

IRS Penalties & Abatements

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Notice

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Objectives:

- Identify common scenarios that may trigger IRS Penalties
- Understand how to apply for penalty abatement and reduce potential penalty assessments
- Learn the criteria and requirements for qualifying for First Time Abatement
- Understand the IRS processes and timelines for handling refund requests

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Agenda:

- Penalties
 - General Overview
 - Failure To File (FTF)
 - Failure To Pay
 - Failure to Pay Estimated Taxes
 - Failure to Deposit Payroll Funds
 - Accuracy Related Penalties
- Relief From Penalties
 - First Time Abatements (FTAs)
 - Reasonable Cause Exception
- Other Issues
- Other Penalties

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IRS Penalties

[Section contained on following Slides]

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Penalties – General Overview

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Various Types of Penalties

- Failure to File (FTF)
- Failure to Pay (FTP)
- Failure to Pay Estimated Taxes
- Failure to Deposit Trust Fund Taxes
- Accuracy-Related Penalties
- Understatement of Valuation
- Fraud Penalties
- **Did You Know?** There are over **150** penalties that the IRS can impose!

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Penalties - Generally

- Failure to File, Failure to Pay Estimated Tax, and Failure to Pay Penalties make up 95.5% of all IRS Civil Penalties for Individual taxpayers
 - The IRS charges interest on most penalties from the date the tax return was due until the date of payment
- Penalties can compound when multiple infractions occur. For example, a taxpayer who both fails to file and fails to pay will see penalties stack up, creating a significantly larger financial burden.
- Penalties are codified in the Internal Revenue Code
 - Penalties are broadly categorized into civil and criminal. Civil penalties are more common and include monetary fines, while criminal penalties can include imprisonment for serious offenses
- Section 20 of the Internal Revenue Manual gives IRS agents a guide in assessing or granting abatements, including the First Time Abatement program
 - Taxpayers have the right to appeal penalty assessments.
 - The IRS typically issues notice letters informing taxpayers of penalties, including instructions on how to respond or seek abatement
 - Common reasons for accuracy-related penalties include negligence, substantial understatement of income tax, and substantial valuation misstatements.

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Penalties for Failure to File (FTF)

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How FTF Penalties Are Assessed

- 5% of the tax due on the return per month, up to a maximum of 5 months
- The FTF penalty cannot exceed a maximum of 25% of the amount owed
- If the FTF and FTP penalties run simultaneously, the FTF penalty equals 4.5% per month, up to a maximum of 22.5%
- In cases of fraud, the FTF penalty is 15% of the tax due per month, with a maximum of 75% of the amount owed
- In addition to the penalty, interest will accrue on the unpaid tax and the penalty itself from the due date of the return until the date of payment
- Example: If a taxpayer owes \$5,000 and misses filing, their penalty starts at \$500 for the first month and can climb to \$2,500 over five months. If combined with failure to pay, the penalty calculation shifts, increasing the total financial impact.

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Abatement

- **First-Time Penalty Abatement and Other Administrative Waivers**
 - Eligible for taxpayers who have not been subject to penalties for the previous 3 years
 - Can be applied to failure-to-file, failure-to-pay, and failure-to-deposit penalties
 - Ensures compliance without imposing unnecessary financial burden
- **Reasonable Cause**
 - Granted when taxpayers can demonstrate that failure to comply was due to reasonable cause and not willful neglect
 - Common reasons include natural disasters, serious illness, or inability to obtain necessary records
 - Each case is evaluated on its individual merits, and documentation is essential
- **Maintain detailed records such as bank statements, medical records, and correspondence showing circumstances beyond your control. Strong documentation increases your chances of penalty relief.**
- **Request abatement as soon as possible after receiving a penalty notice to increase the chances of success**
- **Respond promptly to any IRS inquiries or requests for additional information to ensure the abatement request is processed smoothly**

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Penalties for Failure to Pay

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Assessment for Failure to Pay

- 0.5% of the tax due per month, up to a maximum of 25% of the unpaid tax
 - The Failure to Pay penalty accrues monthly and continues until the tax is fully paid or the penalty reaches its maximum limit
- If the taxpayer receives a Notice of Intent to Levy, the penalty increases to 1% per month
 - Interest is charged on both the unpaid tax and the penalty amount, compounding daily from the due date of the return until the balance is paid in full
- If the taxpayer establishes an installment agreement, the penalty decreases to 0.25% per month
 - Setting up an installment agreement not only reduces the penalty rate but also demonstrates a commitment to resolving the tax debt, which can be favorable in dealing with the IRS
- Addressing unpaid taxes promptly can minimize the financial impact of penalties and interest, making it easier to manage and resolve the debt.



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Abating FTP Penalty

- First-Time Penalty Abatement and Other Administrative Waivers
 - Eligible for taxpayers who have not been subject to penalties for the previous 3 years
 - Can be applied to failure-to-file, failure-to-pay, and failure-to-deposit penalties
 - Helps encourage compliance by providing relief for first-time offenses
- Reasonable Cause
 - Granted when taxpayers can demonstrate that failure to pay was due to reasonable cause and not willful neglect
 - Common reasons include natural disasters, serious illness, or inability to obtain necessary records
 - Documentation is crucial to support the abatement request
 - Each case is evaluated based on individual circumstances
- Request abatement as soon as possible after receiving the penalty notice to increase the chances of success
- Maintain detailed records and provide all necessary documentation to support the abatement request
- Respond promptly to any IRS inquiries or requests for additional information to ensure the abatement request is processed efficiently



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Installment Agreement & Penalty Abatement

- Taxpayers who obtain an installment agreement and meet abatement criteria should request penalty abatement at the beginning and at the end of the installment agreement period
 - Ensure all tax filings and payments are made timely during the installment agreement period to qualify for penalty abatement
- The IRS can remove penalties both at the start and the conclusion of the agreement, provided the taxpayer adheres to the terms of the agreement
 - Don't wait until the end of the installment agreement to request abatement; initiating the process early can help in resolving issues promptly
- Actively monitor compliance during the agreement period. Even a single missed payment can jeopardize penalty relief eligibility, leading to reinstated penalties

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Authority

- Section 6651: Failure to file tax return or pay tax
 - Includes specifics on the rates and limits of the penalties
- IRM 20.1.1.3.2: Reasonable Cause
 - Includes examples and documentation requirements
- IRM 20.1.1.3.3.2.1: First Time Abatement (FTA)
 - Explains the criteria on how taxpayers can qualify for this administrative waivers
- IRM 20.1.2: Failure to File/Failure to Pay Penalties
 - Provides guidelines for IRS agents on assessing the penalties

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Failure to Pay Estimated Taxes

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Assessment for Failure to Make Estimated Payments

- The penalty for failure to make estimated payments is the same as the interest rate for underpayments of tax, which is published by the IRS quarterly
 - Estimated tax payments are generally due quarterly, and missing these deadlines can trigger penalties
- The penalty is calculated on IRS Form 2210
 - Taxpayers may be able to avoid the penalty if they meet certain exceptions, such as having no liability in the prior year or if the total tax is below a specific threshold
 - Taxpayers with varying income can use the Annualized Income Installment Method on Form 2210 to potentially lower their penalty by calculating their estimated tax payments based on actual income earned during each period
- If the penalty is not paid with the return, the IRS will send a notice to the taxpayer
 - In certain circumstances, taxpayers may qualify for penalty relief due to reasonable cause or other specific situations outlined by the IRS

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Abating The Penalty

- If the penalty is due to an error made by the IRS, the penalty may be abated.
- Calculating the penalty under a different method may reduce or eliminate it
- Utilizing the Safe Harbor provisions can help avoid penalties. This typically applies if:
 - You paid at least 90% of the tax owed for the current year
 - You paid 100% of the tax shown on the previous year's return (110% if the adjusted gross income is over \$150,000)
- **First-Time Penalty Abatement and Other Administrative Waivers**
 - Eligible for taxpayers who have not been subject to penalties for the previous 3 years
 - Can be applied to failure-to-file, failure-to-pay, and failure-to-deposit penalties
 - Helps encourage compliance by providing relief for first-time offenses
- **Reasonable Cause**
 - Granted when taxpayers can demonstrate that failure to pay was due to reasonable cause and not willful neglect
 - Common reasons include natural disasters, serious illness, or inability to obtain necessary records
 - Documentation is crucial to support the abatement request
 - Each case is evaluated based on individual circumstances
- Promptly request abatement upon receiving a penalty notice to increase the chances of success
- Respond promptly to any IRS inquiries or requests for additional information to ensure the abatement request is processed efficiently

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Procedural Tips

- Request IRS transcripts to review and verify your tax accounts. Penalties may be reduced or eliminated by applying payments to different tax periods.
- Use the Annualized Income Installment Method to calculate and pay estimated taxes based on actual income earned during each period, which can potentially lower penalties
- **Safe Harbor Rule**
 - Pay at least 90% of the tax shown on the current year's return
 - Pay 100% of the tax shown on the prior year's return
 - If the taxpayer had adjusted gross income in the previous year greater than \$150,000 (\$75,000 if married filing separately), pay 110% of the tax shown on the prior year's return
- Regularly review your tax situation throughout the year to avoid surprises and make adjustments to estimated payments as needed

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Authority

- Section 6654: Failure by individual to pay estimated income tax
 - Includes rates and conditions under which these penalties are assessed
- Section 6655: Failure by corporation to pay estimated income tax
 - Provides guidelines on how these penalties are calculated and enforced
- IRM 20.1.3: Estimated tax penalties
 - Offers guidance for IRS agents on the assessment and abatement of these penalties

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Failure to Deposit Payroll Funds Form 941

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Assessing Penalties for FTD Payroll Funds

- **Penalty Rates:**
 - 2% for deposits made 1-5 days late
 - 5% for deposits made 6-15 days late
 - 10% for deposits made 16 or more days late or not made within 10 days of the date of the 1st IRS notice asking for payment
 - 15% for amounts still unpaid more than 10 days after the date of the 1st IRS notice for payment
- Ensure deposits are made promptly to avoid penalties
- Double-check deposit amounts to match payroll liabilities
- Pay close attention to any IRS notices regarding deposit requirements

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Abatement

- **First-Time Penalty Abatement**
 - Available for taxpayers with a clean compliance history
 - Applies for failure-to-file, failure-to-pay, and failure-to-deposit penalties
- **Other Administrative Waivers**
 - Available under certain IRS programs
 - Can be applied in specific situations as defined by IRS guidelines
- **Reasonable Cause:**
 - Events beyond taxpayer's control, such as natural disasters, illness, or inability to obtain records
 - Demonstrate due diligence and reasonable efforts to comply
 - Provide comprehensive evidence supporting the claim
 - Keep records of all communications and relevant documents
- Respond promptly to any IRS inquiries

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Authority

- Section 6656:
 - Details the penalties for failure to make deposits of taxes
- Regs. Section 301.6656-1:
 - Provides guidelines for the abatement of penalties under Section 6656
- IRM 20.1.1.3.2
 - Explains the criteria for reasonable cause in penalty abatement
- IRM 20.1.1.3.3.2.1
 - Describes the First Time Abatement (FTA) provision and its application
- IRM 20.1.4
 - Outlines the failure to deposit penalty and related procedures

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Procedural Tips

- Taxpayers can designate deposits or change prior designations to specific tax periods
- Penalties can be reduced or eliminated by appropriately designating deposits
- Each deposit must be designated to a tax period within 90 days of receiving a failure-to-deposit (FTD) penalties notice [IRC 6656(e)(2)]
- Keep thorough records of all designations and communications with the IRS
- IRS transcripts can reveal penalty assessments and payment misallocations. Requesting transcripts before disputing penalties ensures an informed appeal strategy

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Accuracy Related Penalties

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§6662 Accuracy Related Penalties

- Generally, a flat 20% penalty is assessed on underpayment of tax due to various inaccuracies
- Applicable Situations:
 - **Negligence:** Failure to make a reasonable attempt to comply with tax laws
 - **Substantial Understatement of Income Tax:** When the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$5,000
 - **Substantial Valuation Misstatement:** When the value of property reported on the return is 150% or more of the correct value
 - **Substantial Overstatement of Pension Liabilities:** Overstatement of pension liabilities by 200% or more
 - **Substantial Estate or Gift Tax Valuation Understatement:** When the value of property reported on estate or gift tax returns is 50% or less of the correct value
- The IRS takes into account taxpayer behavior and documentation when assessing these penalties
- Taxpayers who disclose uncertain positions using Form 8275 (Disclosure Statement) can mitigate penalty risks and show good-faith compliance.

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Abating Accuracy Related Penalties

- Reasonable Cause
 - Demonstrate that the taxpayer exercised ordinary business care and prudence
 - Provide detailed documentation and evidence to support the claim
- No First-Time Abatement (FTA) Available
 - Accuracy-related penalties are not eligible for first-time penalty abatement
- Taxpayer must prove they have at least substantial authority for their tax position
 - Reference relevant statutes, regulations, court cases, and IRS ruling to support the position

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Procedural Tips

- Form 8275, Disclosure Statement
 - Used to disclose items or positions that are not otherwise adequately disclosed on a tax return
 - Ensures transparency and compliance
- Form 8275-R, Regulation Disclosure Statement
 - Used to disclose positions that are contrary to regulations
 - Protects against accuracy-related penalties for disclosed positions
- No accuracy-related penalty if the return position is properly disclosed using the appropriate form
- Must meet at least the reasonable basis standard
- Reasonable Basis Standard:
 - A reasonable basis is a relatively high standard of tax reporting that is significantly higher than not frivolous or merely arguable
 - Ensures that the position has a solid legal foundation
- IRS transcripts can reveal penalty assessments and payment misallocations. Requesting transcripts before disputing penalties ensures an informed appeal strategy

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Authority

- Section 6662: Imposition of accuracy-related penalties on underpayments
- Section 6662A: Imposition of accuracy-related penalties on understatements with respect to reportable transactions
- Section 6664: Definitions and special rules relevant to accuracy-related penalties
- Regs. Section 1.662-1 through 1.662-7: Various regulations related to accuracy-related penalties
- Regs. Section 1.6664-4: Reasonable cause and good faith exception to Section 6662 penalties
- IRM 20.1.1.3.2: Reasonable cause criteria for penalty abatement
- IRM 20.1.5: Guidelines on return-related penalties, including accuracy-related penalties

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Relief From Penalties

[Section contained on following Slides]

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Situation Where IRS Grants Penalty Relief

- Administrative Relief:
 - First-Time Abatement
 - Statutory Exceptions Eligible for Relief
 - Incorrect Written Advice From the IRS
 - Taxpayer Mailed Reports on Time
 - Federal Disaster Areas and Combat Zones
- Reasonable Cause
 - Relief granted when the taxpayer can show they exercised ordinary business care and prudence but were unable to comply with tax obligations
- Maintain thorough records of all communications and supporting documents

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First-Time Abatements (FTAs)

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FTA – General Overview 1

- Abatements for penalties such as Failure to File, Failure to Pay Estimated Taxes, and Failure to Pay
- FTA is available for the 2001 tax year and later according to IRM 20.1.1.3.3.2.1.4(a)
- The abatement applies to a single tax period only
- No FTA is allowed if the taxpayer has incurred a penalty (excluding estimated tax penalties) in the previous 3 years for the same tax form [IRM 20.1.1.3.3.2.1.4(c)]
- Maintain clear records of compliance history and penalties to substantiate FTA requests
- Submit abatement requests promptly to ensure they are considered within the allowed timeframe
- Even if a taxpayer qualifies for FTA, they should ensure future compliance, as repeated penalties may limit eligibility for relief in later years.

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FTA – General Overview 2

- FTA is an Administrative Waiver
 - Not an abatement for reasonable cause
 - Specifically designed to provide relief for first-time penalty incidences
- Form 2210 penalties do not disqualify a taxpayer from FTA eligibility
- Taxpayers with outstanding balances from earlier years must be current on an installment agreement to qualify for FTA.
- Currently Not Collectible (CNC) accounts do not qualify for FTA relief

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Practitioner Power of Attorney

- A tax representative must have Power of Attorney (POA) for not just the current year, but also for the previous 3 years
- Note that a Form 8821 (Tax Information Authorization) will not suffice
- The POA must be granted via Form 2848 (Power of Attorney and Declaration of Representative)

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3-Year Lookback

- The 3-year lookback requirement is disregarded if:
 - The taxpayer was not previously required to file a return, or
 - The IRS fully abated penalties assessed in the prior 3 years for reasonable cause
- Maintain thorough records to substantiate the lack of a prior filing requirement or the abatement of penalties

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Returns Eligible for FTA

- Form 1040: U.S. Individual Income Tax Return
- Form 1120: U.S. Corporation Income Tax Return
- Form 1120-S: U.S. Income Tax Return for an S Corporation
- Form 1065: U.S. Return of Partnership Income
- Form 940: Employer's Annual Federal Unemployment (FUTA) Tax Return
- Form 941 & Related Returns: Employer's Quarterly Federal Tax Return
- Form 2290: Heavy Highway Vehicle Use Tax Return
- Form 720: Quarterly Federal Excise Tax Return

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Returns Not Eligible for FTA

- Returns filed only under specific circumstances (not annually), such as estate or gift tax returns
- Penalties related to the daily delinquency of Employee Plans
- Penalties associated with Exempt Organizations

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Taxpayers Who Qualify for FTA

- Taxpayers who did not previously have to file a return, or have no penalties for the 3 years prior to the penalty year
- Prior years with a complete reasonable cause penalty abatement are disregarded
- The taxpayer has filed all currently required returns or filed an extension of time to file
- The taxpayer has paid or arranged to pay any tax due

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FTA Requirements & Procedures

- 3 Options for Requesting FTA
 - Call the IRS and speak directly with an agent to request FTA
 - Submit a formal written request detailing your eligibility and reasons for abatement
 - Complete and submit Form 843, Claim for Refund and Request for Abatement
- Provide detailed information about the penalty, tax period, and reasons for requesting abatement
- Include any supporting documents that substantiate your claim
- Keep track of your request and follow up with the IRS if necessary

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Calling IRS for Abatement

- Requesting FTA Over the Phone
 - Highly advisable if tax penalties are less than \$500
 - Quick and direct method to address penalty issues
- Immediate Decision
 - The IRS agent can grant the First-Time Abatement (FTA) quickly over the phone
- Further Action
 - If additional information or documentation is required, the agent may ask the taxpayer to file for abatement through a Written Petition or Form 843
- Have all relevant information ready, including details of the penalty and tax periods

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Tips for Filing a Written Request Using Form 843

- Keep the request short and straight to the point
- Attach all necessary supporting documents to substantiate your claim
- Mail the request via Certified Mail to the address found in the IRS assessment letter for confirmation of receipt
- Send only photocopies of your documents, not the original copies, to protect your originals.
- Ensure all section of Form 843 are filled out correctly and completely
- Keep a copy of the request and any correspondence for your records
- Follow up with the IRS if you do not receive a response within a reasonable timeframe

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Form 843

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843
Form (Rev. December 2024)
Department of the Treasury
Internal Revenue Service

Claim for Refund and Request for Abatement
Go to www.irs.gov/Form843 for instructions and the latest information.

OMB No. 1545-0024

Check the box below that indicates your reason for filing Form 843.

Tax

☐ Abatement or refund of tax other than income, estate, or gift tax

☐ Abatement or refund of tax that can't be claimed on any form except Form 843

☐ Refund to employee of excess social security, Medicare, or RRTA tax withheld by any one employer, but only if your employer will not adjust the overcollection

☐ Refund to employee of excess tier 2 RRTA tax when, for the year, you had more than one railroad employer and your total tier 2 RRTA tax withheld or paid exceeds the tier 2 limit

☐ Refund to employee of social security, Medicare, or RRTA tax withheld in error, but only if your employer will not adjust the overcollection

☐ Abatement or refund of tier 1 RRTA tax for an employee representative

Penalty

☐ Abatement or refund of a penalty or addition to tax due to reasonable cause or other reason allowed under the law

☐ Abatement or refund of penalty imposed under section 6672 for failure to collect and pay over tax, or attempt to evade or defeat tax (Trust Fund Recovery Penalty)

☐ Refund of penalty imposed under section 6695A for misstatements due to incorrect appraisals

☐ Refund of penalty imposed under section 6715 for misuse of dyed fuel

☐ Abatement or refund under section 6404(f) of a penalty or addition to tax attributable to erroneous written advice by the IRS

Interest

☐ Abatement or refund of interest due to IRS error or delay under section 6404(e)(1)

☐ Request for net interest rate of zero under Rev. Proc. 2000-26

Other

☐ Abatement or refund of assessed penalties, interest, or additions to tax because you were unable to read and timely respond to a standard print notice from the IRS

☐ Refund of branded prescription drug fee

☐ Refund of annual fee on health insurance providers

☐ Other (specify)

CAUTION: Do not use Form 843 when you must use a different tax form. For example, do not use Form 843 to claim a refund or abatement of an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding; a refund of excise taxes based on the nontaxable use or sale of fuels; or an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290. Also, do not use Form 843 to claim a refund of tax return preparer or promoter penalties. See instructions for the forms to use.

Name of person requesting the refund or abatement (see instructions)		Social security number (SSN)
Name of spouse if filing Form 843 relating to a joint return (see instructions)		Spouse's social security number (SSN)
Address (number and street or P.O. box if mail is not delivered to street address)		Apt., room, or suite no.
City, town, or post office. If you have a foreign address, also complete spaces below.	State	ZIP code
Foreign country name	Foreign province/state/country	Foreign postal code
Name and address shown on return if different from above		Daytime telephone number

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Appealing a Denial by the IRS

- If the FTA is denied, the taxpayer will receive IRS Letter 854C
- The taxpayer may appeal within 60 days of receiving the denial notice
- The taxpayer may also request a Collection Due Process (CDP) hearing to settle tax penalties
- It's crucial to respond promptly to the denial notice to preserve appeal rights



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Reasonable Cause Exception

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Reasonable Cause Exception – In General

- Must be due to reasonable cause and not willful neglect
- Factors to Consider:
 - Whether the lapse was of a short or long duration
 - Medical issues experienced by the taxpayer
 - The death of the taxpayer
- Note: Lack of funds is not usually a valid defense unless genuine hardship can be demonstrated
- Thorough documentation and evidence can strengthen the claim for reasonable cause

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Reasonable Cause Per IRM

- IRS IRM 20.1.1.3.2
- “Reasonable Cause...For those penalties where reasonable cause can be considered, any reason which establishes that the taxpayer exercised ordinary business care and prudence, but nevertheless was unable to comply with a prescribed duty within the prescribed time, will be considered”
- It’s important to demonstrate ordinary business care and prudence
- Ensure all documentation supports the claim of reasonable cause

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Examples of Reasonable Cause

- Death of a Loved One
- Natural Disasters
- Unavoidable Absences (i.e. being in prison or in a rehabilitation center)
- Receiving incorrect tax advice from a tax professional
- Each situation must be well-documented to support the claim of reasonable cause

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Other Issues

[Section contained on following Slides]

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Stopping The Interest

- Taxpayers are required to pay interest on any tax liability and corresponding penalties
- Methods to Stop Interest from Accruing:
 - Deposits: Taxpayers can make deposits with the IRS to stop the accrual of interest
 - Advanced Payments: Taxpayers can make advanced payments towards their tax liability to halt the accumulation of interest
- Making deposits or advanced payments can effectively manage and reduce the overall tax burden

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Deposits Slide 1

- Taxpayers must send the deposit and a written statement to the IRS Service Center where they file their returns or are examined
- The written statement must explicitly designate the payment as a deposit and include:
 - Type of Tax
 - Tax Year(s), and
 - Provide a statement identifying the amount of and basis for the “disputable tax”
- Ensure that the written statement is clear and comprehensive to avoid any processing details

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Deposits Slide 2

- If no written designation, it will be treated as a payment starting with the earliest tax year for which there is a liability and can be applied to any outstanding liabilities for:
 - Taxes
 - Penalties
 - Interest
- Amounts would be applied in the following order:
 - Tax
 - Penalties
 - Interest
- Ensure the written designation is explicit to avoid misapplication of the deposit

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Advance Payments

- An advance payment is the payment of the proposed tax liability before the IRS assesses the tax
- Application:
 - The payment is credit to the taxpayer's account
 - Any excess will be applied against the taxpayer's other tax liabilities
 - The excess amount, if any, will be refunded
- Excess advanced payments must be obtained with a claim for refund, unlike a deposit

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Helpful Websites

- IRS Internal Revenue Manual
 - <https://www.irs.gov/irm/part20>
- IRS Penalty Relief Due to Statutory Exception
 - <https://www.irs.gov/payments/penalty-relief-due-to-statutory-exception>
- AICPA Federal Taxpayer Penalties Guide
 - <https://www.aicpa-cima.com/resources/download/federal-taxpayer-penalties-guide>

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IRS Helpline Numbers

- For Taxpayers:
 - General Inquiries: 1-800-829-1040 (TAX-1040)
 - IRS Penalty Assistance Line: 1-855-223-4017 Ext. 225
- For Tax Professionals:
 - IRS Practitioner Priority Service (PPS) Line: 1-866-860-4259
 - **[NEWLY RELEASED]** IRS Penalty Assistance Line: 1-855-229-4017 Ext. 225

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Other Penalties

[Section contained on following Slides]

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Trust Fund Recovery Penalty (TFRP)

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Assessing Trust Fund Responsible Persons

- This penalty may apply if certain excise income, Social Security, and Medicare taxes (known as trust fund taxes) that must be collected or withheld aren't collected, withheld, or paid
- The penalty may be imposed on all persons determined by the IRS to have been responsible for this function
- The penalty is equal to the unpaid trust fund tax

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Abating Trust Fund Penalties

- Prove the taxpayer does not meet the requirements of a “responsible person”
- Prove the taxpayer did not willfully fail to perform the duties of collecting, accounting for, or paying over trust fund taxes

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Authorities

- Section 6672:
 - Imposes a penalty on responsible persons who willfully fail to collect or pay over trust fund taxes
- Treas. Reg. Section 301.6672-1:
 - Provides further details on the application of Section 6672
- IRM 8.25.1:
 - Covers procedures for the Appeals function
- IRM 5.7:
 - Deals with employment tax enforcement
- IRM 5.19.14:
 - Addresses procedures for handling delinquent trust fund taxes, including the assessment and collection of trust fund recovery penalties

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S Corporation Returns

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Assessment

- The penalty equals \$255 (indexed for inflation) multiplied by the number of shareholder in the S corporation at any time during the tax year
- For a return with no tax due, the penalty is assessed for each month or partial month that the return is late or incomplete, up to a maximum of 12 months
- If tax is due, an additional penalty is assessed equal to 5% of the unpaid tax for each month or partial month that the return is late, up to a maximum of 25% of the unpaid tax

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Abatement

- First-Time Penalty Abatement (FTA)
 - Eligible taxpayers can request penalty relief if they have no prior penalties for the preceding 3 years
- Other Administrative Waivers
 - The IRS may grant relief based on specific administrative reasons
- Reasonable Cause
 - Penalty relief may be granted if the taxpayer can show that they exercised ordinary business care and prudence but were unable to comply with the tax obligation due to circumstances beyond their control
- Thorough documentation and timely responses are crucial when requesting abatement

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Authority

- Section 6699: Failure to file S Corporation return
- IRM 20.1.1.3.2: Reasonable cause
- IRM 20.1.1.3.3.2.1: First-Time Abatement (FTA)
- IRM 20.1.2: Failure to file / failure to pay penalties
- IRM 20.1.2.2.3.1.1: Extension of time to file

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Failure to File Form 1065 (Partnership Returns)

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Assessment

- The penalty equals \$255 (indexed for inflation) multiplied by the number of partners in the partnership during any part of the tax year
- For a return with no tax due, the penalty is assessed for each month or partial month that the return is late or incomplete, up to a maximum of 12 months
- The penalty is assessed against the partnership

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Abatement

- First-Time Penalty Abatement (FTA)
 - Eligible taxpayers can request penalty relief if they have no prior penalties for the preceding 3 years
- Other Administrative Waivers
 - The IRS may grant relief based on specific administrative reasons
- Reasonable Cause
 - Penalty relief may be granted if the taxpayer can show that they exercised ordinary business care and prudence but were unable to comply with the tax obligation due to circumstances beyond their control
- Thorough documentation and timely responses are crucial when requesting abatement

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Authority

- Section 6698: Failure to file Partnership return
- IRM 20.1.1.3.2: Reasonable cause
- IRM 20.1.1.3.3.2.1: First-Time Abatement (FTA)
- IRM 20.1.2: Failure to file / failure to pay penalties

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Failure to File International Information Returns

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Forms 5471, 5472, 8858,
8865, 926, & 8938

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Assessment Slide 1

- **Form 5471** (*Information Return of U.S. Persons With Respect to Certain Foreign Corporations*), **8858** (*Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs)*), or **8865** (*Return of U.S. Persons With Respect to Certain Foreign Partnerships*):
 - Initial Penalty: \$10,000 for each failure to file the annual return
 - Additional Penalty: \$10,000 for each month the failure continues, beginning 90 days after notification of delinquency
 - Maximum Penalty: Up to \$60,000
- **Form 5472** (*Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*):
 - Initial Penalty: \$25,000 for each failure to file the annual return
 - Additional Penalty: \$25,000 for each month the failure continues, beginning 90 days after notification of delinquency.
 - No Maximum Penalty [Section 6038A(d)]
- It's crucial to timely file these forms to avoid substantial penalties

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Assessment Slide 2

- **Form 8865** (*Schedule O*) and **Form 926** (*Return by a U.S. Transferor of Property to a Foreign Corporation*):
 - Penalty: The IRS may assert a penalty of 10% of the property's fair market value at the time of transfer
 - Limit: Penalty is limited to \$100,000
- **Form 8938** (*Statement of Specified Foreign Financial Assets*):
 - Penalties: Refer to the penalties outlined for Form 5471 et al, as described on the prior slide [Section 6038D(d)]
- Timely and accurate filing of these forms is essential to avoid substantial penalties

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Abatement

- First-Time Penalty Abatement (FTA) [Special Cases]
 - Eligible taxpayers can request penalty relief if they have no prior penalties for the preceding 3 years
- Reasonable Cause
 - Penalty relief may be granted if the taxpayer can demonstrate that they exercised ordinary business care and prudence but were unable to comply with tax obligations due to circumstances beyond their control
- Providing detailed documentation and evidence to support the request for abatement is crucial

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Authority

- Section 6038: Information reporting with respect to certain foreign corporations and partnerships
- Section 6038A: Information with respect to certain foreign-owned corporations
- Section 6038B: Information of certain transfers to foreign persons
- Section 6038C: Information with respect to foreign corporations engaged in U.S. business
- Section 6038D: Information with respect to foreign financial assets
- IRM 20.1.9: International penalties
- IRM 21.8.1.: IMF International adjustments (Form 926)
- IRM 21.8.2: BMF International adjustments

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Procedural Tips

- According to IRM 20.1.9.3.5 and IRM 20.1.9.5.5, a first-time penalty abatement waiver may be available if the waiver was applied to the taxpayer's related Form 1120/1120S/1065 late-filing penalty
- Under Section 6501(c)(8), the statute of limitations is open indefinitely until Forms 5471/5472 are filed
- For specific advice on penalty abatement request procedures, see "International Information Return Penalties Remain A Significant Issues for Taxpayers and Advisers," The Tax Adviser, April 2017
 - <https://www.thetaxadviser.com/issues/2017/apr/international-information-return-penalties.html>

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FBAR

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Assessment

- **General Penalty:**
 - A penalty, not to exceed \$10,000, may be imposed on any person who violates or causes any violation of the FBAR (Foreign Bank and Financial Accounts) filing and recordkeeping requirements
- **Willful Failure to Report:**
 - Persons who willfully fail to report an account may be subject to a penalty equal to the greater of \$100,000 or 50% of the balance in the account at the time of the violation, for each violation
- **Criminal Penalties:**
 - Willful violations may also be subject to criminal penalties, including additional monetary penalties and/or imprisonment

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Abatement

- **Reasonable Cause**
 - Taxpayers may be granted penalty relief if they can demonstrate reasonable cause for failure to comply with tax obligations.
 - Reasonable cause is generally based on all the facts and circumstances in the taxpayer's situation, including ordinary business care and prudence.
 - Providing thorough documentation to support the claim of reasonable cause is crucial to increasing the likelihood of penalty abatement.

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Authority

- 31 U.S.C. 5321: Civil penalties related to the valuation of FBAR requirements
- 31 U.S.C. 5322: Criminal penalties associated with willful violations of FBAR requirements
- IRM 4.26.16: Report of Foreign Bank and Financial Accounts (FBAR) procedures and requirements
- IRM 20.1.9: International penalties, including those related to FBAR violations

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Failure to File Forms 3520 & 3520-A

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Forms 3520 & 3520-A

- These forms are used to report transactions with foreign trusts and the receipt of certain foreign gifts
- Both forms must be filed annually to disclose foreign trust transactions and foreign gifts as required by the IRS
- **Form 3520:** Used by U.S. persons to report certain transactions with foreign trusts, ownership of foreign trusts, and receipt of certain large foreign gifts
- **Form 3520-A:** Used by foreign trusts with at least 1 U.S. owner to provide information about the trust, its U.S. beneficiaries, and any U.S. persons who are treated as owners of any portion of the foreign trust

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Assessment for Forms 3520

- **Penalty Calculation:** The greater of \$10,000 or the following, as applicable:
 - A. 35% of the gross value of any property transferred to a foreign trust for failure by a U.S. transferor to report the creation of or transfer to a foreign trust
 - B. 35% of the gross value of the distributions received from a foreign trust for failure by a U.S. person to report receipt of the distribution
 - C. 5% of the gross value of the portion of the foreign trust's assets treated as owned by a U.S. person under the grantor trust rules (Sections 671 through 679) for failure by the U.S. person to report the U.S. owner information

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Assessment for Forms 3520-A & for Gifts

- Penalty for Form 3520-A:
 - Greater of \$10,000 or the 5% penalty (as discussed on previous slide)
- Form 3520 (Gifts Only):
 - Penalty: 5% of the fair market value of the gift per month, up to 25%
- Additional Penalties:
 - Civil and criminal penalties may also apply for non-compliance

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Abatement

- Reasonable Cause
 - Taxpayers may be granted penalty relief if they can demonstrate reasonable cause for failure to comply with tax obligations.
 - Reasonable cause is generally based on all the facts and circumstances in the taxpayer's situation, including ordinary business care and prudence.
 - Providing thorough documentation to support the claim of reasonable cause is crucial to increasing the likelihood of penalty abatement.

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Authorities

- Section 6677: Failure to file information with respect to certain foreign trusts
- Section 6039F: Notice of large gifts received from foreign persons
- IRM 20.1.9: International penalties
- IRM 21.8.2: BMF international adjustments

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Failure to File or Furnish a Correct Payee Statement

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Assessment

- A penalty of \$250 may be imposed for each failure to file or furnish payee forms, such as Schedules K-1, Forms 1099, 1042-S, W-2, etc.
- The maximum penalty is \$3 million for all such failures during a calendar year (indexed for inflation)
- If the requirement to report information is intentionally disregarded, the penalty is increased to \$500 (indexed for inflation) or, if greater, 10% of the aggregate amount of items to be reported (no maximum applies)

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Abatement

- Reasonable Cause
 - Penalty relief may be granted if the taxpayer can demonstrate reasonable cause for failure to comply with tax obligations
- Inconsequential error
 - Minor errors or omissions that do not impact the ability of the IRS to process the return or collect the tax owed may qualify for penalty relief
- Exception for de minimis failures
 - Penalties may be waived for certain small, inadvertent failures that meet specific criteria

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Inconsequential Error

- An inconsequential error or omission is not considered a failure to comply with a specified information reporting requirement, so no penalty will be assessed
- The term “inconsequential” means any failure that does not hinder the IRS’s ability to use the information as intended or prevent a payee from timely receiving correct information and reporting it on their return
- An inconsequential error is not considered a failure to file
- A missing taxpayer identification number is never considered inconsequential

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Authorities

- Section 6721: Failure to file correct information returns
- Section 6722: Failure to furnish correct payee statements
- Section 6724: Waiver, Definitions, and Special Rules
- IRM 20.1.7: Information return penalties

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Procedural Tips

- De Minimis Errors:
 - If no single amount in error differs from the correct amount by more than \$100, and no single amount reported for tax withheld differs from the correct amount by more than \$25, no correction is required
 - This applies to payee statements required to be provided after December 31, 2016
- This rule helps simplify the reporting process by eliminating the need to correct minor errors

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Questions?

Thank You For Your Participation!

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Appendix: Sample Penalty Abatement Request Letters

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Penalty Types & IRC References

<u>Penalty Type</u>	<u>IRC Section</u>	<u>Common Trigger</u>
Failure to File	§6651(a)(1)	Late filing of return
Failure to Pay	§6651(a)(2)	Late payment of tax
Accuracy-Related	§6662	Negligence, substantial understatement
Trust Fund Recovery Penalty	§6672	Willful failure to remit payroll taxes
Failure to Deposit	§6656	Late or incorrect payroll deposits
International Info Reporting	§6038, §6039F, §6046	Late or missing Forms 5471, 3520, etc

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Common Uses of Form 843

Use Case

Refund of paid penalties
Abatement of assessed penalties
Interest abatement due to IRS error
Trust fund recovery penalty challenge
International reporting penalty relief

Example Penalties

Failure to file, failure to pay
Accuracy-related, payroll deposit
Erroneous assessment or delay
§6672 assessments
Forms 3520, 5471, 5472, FBAR

- Sample Language for Explanation

- "Taxpayer failed to file Form 3520 for tax year 2022 due to reliance on a qualified tax professional who incorrectly advised that the form was not required. Upon discovery, the taxpayer promptly filed the form and has maintained full compliance since. We respectfully request abatement under reasonable cause provisions outlined in IRC § 6039F and Treas. Reg. § 301.6039F-1."

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First-Time Abatement (FTA) Request for Failure to File

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- **Subject:** Request for Penalty Abatement Due to First-Time Abatement Eligibility
- Dear IRS Representative,
- I am writing to formally request a **penalty abatement** for the failure-to-file penalty assessed on my [TaxYear] tax return for [Form Type]. Based on my review of the IRS First-Time Abatement (FTA) policy, I believe I qualify for penalty relief.
- I have maintained a history of compliance and have not received any penalties for the past three years. Due to an oversight, my return was filed late, resulting in the penalty assessment. Since I have demonstrated a **consistent record of filing and paying on time**, I respectfully request an abatement under the IRS's FTA program.
- Please review my compliance history and consider waiving the penalty under this administrative waiver. If further documentation is required, I am happy to provide it.
- Thank you for your time and consideration. I look forward to your response.
- Sincerely, [Taxpayer Name]

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Penalty Abatement Request Due to Reasonable Cause (Illness/Hardship)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- Subject: Request for Penalty Abatement Due to Reasonable Cause
- Dear IRS Representative,
- I am writing to formally request an **abatement of penalties** for [Tax Year] based on reasonable cause. Due to unforeseen circumstances beyond my control, I was unable to file my return or pay my tax liability on time.
- Specifically, during the tax period in question, I experienced a **severe medical emergency** that left me incapacitated and unable to manage my financial affairs. Attached are medical records confirming my hospitalization during this period. As soon as I recovered, I took immediate steps to file my return and resolve any outstanding obligations.
- The IRS guidelines state that penalties may be waived when a taxpayer has exercised **ordinary business care and prudence** but was unable to comply due to circumstances beyond their control. Given my situation, I respectfully request that the penalties assessed be removed under the **reasonable cause** exception.
- Please let me know if additional documentation is needed. I appreciate your consideration and look forward to your response.
- Sincerely, [Taxpayer Name]



99

Penalty Abatement Request for Payroll Tax (Trust Fund Recovery)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Abatement of Trust Fund Recovery Penalty
- Dear IRS Representative,
- I am writing to formally request an **abatement of the Trust Fund Recovery Penalty** assessed against me for [Tax Period].
- I respectfully contest the IRS's determination that I was a **"responsible person"** regarding the unpaid payroll taxes in question. I did not have **check-signing authority**, nor was I responsible for tax deposits or financial oversight within the company. My role was strictly [describe role—e.g., administrative, operations].
- Additionally, I was unaware of the payroll tax compliance issues occurring at the time. The IRS guidelines for trust fund recovery penalties state that an individual must be **both responsible and willful** in failing to remit payroll taxes. Since I did not meet these criteria, I request that the assessed penalty be fully abated.
- Please let me know if additional documentation is needed to support this request. Thank you for your time and consideration.
- Sincerely, [Taxpayer Name] [Business Name]



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Request for Abatement of Failure to File Penalty (Individual Taxpayer – Form 1040)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- Subject: Request for Penalty Abatement – Failure to File (Form 1040)
- Dear IRS Representative,
- I am writing to formally request a **penalty abatement** for the failure-to-file penalty assessed for the [Tax Year] tax return. Due to unforeseen circumstances, I was unable to file my return by the deadline.
- The delay was caused by [brief reason—example: medical emergency, family hardship, natural disaster], which prevented me from organizing my financial records and submitting my tax return on time. However, as soon as I was able, I took immediate steps to file my return and comply with my tax obligations.
- IRS guidelines provide penalty relief under the **reasonable cause exception** when a taxpayer has exercised **ordinary business care and prudence** but was unable to meet their filing deadline due to circumstances beyond their control. Given my situation, I respectfully request that the failure-to-file penalty be abated.
- I have enclosed supporting documentation [example: hospital records, financial hardship statement] to substantiate my request. Please let me know if additional information is required. Thank you for your time and consideration.
- Sincerely, [Taxpayer Name]

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Request for Abatement of Failure to Pay Penalty (Individual Taxpayer – Form 1040)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- Subject: Request for Penalty Abatement – Failure to Pay
- Dear IRS Representative,
- I am requesting a **penalty abatement** for the failure-to-pay penalty assessed on my [Tax Year] tax return. Due to financial hardship, I was unable to remit payment by the deadline, resulting in the penalty.
- During the tax period in question, I experienced [brief hardship explanation—example: unexpected medical expenses, job loss, business downturn], which significantly affected my ability to pay on time. I have since taken proactive steps to resolve the balance and have either fully paid the amount due or entered into a payment agreement with the IRS.
- The IRS provides penalty relief under **reasonable cause** if the taxpayer made a good-faith effort but was **unable to pay due to circumstances beyond their control**. I respectfully request that the failure-to-pay penalty be abated under these provisions.
- Attached are supporting documents [example: financial statements, hardship letter] to substantiate my request. Please advise if additional information is needed. Thank you for your consideration.
- Sincerely, [Taxpayer Name]

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Request for Abatement of Failure to File Payroll Taxes (Business – Form 941)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Abatement of Failure to File Penalty – Form 941
- Dear IRS Representative,
- I am writing to formally request a **penalty abatement** for the failure-to-file penalty assessed against [Business Name] for our [Quarter/Year] payroll tax return (Form 941).
- Due to [brief explanation—example: administrative oversight, software failure, severe business disruption], our tax return was inadvertently filed late. As soon as we became aware of the issue, we took immediate corrective action, submitted the return, and ensured that future filings would be timely.
- According to IRS guidelines, **reasonable cause relief** may be granted when a taxpayer exercised **ordinary business care** but was unable to file due to unforeseen events. We believe our situation qualifies for this relief and respectfully request that the assessed penalty be removed.
- Attached are supporting documents detailing the circumstances and corrective actions taken. Please let us know if further information is needed. We appreciate your time and consideration.
- Sincerely, [Business Name]



103

Request for Abatement of Trust Fund Recovery Penalty (Business – Payroll Taxes)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Abatement of Trust Fund Recovery Penalty
- Dear IRS Representative,
- I am requesting an **abatement of the Trust Fund Recovery Penalty** assessed against me regarding [Business Name]'s payroll tax liabilities for [Quarter/Year].
- I respectfully contest the IRS's determination that I was a "**responsible person**" for payroll tax deposits. My role within the company was [describe role—example: operations, management, consulting], and I was neither **authorized to sign checks nor responsible for payroll tax submissions**.
- The IRS's guidelines state that individuals must be **both responsible and willful** to be held personally liable. Since I did not have control over payroll tax compliance, I respectfully request that the assessed penalty be abated.
- Enclosed are supporting documents demonstrating my lack of involvement in payroll tax matters. Please advise if further clarification is required. Thank you for your time and consideration.
- Sincerely, [Taxpayer Name] [Business Name]



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Request for Abatement of Failure to File Penalty (Partnership/LLC – Form 1065)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Penalty Abatement – Failure to File (Form 1065)
- Dear IRS Representative,
- I am writing to formally request **abatement of the failure-to-file penalty** assessed against [Business Name] for the partnership return (Form 1065) for [Tax Year].
- Due to [brief explanation—example: internal miscommunication, CPA error, transition in business leadership], our tax return was inadvertently filed after the deadline. As soon as we realized the mistake, we took immediate steps to submit the return and ensure our compliance moving forward.
- The IRS recognizes **reasonable cause** as a valid basis for penalty abatement when a business demonstrates that it exercised **ordinary business care and prudence** but was unable to file timely due to circumstances beyond its control. We believe our situation qualifies under these provisions and request that the penalty be abated.
- Enclosed are supporting documents explaining the circumstances. Please advise if additional information is needed. We appreciate your consideration.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]



105

Request for Abatement of Late Filing Penalty (S-Corporation Form 1120S)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Penalty Abatement – Late Filing (Form 1120S)
- Dear IRS Representative,
- I am requesting **abatement of the late filing penalty** assessed against [Business Name] for the corporate tax return (Form 1120S) for [Tax Year].
- Unfortunately, due to [brief reason—example: software error, sudden financial hardship, unexpected restructuring], our return was filed past the due date. However, our business has maintained a **strong compliance history**, and this late filing was an isolated incident.
- Under the IRS's **First-Time Abatement (FTA) program**, businesses with a **clean filing history** are eligible for penalty relief. We respectfully request that the penalty be waived under this administrative waiver.
- I have enclosed documentation supporting our request. Please let us know if additional information is required. We appreciate your time and consideration.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]



106

Request for Abatement of Late Filing Penalty (C-Corporation Form 1120)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Penalty Abatement – Late Filing (Form 1120)
- Dear IRS Representative,
- I am submitting this request for **abatement of the late filing penalty** assessed against [Business Name] for our corporate tax return (Form 1120) for [Tax Year].
- Unfortunately, due to [brief explanation—example: corporate merger, delay in financial reporting, system errors], our return was submitted after the deadline. However, we have **remedied the issue** by implementing better internal compliance controls and ensuring timely filing moving forward.
- IRS guidelines allow **penalty relief under reasonable cause** when a business demonstrates that its late filing was due to **circumstances beyond its control**. Given our situation, we respectfully request that the penalty be removed.
- Enclosed are supporting documents explaining our circumstances. Please advise if additional clarification is needed. Thank you for your time and assistance.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]



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Request for Abatement of Payroll Tax Penalty (All Business Types – Form 941)

- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Business Location]
- Subject: Request for Penalty Abatement – Payroll Tax Late Payment (Form 941)
- Dear IRS Representative,
- I am writing to formally request **abatement of the late payroll tax payment penalty** assessed against [Business Name] for [Quarter/Year].
- Our business experienced **a temporary financial setback**, preventing us from remitting payroll tax deposits on time. Despite these challenges, we took **immediate corrective action**, ensuring compliance for future payroll tax periods and entering into an installment agreement with the IRS.
- IRS penalty guidelines recognize **reasonable cause relief** when a business demonstrates **ordinary business care and prudence** but was unable to meet tax deadlines due to unforeseen hardship. We respectfully request that the penalty be abated based on these provisions.
- Please find enclosed documentation explaining our circumstances and corrective actions. Let us know if further information is required. Thank you for your assistance in this matter.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]



108

Request for Abatement of Underpayment of Estimated Taxes (Individual – Form 1040-ES)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- **Subject:** Request for Penalty Abatement – Underpayment of Estimated Taxes
- Dear IRS Representative,
- I am requesting an **abatement of the underpayment penalty** assessed for my estimated tax payments for [Tax Year].
- Due to **unexpected income fluctuations**, I was unaware that my estimated tax payments needed to be adjusted. Specifically, [brief explanation—e.g., I experienced a significant increase in self-employment income late in the year, or I received a one-time bonus that triggered an additional tax liability]. As soon as I realized the situation, I took steps to ensure proper withholding adjustments moving forward.
- The IRS guidelines allow **penalty relief under reasonable cause** when a taxpayer's underpayment resulted from unforeseen circumstances rather than negligence. Given my situation, I respectfully request an abatement of the penalty assessed.
- I have enclosed supporting documentation showing the change in my income pattern and my proactive tax payments. Please let me know if additional information is required. Thank you for your consideration.
- Sincerely, [Taxpayer Name]



109

Request for Abatement of Failure to Pay Estimated Taxes (Individual – Form 1040-ES)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [IRS Address Based on Taxpayer's Location]
- **Subject:** Request for Penalty Abatement – Failure to Pay Estimated Taxes
- Dear IRS Representative,
- I am requesting **abatement of the penalty** assessed for failing to make estimated tax payments for [Tax Year].
- I was unaware that my tax situation required estimated tax payments, as I previously had all taxes withheld through traditional employment. My circumstances changed when I transitioned to **self-employment** and did not realize estimated tax payments were required.
- IRS penalty guidelines allow **reasonable cause relief** when a taxpayer demonstrates **ordinary business care** but was unaware of the payment requirements. Given my situation, I respectfully request that the penalty be removed.
- I have since corrected this issue by setting up quarterly estimated payments for future tax years. Please let me know if additional documentation is needed. Thank you for your assistance.
- Sincerely, [Taxpayer Name]



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Request for Abatement of Underpayment Penalty (Business – Form 1120/1065)

- **Sample 3: Request for Abatement of Underpayment Penalty (Business - Form 1120/1065)**
- [Business Name] [Business Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- **Internal Revenue Service** [IRS Address Based on Business Location]
- **Subject:** Request for Penalty Abatement – Underpayment of Estimated Taxes
- Dear IRS Representative,
- I am writing to request **abatement of the underpayment penalty** assessed against [Business Name] for [Tax Year].
- Due to **fluctuating income patterns and unexpected expenses**, our business was unable to accurately estimate quarterly tax payments. Specifically, [brief reason—e.g., a delayed client contract resulted in lower-than-expected revenue in early quarters, impacting our estimated payments]. Once revenue stabilized, we promptly made payments to correct our balance.
- IRS guidelines allow **penalty relief under reasonable cause** when a business exercised **ordinary financial care** but was impacted by external factors beyond its control. Given our situation, we respectfully request that the penalty be removed.
- Attached are financial statements and payment records demonstrating our efforts to resolve this issue. Please advise if further clarification is needed. Thank you for your time and consideration.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]

111



Request for Abatement Due to Seasonal Income Fluctuation (Individual or Business)

- [Taxpayer/Business Name] [Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- **Internal Revenue Service** [IRS Address Based on Location]
- **Subject:** Request for Penalty Abatement – Estimated Taxes Due to Seasonal Income Variability
- Dear IRS Representative,
- I am requesting **abatement of the penalty** for underpayment of estimated taxes for [Tax Year] due to seasonal fluctuations in income.
- My income is **highly variable**, with the bulk of earnings received in the later part of the year. For example, many professionals in [industry—e.g., farming, law firms, entertainment, consulting] receive **large payments in the last quarter**, making estimated tax projections difficult to manage accurately earlier in the year.
- IRS guidelines allow taxpayers in **seasonal industries** to adjust estimated tax payments based on their income patterns. While I attempted to estimate taxes properly, unforeseen fluctuations led to an underpayment early in the year. I respectfully request that the assessed penalty be waived based on **income seasonality** and payment corrections made later in the year.
- Attached are supporting financial records demonstrating how my income cycle impacts quarterly tax estimates. Please advise if additional clarification is required. Thank you for your assistance.
- Sincerely, [Taxpayer/Business Name]

112



Penalty Appeal for Failure to File Form 5471 (Foreign Corporations)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [Appeals Office Address Based on Taxpayer's Location]
- Subject: Appeal of Form 5471 Late Filing Penalty – Foreign Corporation Reporting
- Dear IRS Appeals Officer,
- I am formally appealing the penalty assessed for late filing of **Form 5471** for the [Tax Year] reporting period.
- Due to **misinterpretation of filing requirements**, I was unaware that my foreign corporation interest required the filing of Form 5471. As soon as I was notified of this obligation, I promptly submitted the required information to ensure compliance.
- The IRS recognizes **reasonable cause relief** when a taxpayer demonstrates that their failure to comply resulted from **circumstances beyond their control**, rather than negligence. Given my situation, I respectfully request penalty abatement under these provisions.
- Enclosed are supporting documents explaining the circumstances and corrective actions taken. Please let me know if additional clarification is needed. Thank you for your consideration.
- Sincerely, [Taxpayer Name]



113

Penalty Appeal for Failure to File Form 8938 (Foreign Assets)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [Appeals Office Address Based on Taxpayer's Location]
- Subject: Appeal of Late Filing Penalty – Form 8938 Foreign Assets Reporting
- Dear IRS Appeals Officer,
- I am appealing the penalty assessed for late filing of **Form 8938** for the [Tax Year] tax return.
- Unfortunately, I was unaware that I met the **filing threshold** for reporting specified foreign financial assets. Once I discovered the requirement, I immediately filed Form 8938 and ensured full compliance with IRS regulations.
- IRS penalty guidelines state that **reasonable cause relief** may be granted when a taxpayer **acted in good faith** but did not file due to circumstances beyond their control. Given this, I respectfully request reconsideration of my assessed penalty.
- Attached are supporting documents demonstrating my prompt corrective actions. Please let me know if additional clarification is required. Thank you for your assistance.
- Sincerely, [Taxpayer Name]



114

Penalty Appeal for Failure to File FBAR (FinCEN Form 114)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [Appeals Office Address Based on Taxpayer's Location]
- **Subject:** Appeal of Foreign Bank Account Reporting (FBAR) Penalty
- Dear IRS Appeals Officer,
- I am submitting this formal appeal regarding the penalty assessed for failure to file **FinCEN Form 114 (FBAR)** for [Tax Year].
- The oversight was due to a **lack of awareness** that my foreign bank accounts exceeded the reporting threshold. As soon as I became aware, I immediately filed the required FBAR submission. My foreign accounts were never concealed or used for improper purposes, and my failure to report was purely unintentional.
- Under IRS penalty relief guidelines, **reasonable cause relief** may apply when a taxpayer's failure to file resulted from **circumstances beyond their control**. I respectfully request abatement of the penalty under these provisions.
- Attached are supporting financial statements and corrective actions taken. Please advise on the next steps. Thank you for your consideration.
- Sincerely, [Taxpayer Name]

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Penalty Appeal for Late Filing of Form 3520 (Foreign Gifts & Trusts)

- [Taxpayer Name] [Street Address] [City, State, ZIP Code] [Phone Number] [Email Address] [Date]
- Internal Revenue Service [Appeals Office Address Based on Taxpayer's Location]
- **Subject:** Appeal of Late Filing Penalty – Form 3520 Foreign Gift Reporting
- Dear IRS Appeals Officer,
- I am requesting reconsideration of the penalty assessed for late filing of **Form 3520** for [Tax Year].
- Due to **uncertainty in reporting requirements**, I was unaware that I needed to file Form 3520 for a foreign gift received from a non-U.S. person. Upon discovering the obligation, I promptly filed the necessary documentation and ensured full compliance with reporting guidelines.
- IRS regulations allow **reasonable cause relief** in cases where a taxpayer has exercised **ordinary business care and prudence** but did not comply due to **lack of awareness or misinterpretation of regulations**. Given these circumstances, I respectfully request penalty abatement.
- Attached are supporting records detailing my situation and proactive compliance efforts. Please let me know if additional information is needed. Thank you for your time and assistance.
- Sincerely, [Taxpayer Name]

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Notice CP14 – Balance Due (Individual Taxpayer)

- **Subject:** Response to IRS Notice CP14 – Balance Due
- Dear IRS Representative,
- I recently received Notice CP14 regarding a balance due for my [Tax Year] return. I appreciate the IRS bringing this to my attention and would like to address the matter accordingly.
- After reviewing my tax records, I have identified [brief explanation: an issue with withholding, an error in reported income, or a discrepancy in payment records]. To resolve this, I would like to [request an installment agreement, provide documentation of a prior payment, or dispute the balance based on supporting records].
- Enclosed, I have included documentation supporting my position. Please let me know if further clarification is needed. I appreciate your assistance in resolving this matter.
- Sincerely, [Taxpayer Name]

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Notice CP161 – Unpaid Balance (Business Taxpayer)

- **Subject:** Response to IRS Notice CP161 – Unpaid Balance
- Dear IRS Representative,
- I am writing in response to Notice CP161 regarding an unpaid balance for [Business Name] related to our [Tax Period].
- We have reviewed our records and believe the balance assessed may be due to [brief reason: a delay in processing a payment, a misallocation of funds, or a misunderstanding of tax calculations]. We would like to request [a payment adjustment, an installment plan, or additional time to review the issue].
- Attached are supporting documents confirming our payments and relevant communications. Please advise on any additional steps needed to resolve this matter. Thank you for your time and assistance.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]

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Notice CP162 – Late Filing Penalty (Business Taxpayer – Form 1120, 1120S, or 1065)

- **Subject:** Response to IRS Notice CP162 – Late Filing Penalty
- Dear IRS Representative,
- I am writing in response to Notice CP162 regarding a late filing penalty assessed against [Business Name] for our [Form 1120, 1120S, or 1065] tax return for [Tax Year].
- The delay was due to [brief explanation: transition in accounting systems, CPA oversight, unforeseen business disruptions]. As soon as we became aware of the issue, we promptly filed the return and ensured compliance moving forward.
- Based on our clean compliance history, we respectfully request **penalty abatement under the First-Time Abatement (FTA) program**. Enclosed are supporting records demonstrating our filing history and corrective measures.
- Please advise on the next steps. Thank you for your assistance.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]

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Notice CP215 – International Reporting Penalty (Failure to File Form 5471 or 8938)

- **Subject:** Response to IRS Notice CP215 – International Tax Penalty
- Dear IRS Representative,
- I am writing in response to Notice CP215 regarding an assessed penalty for failure to file [Form 5471 / Form 8938] for [Tax Year]. I respectfully request **penalty abatement based on reasonable cause**.
- Due to [explanation: lack of awareness of the filing requirement, misunderstanding of tax laws, or reliance on incorrect advice], I was unaware that this form was required for my foreign holdings. However, as soon as I realized the requirement, I promptly submitted the necessary information to comply with IRS regulations.
- IRS guidelines allow for **reasonable cause relief** when a taxpayer demonstrates **ordinary business care and prudence** but was impacted by unforeseen circumstances. I respectfully request that the assessed penalty be removed.
- Attached are supporting documents, including proof of corrective actions. Please advise on next steps to resolve this matter. Thank you for your assistance.
- Sincerely, [Taxpayer Name]

120



Notice CP297 – Intent to Levy (Payroll Taxes – Form 941)

- **Subject:** Response to IRS Notice CP297 – Intent to Levy on Payroll Taxes
- Dear IRS Representative,
- I am writing in response to Notice CP297 regarding the IRS's intent to levy for unpaid payroll tax liabilities for [Quarter/Year].
- Due to [brief reason: financial hardship, business downturn, payroll processing error], our tax deposits were delayed. However, we are committed to resolving this issue and respectfully request **a temporary hardship determination or an installment agreement** to pay the outstanding balance.
- We have attached supporting financial records and payment proposals for review. Please advise on the next steps to prevent collection action. Thank you for your assistance.
- Sincerely, [Authorized Representative Name] [Title] [Business Name]

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Notice CP501 – Past Due Notice

- **Subject:** Response to IRS Notice CP501 – Past Due Balance
- Dear IRS Representative,
- I recently received Notice CP501 regarding a past-due balance for my [TaxYear] return. I understand the importance of resolving this matter and would like to provide clarification.
- After reviewing my records, I believe [brief explanation: payment was already made, penalty relief applies, or I need more time to pay]. Based on IRS guidelines, I respectfully request [additional time, penalty abatement, or confirmation of payment application].
- I have attached supporting documentation to help resolve this matter. Please advise on the next steps. Thank you for your time.
- Sincerely, [Taxpayer Name]

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Notice CP504 – Final Notice of Intent to Levy (Individual or Business)

- **Subject:** Response to IRS Notice CP504 – Final Notice of Intent to Levy
- Dear IRS Representative,
- I am writing in response to Notice CP504 regarding the final notice of intent to levy for unpaid taxes related to [Tax Year].
- Due to [brief hardship explanation], I was unable to fully pay my tax liability by the deadline. I am requesting a **temporary hardship status or an installment agreement** to resolve the balance and prevent further collection action.
- Enclosed are supporting financial statements demonstrating my inability to pay in full at this time. Please let me know how I can work with the IRS to address this matter. Thank you for your consideration.
- Sincerely, [Taxpayer Name]

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Notice CP2000 – Proposed Adjustment for Underreported Income

- **Subject:** Response to IRS Notice CP2000 – Proposed Adjustment
- Dear IRS Representative,
- I am writing in response to Notice CP2000 regarding a proposed adjustment to my income for [Tax Year]. I appreciate the opportunity to review this matter and would like to clarify the discrepancy.
- Upon reviewing the details, I believe the adjustment may be incorrect due to [reason—example: a misclassified income source, a reporting delay, or an employer error]. I have enclosed supporting documents, including [W-2s, 1099s, pay stubs, or previous tax filings], to verify the accuracy of my originally reported income.
- Please review the attached documentation and let me know if further clarification is needed. I appreciate your time and assistance.
- Sincerely, [Taxpayer Name]

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Notice LT11 – Intent to Levy

- **Subject:** Response to IRS Notice LT11 – Intent to Levy
- Dear IRS Representative,
- I am writing in response to Notice LT11 regarding the intent to levy against my [Tax Year] balance due. I understand the seriousness of this matter and would like to work toward a resolution.
- Due to [financial hardship, medical issues, or unexpected business expenses], I was unable to satisfy my tax obligations as planned. However, I would like to request [an installment agreement, a temporary hardship status, or additional time to address the balance].
- I have attached documentation supporting my request, including [financial statements, expense records, or hardship explanations]. Please let me know the next steps to prevent further action. Thank you for your time.
- Sincerely, [Taxpayer Name]