

title or any claim for refund of tax imposed by this title, subject to certain exceptions not relevant here. Temp. Treas. Reg. § 1.6695-2T(b)(3) provides generally that the tax return preparer must not know, or have reason to know that any information used by the tax return preparer in determining the taxpayer's eligibility for, or the amount of, any credit described in paragraph (a) of this section and claimed on the return or claim for refund is incorrect. Treasury regulation § 1.6695-2(c) provides a special rule that a firm that employs a tax return preparer subject to a penalty under Section 6695(g) is also subject to penalty if, and only if: (1) one or more members of the principal management (or principal officers) of the firm or a branch office participated in or, prior to the time the return was filed, knew of the failure to comply with

the due diligence requirements of this section; (2) the firm failed to establish reasonable and appropriate procedures to ensure compliance with the due diligence requirements of this section; or (3) the firm disregarded its reasonable and appropriate compliance procedures through willfulness, recklessness, or gross indifference (including ignoring facts that would lead a person of reasonable prudence and competence to investigate) in the preparation of the tax return or claim for refund with respect to which the penalty is imposed." Thus, the IRS stated that an S corporation may be a tax return preparer within the definition of Section 7701(a)(36) if it employs a person who prepares a tax return for compensation, and the S corporation may be the proper person on which to assess the penalty under Section 6695(g). **CCA 201846005, Aug. 27, 2018.**

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