

How to Obtain a First Time Penalty Abatement from the IRS

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The IRS imposes penalties on taxpayers to encourage them to voluntarily comply with the tax law and expedite the resolution of any tax problems. Penalties are assessed for failure to file a return or pay tax when due, substantial inaccuracies in tax filings, or other noncompliance. Fortunately, taxpayers may be able to avoid paying penalties to the IRS in certain instances. This is known as penalty abatement. If approved for penalty abatement, taxpayers are still obligated to pay their underlying tax liability and any accrued interest but will be absolved of abated penalties. There are three main grounds for relief, but the most widely available administrative option is First Time Penalty Abatement.

When Does the IRS Abate Penalties?

The IRS recognizes the following grounds for penalty abatement:

- Administrative Waiver and a First Time Penalty Abatement. This is discussed further below.
- Reasonable Cause. The taxpayer has a sound reason for failing to meet their tax obligations, such as natural disaster, inability to obtain records, death, serious illness, or other reason that would establish that they used all ordinary business care and prudence to meet their tax obligation but were unable to do so.
- Statutory Exception. The taxpayer relied upon the erroneous written advice of the IRS, being affected by a federal disaster, serving in a combat zone or timely filing a

tax return and being erroneously issued a penalty for late filing.

Note that New York State also offers penalty abatement under similar circumstances. However, it does not offer first-time penalty abatement and it does not recognize the statutory exception in the same manner that the IRS does.

How Does a Taxpayer Qualify for a First Time Penalty Abatement?

To qualify for First Time Penalty Abatement, taxpayers must meet the following requirements:

- The taxpayer has not had a previous tax delinquency for the prior three years
 - The tax delinquency is due to the failure to file a return on time, failure to pay taxes on time, or, in the case of a business, failure to deposit employment taxes on time or pay them correctly
 - The taxpayer must request First Time Penalty Abatement as provided under IRS rules
- Importantly, abatement is available to both individuals and businesses.

When Should a Taxpayer Request a First Time Penalty Abatement?

Taxpayers can challenge a penalty either in writing or orally before a penalty is assessed or after it is paid. However, in some instances, it may be beneficial to wait until the matter is resolved. For example, the penalty for failure-to-pay taxes will continue to accrue until the tax is paid in full. Interest

charged on a penalty will be reduced or removed when that penalty is reduced or removed. However, so long as an unpaid balance remains on the taxpayer's account, interest will continue to accrue until the account is paid in full. Accordingly, it may make sense for taxpayers to fully resolve the tax matter before requesting penalty relief. This way they aren't requesting abatement while additional penalties and interest are accruing.

Conclusion

It is essential for attorneys to be aware of the rules governing penalty abatement and provide the appropriate documentation to the IRS or NYS in order to limit a clients' tax liability. ⚖️



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