



September 2, 2022

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: Pandemic-Related Failure to File Penalty Relief

Dear Commissioner Rettig:

On behalf of National Association of Enrolled Agents (NAEA) and the nearly 60,000 enrolled agents (EAs) it represents, I write to request the agency extend the penalty relief filing deadline for filing a variety of non-filed tax year 2019 and 2020 (TY19 and TY20) tax returns.

Before I address the deadline, I would like to thank you for providing this relief and for making it automatic for those who have already filed. Taxpayers and the IRS have struggled during the pandemic. The generous terms provided in [Notice 2022-26](#) (the Notice) acknowledge the extraordinary circumstances, are consistent with your personal commitment to all taxpayers throughout the Covid-19 pandemic, and bookend nicely the agency's [People First Initiative](#).

While the Notice extends failure to file (FTF) penalty relief applies automatically to those taxpayers who have already filed, it also opens a window prospectively to those who owe IRS a wide range of TY19 and TY20 returns. Those taxpayers must file returns by September 30, 2022, or approximately five weeks from the date the Service [announced](#) the relief.

In our opinion, five weeks is simply not enough time for those non-filers who would be motivated by the penalty relief to file their returns. We see three distinct steps required to file the returns: 1) learn that IRS has provided a significant discount to what most assume will be both a painful and expensive process; 2) gather information return and other supporting documents; and 3) complete and file the return.

Each of these three steps is challenging. Many taxpayers will simply not be aware of the relief in time to take advantage of it. Once aware, pulling together the necessary records will take time and a Form 8821 will need to be filed if a tax professional is involved.

Further, the return preparation itself will be a challenge for self-preparers as well as for tax professionals. EAs are already dealing with a busy September calendar with a partnership/S Corp deadline on September 15th and an October 15th TY22 Form 1040 deadline. Many taxpayers will be looking for assistance from tax professionals that might not be realistic given the short deadline.

The relief the IRS has offered is significant and should prompt untold numbers of non-filers to come into the fold. Some of these taxpayers will of necessity file more than just two years of returns. Once the returns are filed, their balances due (if any) are known and knowable and IRS will be much better positioned to work with taxpayers and/or their representatives on payment alternatives.

While we all believe that the best time to file a return is before its deadline, the second best time to file a return is now. Obviously, these taxpayers can no longer file timely. But with the right incentives that address the particular challenges of the pandemic, they can file soon. We see this penalty relief as a wonderful opportunity for a win/win for taxpayers and the Service and ask you to consider pushing the filing deadline to later in 2022. We recommend November 30, which would provide a roughly 90-day window, though would certainly be flexible.

As always, enrolled agents stand willing and able to help taxpayers comply with their filing, reporting, and payment obligations and NAEA looks forward to addressing any questions you may have about our proposal.

Sincerely,

A handwritten signature in blue ink that reads "Kathy Brown".

Kathy Brown, EA
President

Cc: Ms. Erin Collins, National Taxpayer Advocate, Internal Revenue Service
Ms. Lily Batchelder, Assistant Secretary for Tax Policy, Department of Treasury