** documenting paper-filing exceptions.

Form 8879 must be retained **3 years** from the later of the return due date or IRS received date.

FTC Safeguards Rule breach notification is required when **500** or more consumers are affected, filed within **30 days** of discovery.