



2014
IRSNationwide

Tax
FORUM

Responding to IRS Proposed Penalties

Presented by:

Claudia Hill, EA, MBA

Frank Degen, EA, USTCP

Karen Brosi, EA



2014

IRSNationwide

Tax
FORUM

Purpose of Penalties

- Penalties encourage voluntary compliance by:
 - Defining standards of compliant behavior;
 - Defining consequences for noncompliance; and,
 - Providing monetary sanctions against taxpayers who do not meet the standard.



2014

IRSNationwide

Tax
FORUM

Penalties Should Be...

- Severe enough to deter noncompliance,
- Used to encourage noncompliant taxpayers to comply,
- Objectively proportioned to the offense, and
- Used as an opportunity to educate taxpayers & encourage future compliance



2014

IRSNationwide

Tax
FORUM

Reducing IRS Penalties

- The process:
 - IRS reviews your request
 - Considers the basis for abatement using all information provided and
 - Issues a decision
 - Guidance for IRS employees on how to evaluate requests for abatement is found in the IRM part 20



2014

IRSNationwide

Tax FORUM

Approach to Penalty Administration

Step 1: Consistency

- The Service should apply penalties equally in similar situations

Step 2: Accuracy

- The Service must arrive at the correct penalty decision



2014

IRSNationwide

Tax FORUM

Approach to penalty administration (cont.)

Step 3: Impartiality

- Employees are responsible for administering the penalty statutes
 - in an even-handed manner
 - fairly and impartially to both the government and the taxpayer



2014
IRSNationwide

Tax
FORUM

Approach to penalty administration (cont.)



Step 4: Accuracy

- The Service must arrive at the correct penalty decision



2014

IRSNationwide

Tax
FORUM

Reasonable Cause Assistant

- The IRS utilizes an automated system to provide consistency in the analytical process through which decisions are made regarding whether to abate or reduce penalty assessments





2014

IRSNationwide

Tax
FORUM

Reasonable Cause Assistant

- The RCA is employed after normal case research (including the application of missing deposits/payments, adjusting tax or searching for missing extensions of time to file) has been conducted



2014

IRSNationwide

Tax
FORUM

Relief from Penalties

- Categories
 - Reasonable Cause
 - Statutory Exceptions
 - Administrative Waivers
 - Correction of Service Error
- Reasonable Cause is by far the most often applicable



2014

IRSNationwide

TaxFORUM

What is Reasonable Cause?

- For failure to file or pay cases, if taxpayer exercised ordinary business care and prudence but was unable to file within the prescribed time
- Where reasonable cause can be considered, **any reason** that establishes taxpayer exercised ordinary business care and prudence will be considered



2014
IRSNationwide

Tax
FORUM

What is Reasonable Cause? (cont.)

- To avoid the addition to tax for failure to file a tax return or failure to pay,
 - taxpayer must make an affirmative showing of all facts alleged as a reasonable cause ...
 - such statement must contain a declaration that it is made under penalties of perjury



2014

IRSNationwide

Tax FORUM

Accuracy Penalty Relief

- Generally, the most important factor in determining reasonable cause is the taxpayer's effort to report the proper tax liability
 - Other factors to consider are the taxpayer's experience, knowledge, education, and the taxpayer's reliance on the advice of a tax advisor

NAEA

THE NATIONAL ASSOCIATION OF ACCOUNTANTS

1000 K STREET, N.W. WASHINGTON, D.C. 20004-4020

202-857-2000 FAX 202-857-2001 WWW.NAEA.ORG



2014
IRSNationwide

Tax
FORUM

Guidance to IRS Employees

1. Taxpayers generally bear the burden of proof to establish reasonable cause
2. Each reasonable cause request must be evaluated on its own merit
3. IRS must determine if the taxpayer's reason addresses the penalty imposed



2014

IRSNationwide

Tax
FORUM

Guidance to IRS Employees (cont.)

4. Review available IRS information
 - Check previous periods for payment patterns and penalty history
5. Consider the length of time b/w event cited as reason for noncompliance and subsequent compliance
6. Consider whether taxpayer could have anticipated the event that caused the noncompliance



2014

IRSNationwide

TaxFORUM

First Time Abatement Requests

- This process generally provides a one-time abatement
 - for taxpayers with a clean record of compliance
 - Types of returns that may be considered by the IRS include income tax and payroll tax returns (F2F, F2P, and F2D)
 - The concept is to reward past compliance



2014

IRSNationwide

Tax FORUM

Penalty Abatement Requests

- If the return has not been filed, provide Form 4571 with the return or late payment

Form 4571 (Revised May 1979)		Department of the Treasury — Internal Revenue Service	
		Explanation for Filing Return Late or Paying Tax Late	
Taxpayer's Name and Address <i>(as shown on return)</i>		Employer Identification or Social Security No.	
		Spouse's Social Security Number <i>(if joint return)</i>	
		Form Number	Tax Period Ended
I did not file the above tax form or pay the required tax on time because:			
<i>(Continue on back, if necessary)</i>			
Under penalties of perjury, I declare that the above statement, to the best of my knowledge and belief, is true, complete, and correct.	Sign Here	Taxpayer, Partner, Officer, etc.	Date
		~	
		Spouse <i>(if a joint return was filed)</i> or Title <i>(partner, officer, etc.)</i>	Date
	~		
ISA		Form 4571 (Rev. 5-79)	



2014
IRSNationwide

Tax
FORUM

Appeal Can be Made Prior to or Following Assessment and Payment

- An alternative to filing a specific form is a letter request containing
 - specific identifying information about the taxpayer and the penalty,
 - criteria needed to request non-assertion or abatement,
 - a declaration under penalty of perjury,
 - a copy of the notice and your POA



2014
IRSNationwide

Tax FORUM

Requests Following Assessment and Payment

Form 843 (Rev. August 2011) Department of the Treasury Internal Revenue Service	Claim for Refund and Request for Abatement	OMB No. 1545-0024
▶ See separate instructions.		
Use Form 843 if your claim or request involves:		
(a) a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee, shown on line 3,		
(b) an abatement of FUTA tax or certain excise taxes, or		
(c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.		
Do not use Form 843 if your claim or request involves:		
(a) an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return),		
(b) a refund of excise taxes based on the nontaxable use or sale of fuels, or		
(c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.		
Name(s)	Your social security number	
Address (number, street, and room or suite no.)	Spouse's social security number	
City or town, state, and ZIP code	Employer identification number (EIN)	
Name and address shown on return if different from above	Daytime telephone number	
1 Period. Prepare a separate Form 843 for each tax period or fee year. From _____ to _____	2 Amount to be refunded or abated: \$ _____	
3 Type of tax or fee. Indicate the type of tax or fee to be refunded or abated or to which the interest, penalty, or addition to tax is related.		
<input type="checkbox"/> Employment <input type="checkbox"/> Estate <input type="checkbox"/> Gift <input type="checkbox"/> Excise <input type="checkbox"/> Income <input type="checkbox"/> Fee		



2014

IRSNationwide

TAX FORUM



IRS.gov

Exhibit: Penalty Appeal Online Self-Help Tool

PENALTY APPEAL - Online Self-Help Tool (START)

Individuals Topics

- [Abusive Tax Shelters](#)
- [Appeal a Tax Dispute](#)
- [Taxpayer Rights](#)
- [Online Payment Agreement](#)
- [Paying a Balance Due](#)
- [More Topics ...](#)

IRS Resources

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Newsroom](#)
- [Frequently Asked Questions](#)
- [Taxpayer Advocate Service](#)
- [Where To File](#)

My request to remove a Penalty was rejected. Should I request an appeal?

Before you begin...

This tool may be helpful if the following statements apply to you.

- You received a letter that a failure to file or failure to pay penalty(s) was assessed to your individual or business tax account
- You sent a written request to the Service Center asking the IRS to remove the penalty
- The Service denied your request to remove the penalty (penalty abatement).
- You received a Notice of Disallowance, which gives you your appeal rights

Appeals may remove (abate) your penalty(s) for any of the following reasons:

- **Reasonable Cause:** This is relief that is generally granted when a taxpayer exercises ordinary business care and prudence in determining their tax obligation, but is unable to comply with those obligations due to circumstance beyond their control.
- **Statutory Exceptions:** The tax law provides for specific exceptions.
- **Administrative Waiver:** This may occur as result of a formal government directive providing penalty relief because of a natural disaster or catastrophic event.

The two most common penalties (Failure to File and Failure to Pay) considered in Appeals are addressed in this tool. If you want assistance in deciding whether to request an appeal for a penalty, then please proceed.

----- **START** -----

If you do not want to use the self-help tool, you may find the [summary of general information](#) helpful before deciding to file your request for an appeal.

Telephone Assistance

If you don't want web assistance then you can receive assistance by calling the toll-free customer service line at 1-800-829-1040 (TTY/TDD users may call 1-800-829-4059) or contacting the person identified on the 30-day letter.) **Remember you have 30 days from the date of the rejection letter to file your request for an appeal.**

Refer to [Preparing a Request for Appeal](#) if you only need information to submit a request for an appeal?



2014

IRSNationwide

Tax FORUM

NAEA

NATIONAL ASSOCIATION
OF ENROLLED AGENTS

POWERING AMERICA'S TAX EXPERTS®

*National Association of Enrolled Agents
1120 Connecticut Avenue Suite 460
Washington, DC 20036*

Telephone: (202) 822-6232

E-mail: info@naea.org

Website: www.naea.org

Materials compiled for this session by Claudia Hill, EA, MBA

NAEA

POWERING AMERICA'S TAX EXPERTS®

NATIONAL ASSOCIATION
OF ENROLLED AGENTS