

IRM PROCEDURAL UPDATE

DATE: 06/17/2015

NUMBER: SBSE-20-0615-1045

SUBJECT: FTD Penalty Relief for Unbanked Taxpayers

AFFECTED IRM(s)/SUBSECTION(s): 20.1.4

CHANGE(s):

IRM 20.1.4.15.3 Add CP 194 instructions for unbanked taxpayers, and renumber following sections.

1. SIC code 2 identifies a taxpayer who attaches a statement indicating **"unbanked taxpayer."** An unbanked taxpayer is unable to obtain bank services in order to make deposits by EFT.
2. See IRM 20.1.4.26.1.1, *Unbanked Taxpayers*, for reasonable cause criteria for unbanked taxpayers.
3. If there is a TC 18X with PRC 046 within the last 24 months, reasonable cause is considered met. Use PRC 030 when computing the FTD penalty.
4. If the taxpayer's statement meets reasonable cause criteria, compute the FTD penalty for late deposits only, using RC 062 and PRC 046. If the FTD penalty is zero, input TC 180 .00 with RC 062 and PRC 046. If the date of the statement indicates that it is a copy of a previously approved request for penalty relief, use PRC 030.
5. Use CC FTPDN to compute the FTD penalty. Add "E" after the transaction code (usually TC 670 or TC 610) on the payments page for all payments that meet reasonable cause for failure to deposit by EFT. The FTD penalty is computed for late payments.
6. If there is a history item on AMS showing the taxpayer was unable to obtain banking services within the last 24 months, then reasonable cause is considered met. Use PRC 030 when computing the FTD penalty.
7. A valid ROFTL is required for FTD penalty relief. If the statement is incomplete, and none of the above apply, or there is no valid ROFTL, contact the taxpayer by telephone or with letter 313C to obtain a signed statement showing recent attempts to obtain banking services and/or a valid ROFTL.
8. If the taxpayer does not reply with a signed statement that meets reasonable cause criteria, assess FTD penalty per IRM 20.1.4.7.1, *Time Sensitive Four Tier Penalty System*.
9. If the taxpayer does not supply a valid ROFTL, compute an averaged penalty.
10. If the taxpayer's statement includes a request for penalty relief for late payments, determine whether reasonable cause is met for each payment. Inability to obtain banking services does not meet reasonable cause criteria for late payments. If any payments meet reasonable cause for late deposit,

overlay the intended deposit date on the FTDPN deposit screen.

IRM 20.1.4.26.1.1 Add instructions for penalty relief for unbanked taxpayers.

1. Per IRM 20.1.4.2, *Authorized Deposit Methods*, depository taxes must be made by EFT. Deposits not made by EFT are subject to the 10% penalty rate per IRM 20.1.4.7.1, *Time Sensitive Four Tier Penalty System*, unless the taxpayer can show the failure to deposit by EFT was due to reasonable cause and not willful neglect.
2. Penalty relief must be made on a case by case basis. Taxpayers that fail to make deposits by EFT because they were unable to obtain banking services or had their banking services discontinued may be able to establish reasonable cause for failing to make a deposit in the proper format during the time they were unable to obtain banking services.
3. In order to establish reasonable cause, the taxpayer must include a signed statement that explains the taxpayer's attempts to get a bank account and may include any corroborating documentation (denied account application(s), correspondence from banks, etc.). The signed statement does not have to be in a particular format, but should clearly identify the taxpayer's name, address, and taxpayer identification number. The taxpayer should include corroborating documentation establishing at least one attempt to obtain a bank account and may use the same documentation for up to 24 months from the time the taxpayer became unable to obtain banking services. The taxpayer should make continued efforts to obtain a bank account.
4. If a taxpayer's banking services were discontinued, and the taxpayer applied for banking services shortly after, the taxpayer may meet reasonable cause criteria for payments made after the banking services were discontinued. If the taxpayer never had banking services, reasonable cause may apply from the date the taxpayer applied for banking services.
5. Abate the portion of the FTD penalty applicable to each non-EFT deposit shown to be due to reasonable cause and not due to willful neglect using RC 062 and PRC 046.
 - a. Requests for FTD penalty relief must have a Record of Federal Tax Liability (ROFTL). If a ROFTL cannot be obtained from our records, contact the taxpayer for a ROFTL. If the taxpayer does not provide a valid ROFTL, compute an averaged penalty.
 - b. Late deposits are penalized per IRM 20.1.4.7.1. Use command Code FTDPN to compute the penalty.
 - c. Add "E" after each transaction on the payments page of CC FTDPN that meets reasonable cause criteria for failure to deposit by EFT.
6. Enter a history item on AMS to indicate the start date of the taxpayer's inability to obtain banking services.
7. Taxpayers may attach correspondence to their tax return or send correspondence that says "**Unbanked Taxpayer**," or otherwise indicates that they are unable to get a bank account. Submission Processing will enter SIC code 2 if an attachment to the tax return includes "**Unbanked Taxpayer**," or otherwise indicates that the taxpayer could not get a bank account, which will

- generate CP 194. If a penalty was adjusted with RC 062 and PRC 046 and a history item on AMS indicates that it has been no more than two years since the taxpayer was unable to obtain banking services, the taxpayer meets reasonable cause for failure to deposit by EFT. See paragraph 5. Use RC 062 and PRC 030. If there is no history item on AMS, reasonable cause applies for two years after the adjustment with PRC 046. If it has been more than two years since the taxpayer was unable to obtain banking services, the taxpayer may meet reasonable cause by providing a signed statement explaining current attempts to obtain banking services.
8. If the taxpayer includes a signed statement that explains the taxpayer's recent attempts to get banking services, abate the portion of the penalty due to failure to file by EFT with RC 062 and PRC 046. Enter a history item on AMS indicating the date of the most recent attempt to obtain banking services.
 9. Reasonable cause for failure to deposit by EFT applies for 24 months after the taxpayer establishes reasonable cause by showing inability to obtain banking services, indicated by TC 180 with RC 062 and PRC 046. If the taxpayer requests penalty relief within the 24 month period, abate the portion of the penalty for failure to deposit by EFT, using RC 062 and PRC 030, unless paragraph 8 applies. Oral statement authority threshold does not apply. See IRM 20.1.1.3.1, *Unsigned or Oral Requests for Penalty Relief*.