

First Time Penalty Abatement

Presented By:

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First Time Abate

I.R.M. 20.1.1.3.6.1 (08-05-2014)

Reasonable Cause Assistant (RCA) provides an option for penalty relief for:

- Failure to File (FTF)
IRC 6651(a)(1), IRC 6698(a)(1), and IRC 6699(a)(1);
- Failure to Pay (FTP)
IRC 6651(a)(2) and IRC 6651(a)(3); and/or
- Federal Tax Deposit(FTD)
IRC 6656 penalties

Relief allowed if the following are true for the taxpayer:

A. Has not previously been required to file a return or has no prior penalties for the preceding 3 years on the same Master File Transaction (MFT), and

B. Has filed, or filed a valid extension for, all currently required returns and paid, or arranged to pay, any tax due.

Example:

Consider the taxpayer current if he or she has an open installment agreement and are current with his or her installment payments.

Note:

If the taxpayer is not currently in compliance but all other FTA criteria are met, provide the taxpayer an opportunity to fully comply before considering reasonable cause.

FTA is an administrative waiver and does not carry any oral statement authority (OSA) dollar threshold.

A penalty assessed and subsequently reversed in full will generally be considered to show compliance for that tax period.

RCA considers fully reversed penalties in its FTA analysis.

The FTA administrative waiver can only apply to a single tax period for a given MFT.

For example, if a request for penalty relief is being considered for 2 or more tax periods on the same MFT and the earliest tax period meets FTA criteria, penalty relief based on FTA only applies to the earliest tax period, not all tax periods being considered.

Penalty relief for all subsequent tax periods will be based on the showing of reasonable cause.

The reasonable cause explanation provided by the taxpayer will be considered after RCA performs the FTA analysis.

If FTA criteria does not apply, then the taxpayers explanation will be used to determine if reasonable cause penalty relief criteria is met.

If the RCA determination is to abate the penalty(ies), penalty relief can be granted as appropriate per the RCA conclusion.

A FTA conclusion **WILL NOT** apply if any of the following criteria applies:

1. Any tax period in the prior 3 years, for the same MFT.
2. An unreversed penalty for a significant amount is present on tax period in the prior 3 years, for the same MFT, and a notice was issued showing the assessed penalty.
3. A total of four or more FTD penalty waiver codes are present in the taxpayer's three-year penalty history for the same MFT

If RCA determines a **first-time abate** is applicable, letters contain a paragraph automatically selected by RCA informing the taxpayer that the penalty was removed based on his or her history of compliance. The following is an example of this paragraph:

We are pleased to inform you that your request to remove the (use applicable penalty, i.e. failure to file, failure to pay, or failure to deposit) penalty(ies) has been granted. However, this action has been taken based solely on your compliance history rather than on the information you provided. This type of penalty removal is a one-time consideration available only for a first-time penalty charge. IRS will base decisions on removing any future (failure to file, failure to pay, failure to deposit) penalties on any information you provide that meets reasonable cause criteria. You should receive a notice of penalty adjustment within the next few weeks.

Penalty relief under FTA **does not** apply to the following:

Returns with an event-based filing requirement, generally returns filed once or infrequently such as Form 706, *U.S. Estate Tax Return*, and Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*.

The daily delinquency penalty (DDP), see e.g., IRC 6652(c)(2)(A).

Form 1120, *U.S. Corporation Income Tax Return*/Form 1120-S, *U.S. Income Tax Return for an S Corporation* if, in the prior 3 years, at least 1 Form 1120-S, was filed late but not penalized.

Information reporting that is dependent on another filing.

Note:

This list is not all inclusive.

If the tax is not paid in full on the tax period when the request for abatement is received and the taxpayer is current with installment agreement payments, allow first-time abate/clean compliance history on the failure to pay (FTP) penalty amount assessed.

Note:

The employee will need to use the open paragraph in Letter 3502C or Letter 3503C to inform the taxpayer that the FTP penalty will start accruing again on the unpaid taxes and will continue until the tax is paid in full. After the tax is paid in full, the taxpayer may request abatement of the additional FTP penalty.

Penalty for Underpayment of
Estimated Tax by Individuals
does NOT disqualify a taxpayer
from First Time Abatement.

IRS Penalty Assistance Line:
(855) 223-4017 X 225

Form 2848 must cover ALL
years

Closed years eligible for FTA

Upper ceiling is set by IRS Policy-
Appears to be \$10K or less.

More than \$10K abatement
request requires a letter.