



PassKey
Learning Systems

How to Remove or Reduce an IRS Penalty

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How to Request a Reasonable Cause Abatement from the IRS

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NOTE!

- ▶ **The full video (90 minute) presentation is available on PassKey Online in the Bonus Videos section.**

TYPES OF PENALTIES

- ▶ **Information Return Penalty:** applies to taxpayers who don't file or furnish their required information return or payee statement correctly by the due date.
- ▶ **Failure-to-File Penalty:** applies when you don't file your tax return by the due date.
- ▶ **Failure-to-Pay Penalty:** applies when you don't pay the tax you owe by the due date.
- ▶ **Accuracy-Related Penalty:** applies when you don't claim all your income or when you claim deductions or credits for which you don't qualify.
- ▶ **Failure to Deposit Penalty:** applies when you don't pay employment taxes accurately or on time.
- ▶ **Underpayment of Estimated Tax Penalty for Individuals:** applies when you don't pay estimated tax accurately or on time as an individual.
- ▶ **International Information Reporting Penalties:** applies to certain taxpayers who fail to timely and correctly report foreign sourced financial activity.
- ▶ **Interest on a penalty or an amount due:** The IRS charges interest on penalties. Interest continues to accrue until you pay your balance in full.

FTF AND FTP PENALTIES

- ▶ The **failure-to-file (FTF)** penalty is 5% of the unpaid taxes for each month the return is late. So if you owe \$5,000, then this penalty would be \$250. It gets assessed the first day the return is delinquent, and continues to accrue from there. The maximum FTF penalty is 25% of what you owe.
- ▶ The **failure-to-pay (FTP)** penalty is much less severe. If you file your return on time, but owe tax, and do not pay it, then the FTP penalty will apply. The standard FTP penalty is 0.5% per month (although it can vary based on if the taxpayer also owes the FTF penalty in the same month). So, if you owe \$5,000, the penalty would be \$25. The penalty also will not exceed 25% of the unpaid tax.
- ▶ **Minimum penalty amounts:** If your return is more than 60 days late, the minimum penalty for not filing taxes is \$435 or the amount of tax owed, whichever is smaller.
- ▶ The taxpayer will also owe interest on any amount due.
- ▶ If the taxpayer does not have any tax due, then these penalties will not be assessed.

NOTE!

- ▶ In rare cases, the **Underpayment of Estimated Tax by Individuals Penalty** may apply even if the taxpayer is owed a refund.
- ▶ To request a waiver of this penalty, taxpayers can complete IRS Form 2210.
- ▶ <https://www.irs.gov/payments/underpayment-of-estimated-tax-by-individuals-penalty>

PENALTIES ELIGIBLE FOR RELIEF

- ▶ **Penalties eligible for penalty relief include:**
 - ▶ **Information Return**
 - ▶ **Failure to File**
 - ▶ **Failure to Pay**
 - ▶ **Accuracy-Related**
 - ▶ **Failure to Deposit**
 - ▶ **Underpayment of Estimated Tax by Individuals**
 - ▶ **Other penalties as applicable**

HOW TO REMOVE OR REDUCE A PENALTY

▶ Types of Penalty Relief

▶ First Time Penalty Abatement (FTA)

▶ Reasonable Cause:

- ▶ Death, illness, or unavoidable absence
- ▶ Fire, casualty or natural disaster
- ▶ Unable to obtain records
- ▶ Erroneous advice or reliance
- ▶ Ignorance of the law, forgetfulness, others based on facts and circumstances.

▶ Statutory Exception

- ▶ Relied on incorrect written advice from the IRS
- ▶ Mailed a return on time
- ▶ Lived in a federal disaster area
- ▶ Were involved in military operations in a combat zone

FIRST TIME PENALTY ABATEMENT (FTA)

- ▶ The FTA waiver is an administrative waiver that the IRS may grant to relieve taxpayers from failure-to-file, failure-to-pay and failure-to-deposit penalties.
- ▶ The policy behind this procedure is to reward taxpayers for having a clean compliance history. To qualify for an FTA, taxpayers must not have been assessed any other penalties on the same type of tax return within the past three years and must be in compliance with all filing and payment requirements.
- ▶ The good compliance reason allows a taxpayer one penalty waiver for most tax types every three years. The taxpayer must have filed all tax returns due.

FIRST TIME PENALTY ABATEMENT (FTA) EXAMPLE

- ▶ **Example:** Jenny didn't fully pay her taxes this year. She files her return on April 15, but a month later she got an notice with the balance due and penalty charges. She has always filed on time, she just made a mistake this year and didn't pay on time, because she was using a new software program and didn't know how to send the payment electronically. Jenny contacts the IRS and asks for an FTA, which is granted. The penalties are abated, but she will still owe a small amount of interest on the amount due.
- ▶ **Note:** An enrolled practitioner can request an FTA for a client in several ways. The easiest way is to get a POA (Form 2848) and call the IRS Practitioner Priority Service (PPS) and request it.

REASONABLE CAUSE

▶ Reasonable Cause Includes:

- ▶ **Death, illness, or unavoidable absence:** A death or serious illness of a taxpayer or in their immediate family, or unavoidable absence, may establish the reasonable cause exception. Unavoidable absence can include: jail or internment in a drug treatment facility.
- ▶ **Fire, casualty or natural disaster:** If natural disaster, fire, or other casualty is given as a reason, determine whether the taxpayer is eligible for relief for a declared Official Disaster Area. If the taxpayer is not covered under an Official Disaster Area, the occurrence of a natural disaster, fire, or other casualty does not automatically provide penalty relief.
- ▶ **Unable to obtain records (for example, death of the taxpayer's accountant)**
- ▶ **Erroneous advice or reliance on a tax professional**
- ▶ **Ignorance of the law, forgetfulness, others based on facts and circumstances.**
- ▶ **https://www.irs.gov/pub/irs-utl/reasonable_cause_good_faith.pdf**

GOOD ABATEMENT SAMPLE LETTERS

▶ **SAMPLE CP 14 NOTICE**

https://www.irs.gov/pub/notices/cp14_english.pdf

▶ **Sample penalty abatement letter (AICPA)**

▶ <https://www.aicpa.org/membership/downloadabledocuments/irs-letter-to-request-first-time-penalty-abatement.docx>

▶ **COVID penalty abatement**

▶ <https://www.idcpa.org/writable/files/Tools/covid19irspenaltyabatementtemplate1610039594684.docx>

▶ **FTA and Reasonable Cause template:**

▶ <https://assets.ctfassets.net/rb9cdnjh59cm/4TKnFmduza7nGkps2WFtPS/3f38db30e8e1d5867d425b86ab6e8775/irs-penalty-abatement-templates.docx>

▶ <https://www.mdtaxattorney.com/wp-content/uploads/2017/05/Abatement-Letter.pdf>

REASONABLE CAUSE EXAMPLE

- ▶ **Example:** John is married and has always filed jointly with his wife, Mary, who he has been happily married to for 20 years. However, Mary is diagnosed with a serious illness in 2020. After a long battle with this illness, Mary dies in 2021. John is so distraught he can barely function. He does not file his 2020 return or his 2021 return. In 2022, he receives letters from the IRS demanding tax returns from John. He finally goes to see Shannon, an enrolled agent. Shannon files both 2020 and 2021 for John, which he signs as a surviving spouse. Both years have an amount due. A few months after Shannon submits the returns, the IRS sends John two letters, reflecting large penalties for FTF, FTP and interest on the amount that he owed. Shannon gets a Power of Attorney and requests abatement for both years under reasonable cause due to spousal death. The abatement is granted. John will still owe the tax, as well as interest. But he will not have to pay the FTF or the FTP penalty.

PENALTY ABATEMENT EXTENDED EXAMPLE

- ▶ **Download presentation sample**

THE END

- ▶ **Make sure to check out our other educational webinars**