



January 4, 2024

The Honorable Daniel I. Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: IRS Collection Penalty Relief & Return to Normal Failure to Pay Notices

Dear Commissioner Werfel:

On behalf of National Association of Enrolled Agents (NAEA) and the nearly 65,000 enrolled agents (EAs) it represents, I write asking for clarification regarding the agency's December 19, 2023, announcement of collection penalty relief and resumption of normal failure to pay (FTP) collection notices.

Before I address EA questions, I thank you for taking decisive action after our letter of [October 11, 2023](#), and for making it as easy—and attractive—as possible for those with recent unresolved balances due to return to compliance. As we noted in our letter, a long absence from compliance activity erodes trust in the system, puts practitioners in increasingly untenable positions, and disadvantages those who file and pay timely.

Through [Notice 2024-7](#) (the Notice) and [IR-2023-244](#) (the news release) the IRS explains it will both a) provide significant penalty relief to those who were not sent Automated Collection System (ACS) reminder notices during the Covid-19 pandemic, and b) resume normal collection notices for those with balances due in tax years (TYs) 2020 and 2021. EAs have a few questions and believe clarification (perhaps in the form of FAQs) would aid both taxpayers and tax professionals.

More specifically:

- **First Time Abatement (FTA):** Our interpretation is that IRS' automatic penalty abatement does not affect a taxpayer's ability to request FTA relief on future years/modules (e.g., for a late-filed TY23 return). A December 19, 2023, IRM update ([sbse-20-1223-1202](#)) provides details on applying FTA relief as appropriate yet does not preclude taxpayers from asserting it otherwise. Is this conclusion accurate?
- **Timely filed:** It appears only timely filed TY20 and 21 returns are included in the penalty relief program. The Notice specifically references § 6651(a)(2) and § 6651(a)(3), both referring to failure to pay, while omitting § 6651(a)(1), referring to failure to file (FTF). This prevents the agency from removing the 0.5 percent monthly FTP penalty only to negate it with the full 5.0 percent monthly FTF penalty. May we conclude IRS will not retroactively assess the full 5.0 percent FTF penalty?

- Notification: How is IRS notifying taxpayers of the abatement? Will it notify those who are owed a refund differently? Will the refund be issued by paper or EFT? Given the prevalence of scams, some of which are reasonably well executed, it might be helpful for taxpayers and tax pros to have an IRS-provided source of truth.
- Debt in multiple years: The news release states:

*In January, the IRS will begin sending automated collection notices and letters to individuals with tax debts prior to tax year 2022, and businesses, tax exempt organizations, trusts and estates with tax debts prior to 2023, **with exceptions for those with existing debt in multiple years.**" (emphasis added)*

We believe the individual taxpayer plan starts prior to TY22 because the IRS has already started contacting those with TY22 debts. Could you clarify the debt in multiple years exception? Perhaps an example would help taxpayers and tax pros understand the agency's intent.

I close with two collection-related items.

1. As the agency considers how to get big fast (and respond to TIGTA's recent [ACS audit](#)), we offer this suggestion. ACS calls related to Collection Information Statements (CIS) are time consuming (30-45 min) and by their nature lead to inconsistent agency responses to similar fact patterns. Would the IRS consider using its existing document upload tool (DUT) to upload the CIS and create remote work opportunities for ACS Support? Ideally, the IRS would also develop a MeF-style submission process for CIS-based resolutions through the Tax Pro/Individual Online Accounts. Such a solution would be scalable, offload lengthy calls, improve call level of service, and provide swifter resolution.
2. While we appreciate IRS' return to its pre-pandemic FTP collection on unpaid balance due accounts, the agency has not yet made public any decisions relative to FTF taxpayers. We note the IRS requests only six years of returns for serial non-filers and we are running against the first year of non-filed returns that would have been addressed during the pandemic. With that in mind, we look forward to further clarity on FTF.

Thank you for signaling the return to normal FTP collection activity and for communicating the decision in a thoughtful fashion to taxpayers and tax professionals. Should we be able to assist, or should you have any questions about this letter, please contact our Executive Vice President, Megan Killian, CAE.

Sincerely,



Cynthia Leachmoore, EA
President

cc: Ms. Erin Collins, National Taxpayer Advocate
Ms. Lia Colbert, Commissioner, SB/SE
Mr. Ken Corbin, Chief Taxpayer Experience Officer