

IRM PROCEDURAL UPDATE

DATE: 12/19/2023

NUMBER: sbse-20-1223-1202

SUBJECT: Inaccessible Notices

AFFECTED IRM(s)/SUBSECTION(s): 20.1.1

CHANGE(s):

IRM 20.1.1.3.3.2.3, Administrative Waiver - Relief from the Failure to Pay Penalty for Certain Taxpayers for Taxable Years 2020 and 2021: added new subsection for penalty relief instructions.

(1) In February 2022, the IRS suspended the mailing of certain automated collection notices that are normally issued after an initial balance due notice is issued. The Failure to Pay (FTP) penalty continued to accrue for taxpayers who did not fully pay their balance due.

(2) The IRS allowed taxpayers who filed certain income tax returns, whose first notices were issued, but subsequent reminder notices were not issued during the pause, to receive an automatic waiver of suspension of the FTP penalty for the suspension period. The waiver:

- Provides relief of the applicable failure to pay penalty, that would have been due on certain modules from 02/05/2022 through 03/31/2024.
- Is applied systemically to modules where applicable, and any overpayment amount will be automatically refunded or credited as appropriate.
- Does not require a taxpayer request to initiate abatement.
- Provides for modules that went into Collection notice status 21 after 02/05/2022 to have the FTP penalty waived/suspended from the assessment date (23C date or the date of the latest status 21) to the end date of 03/31/2024.

(3) Criteria for the waiver of the FTP penalty:

- Is effective for only tax years 2020 and 2021 (tax periods ending 202001 through 202112).
- Is effective only to: Form 1040 series returns (MFT 29, 30, 31), Form 1041 series returns (MFT 05), Form 1120 series returns (MFT 02), and Form 990-T (MFT 34).
- Applies only to those BMF and IMF modules with assessed tax below \$100,000 (assessed tax is original tax plus/minus additional tax adjustments).
- Applies only to modules in Collection notice status 20, 21, 54, or 56 between 02/05/2022 and 12/07/2023.

Note: The systemic relief will deploy in phases. The first phase was deployed on 12/07/2023. After this first phase, programming issues were identified with the relief for Form 1120 series returns; however, immediate actions were taken to ensure corrections were made for those modules. The last phase of this relief will not be completed until late February 2024. Regardless of when the systemic relief is applied, programming will ensure that relief if applied through 03/31/2024. For taxpayers who contact the IRS for an adjustment and are deemed to qualify, but the last phase has not been completed, advise them to wait for the completion of the final phase. They should contact the IRS again by the end of March 2024 if they still have not received the relief.

(4) Modules excluded from the waiver:

- Fraud - TC 240 PRN 686, TC 246 PRN 686, TC 320
- Offer in Compromise (OIC) - TC 480, 780, 782 (-Y freeze)
- Closing agreement - TC 971 AC 256
- Finally determined in a judicial proceeding

Note: When causing a refund to generate, the overpayment is NOT subject to the overpayment interest provision of IRC 6611(e)(3). See IRM 20.2.4.7.5.5, 45-Day Rule and IRS Initiated Adjustments.

(5) Modules receiving systemic relief may show TC 277 removing the applicable assessed penalty. Modules will receive a TC 971 AC 199 with "FTP Relief YYYYMMDD" in the memo field. The YYYYMMDD date will reflect the suspension start date. The TC 971 AC 199 will be the only indicator a module will have of having received relief if the account only received a reduction of an accrued FTP amount. If the FTP has not been assessed, the accrued FTP will be adjusted and the TC 971 information entered.

Note: Taxpayers who qualify for relief, remain liable for any addition to tax for FTP that accrued before the date on which the IRS issued the initial balance due notice or 02/05/2022 (whichever is the later date), and for any additional tax for FTP accruing after 03/31/2024.

(6) Manual relief is only required if there is no 971 AC 199 present and you determine that the module does qualify for relief. Use **RC 062 PRC 046** if a manual penalty relief adjustment is needed. If the module has multiple Collection status 21 dates, use the latest when computing the FTP.

(7) See the table below to determine actions needed when a module shows no systemic FTP penalty relief and the taxpayer qualifies for the waiver.

IF:	THEN:	Example:
The taxpayer qualifies for the waiver and the tax has been fully paid (between 02/05/2022 and 03/31/2024):	<p>Use CC INTST to determine the correct FTP penalty to be waived:</p> <ol style="list-style-type: none"> 1. For the interest "to date" use the later of 02/05/2022 or the latest Collection notice status 21 date. Review the total FTP amount, then 2. Use the date the tax was paid in full for the interest "to date" and review the total FTP amount, then 3. Enter a TC 271 for the difference between the total FTP from step 1 and step 2. 	<p>A 202112 return posted (Status 21) with a notice date of 07/31/2022. The tax was full paid on 10/30/2022.</p> <ol style="list-style-type: none"> 1. Do INTST with "to date" of 07/31/2022. The total FTP is \$500, then 2. Do another INTST with "to date" of 10/30/2022. The total FTP is \$800, then 3. The difference between step 1 and 2 is \$300. Enter a TC 271 for \$300 using RC 062 and PRC 046.
The taxpayer qualifies for the waiver and has not fully paid the tax:	<p>Do not take any action on case until after 03/31/2024, then use CC INTST to determine the correct amount of FTP penalty to be waived:</p> <ol style="list-style-type: none"> 1. For the interest "to date" use the later of 02/05/2022 or the latest Collection notice status 21 date. Review the total FTP amount, then 2. For the interest "to date" use 03/31/2024 and review the total FTP amount, then 3. Enter a TC 271 for the difference between the total FTP from step 1 and step 2. 	<p>A 202121 return posted (Status 21) with a notice date of 10/31/2022, and the tax is not fully paid. Do not take any action on case until after 03/31/2024, then:</p> <ol style="list-style-type: none"> 1. Do INTST with the "to date" as 10/31/2022. The total FTP is \$1,000, then 2. Do INTST with the "to date" as 03/31/2024. The total FTP is \$1,500, then 3. The difference between step 1 and 2 is \$500. Enter a TC 271 for \$500 using RC 062 and PRC 046.

(8) First Time Abate (FTA) penalty relief may be appropriate (if all FTA criteria are met) for modules impacted by the FTP penalty relief if:

- The FTP penalty is applicable before and/or after the suspension date, or
- The FTP penalty was fully waived on the module, but another penalty applicable for the FTA waiver was assessed and available for abatement. For example, the failure to file (FTF) penalty.

(9) When considering FTA on a module, and review of the three-prior years for a good compliance history includes a module impacted by this relief:

- Consider the module in compliance if the FTP penalty was fully waived due to this relief, and no additional penalty assessment is showing (except the estimated tax penalty).
- Disregard a prior FTA granted on a tax year 2020 or 2021 for BMF MFT 02 and IMF MFT 30, 31 if the FTP penalty was the only penalty abated per FTA and the module meets all the criteria to have received full relief.

Note: When a compliance check for the three-prior years includes tax years 2020 or 2021 for MFT 30/31, RCA users must manually review the modules to consider the information above, and manually grant FTA, if appropriate.

Note: If both the FTF and FTP penalties were granted relief under FTA, the FTA will NOT be disregarded since the FTA administrative waiver applies to the module and is not penalty specific.