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# TPA and Trade Preferences Extension Fact Sheet

September 2015

Trade Promotion Authority (TPA), a procedural bill seen as a pre-requisite for concluding the Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP) trade agreements, was signed into law in June 2015. Here is what you need to know about TPA:

- TPA is viewed as necessary in enhancing the US negotiating position for gaining access to sensitive industries in foreign markets that are historically closed to the US in trade agreements (e.g. Japanese beef and Canadian dairy), because it prevents Congress from amending the agreement during the ratification process to remove reciprocal concessions made by the US.
- In order to ensure that the public has enough time to read and react to the trade agreement, TPA requires that the text of a concluded agreement be released to the public 60 days prior to being signed by the President and leaders of other countries in the agreement.
- After the trade agreement has been signed following the 60 day waiting period, the President publishes legislation for implementing the agreement and, after another mandatory 30 day waiting period for the public and Congress to read that legislation, introduces the bill to Congress for approval.
- Once introduced, the bill has 45 days to reach the floor of both the House and Senate. No amendments may be introduced and filibusters are not allowed. A majority vote is required to ratify the agreement.

Alongside TPA, the Trade Preferences Extension Act of 2015 also passed Congress and became law in June 2015. The law extends several long-standing trade programs providing preferential treatment to poor countries in order to promote their development. It also extends the Trade Adjustment Assistance program and pays for it with an increase in penalties for businesses that fail to file correct information returns and correct payee statements on taxes and for intentional disregard of filing requirements. Below is a breakdown of that clause of the law and how it affects your small business:

- Trade Adjustment Assistance (TAA) is a program that provides relief for workers displaced by foreign competition as a result of international trade. It offers job training support, career counseling, wage supplements for older workers, job search and reallocation allowances, and income support for workers in training programs.
- To pay for TAA, Congress has increased both the minimum penalties and the penalty caps (including the lower caps for businesses with under $5 million in annual gross

receipts) for both incorrect or unfiled information returns or unfurnished employee or payee statements on tax forms W-2 and 1099 under IRS code sections 6721 and 6722.

The penalties for failure to comply vary depending on when the incorrect or missing form is corrected or filed. The table below describes the types of penalties affected and the amount the penalty has increased as a result of this bill. For more information, the IRS provides an instruction page explaining penalties under sections 6721 and 6722.

| Section of IRS Code | Type of Penalty | Previous Penalty | Previous Annual Cap per Employer (Small Business Cap) | New Penalty | New Annual Cap per Employer (Small Business Cap) |
|---|---|---|---|---|---|
| 6721(a)(1) | If an information return (W-2 or 1099) form is not filed or is filed with incorrect information | $100 per form | $1,500,000 ($500,000) | $250 per form | $3,000,000 ($1,000,000) |
| 6721(b)(1) | If an incorrect or unfiled information return is correctly filed within 30 days of the deadline | $30 per form | $250,000 ($75,000) | $50 per form | $500,000 ($175,000) |
| 6721(b)(2) | If an incorrect or unfiled information return is correctly filed after 30 days past the deadline but before August 1 | $60 per form | $500,000 ($200,000) | $100 per form | $1,500,000 ($500,000) |
| 6721(e) | "Intentional disregard of the filing requirement or the correct information reporting requirement" | $250 per form or 10% of amount, if greater | NA | $500 per form or 10% of amount, if greater | NA |
| 6722(a)(1) | If a payee statement (W-2, 1099 or 1098) form is not sent to the employee or payee or contains incorrect information | $100 per form | $1,500,000 ($500,000) | $250 per form | $3,000,000 ($1,000,000) |
| 6722(b)(1) | If an incorrect or unfurnished payee statement is corrected within 30 days of the deadline | $30 per form | $250,000 ($75,000) | $50 per form | $500,000 ($175,000) |

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| 6722(b)(2) | If an incorrect or unfurnished payee statement is corrected after 30 days past the deadline but before August 1 | $60 per form | $500,000 ($200,000) | $100 per form | $1,500,000 ($500,000) |
| 6722(e) | "Intentional disregard of the requirement to furnish a payee statement or the correct information reporting requirement" | $250 per form or 10% of amount, if greater | NA | $500 per form or 10% of amount, if greater | NA |

Sources:


H.R.1295 - Trade Preferences Extension Act of 2015

26 USC 6721: Failure to file correct information returns

Failure To File Correct Information Returns by the Due Date (Section 6721)

Increase in Information Reporting Penalties for W-2/1099 Errors (National Law Review)