

IRS REASONABLE CAUSE CATEGORIES AND CRITERIA FOR FAILURE TO FILE AND FAILURE TO PAY PENALTIES

The IRS looks for specific information for each reasonable cause argument to evaluate whether taxpayers qualify for penalty abatement for failure to file and failure to pay penalties.

Reasonable cause category and IRM reference	Issues you must address/possible questions
<p><u>Absence, IRM 20.1.1.3.2.2.1</u> The taxpayer claims he or she couldn't comply because of the taxpayer's own absence or the absence of another person.</p>	<ul style="list-style-type: none"> • Who was absent? • Date(s) of the absence • Reason for absence • How did the absence prevent compliance? • Is documentation provided?
<p><u>Assessment error</u> The penalty should not have been assessed in the first place, or the taxpayer disagrees with the amount of the penalty.</p>	<ul style="list-style-type: none"> • What type of assessment error? • Taxpayer disagrees with penalty computation <ul style="list-style-type: none"> ○ A payment was missing ○ A payment was refunded in error ○ Taxpayer wasn't given credit for extension • Taxpayer mailed return on time
<p><u>Bankruptcy</u> The taxpayer claims to be in bankruptcy.</p>	<p>What documentation is provided to confirm the bankruptcy?</p>
<p><u>Casualty, IRM 20.1.1.3.2.2.2</u> The taxpayer claims that he or she couldn't comply because of a casualty.</p>	<ul style="list-style-type: none"> • Date(s) of casualty • Type of casualty, such as fire, theft, accident • In a FEMA-declared area? • What was destroyed? • Is documentation provided?
<p><u>Death, IRM 20.1.1.3.2.2.1</u> The taxpayer, a relative, or someone affecting the taxpayer's business died.</p>	<ul style="list-style-type: none"> • Date of death? • Who died? • Is documentation provided?
<p><u>Divorce</u> A divorce prevented the taxpayer from complying.</p>	<ul style="list-style-type: none"> • Who got divorced? • How did the divorce prevent the taxpayer from meeting his or her obligation?
<p><u>Elderly taxpayer</u> The taxpayer did not comply because he or she is elderly or incapacitated.</p>	<ul style="list-style-type: none"> • Has someone taken responsibility for the affairs of the taxpayer? <ul style="list-style-type: none"> ○ A legal guardian appointed ○ A child or relative • Is there documentation?
<p><u>Extension</u> There were problems associated with an extension.</p>	<ul style="list-style-type: none"> • Taxpayer forgot to file an extension • Extension and/or payment was lost in mail • Third party did not file extension

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<p><u>Ignorance, IRM 20.1.1.3.2.2.6</u> The taxpayer did not know about or was unfamiliar with filing requirements, withholding, etc. The taxpayer was unaware of income or did not know it was taxable.</p>	<p>The taxpayer claims ignorance in any of the following ways:</p> <ul style="list-style-type: none"> • Didn't understand filing requirements • First-time underwithholding of tax • First-time self employment • First-time unanticipated income • Believed there was too little income to file • Didn't know the due date • Wasn't aware of income • Wasn't aware income was taxable • Involves a foreign language or custom
<p><u>Illness, IRM 20.1.1.3.2.2.1</u> Taxpayer illness or someone else's illness caused the failure to comply.</p>	<ul style="list-style-type: none"> • Did illness stop the taxpayer from taking care of normal financial activities? • Who was ill?
<p><u>Impairment</u> The taxpayer is physically or mentally impaired.</p>	<ul style="list-style-type: none"> • Has someone taken responsibility for the affairs of the taxpayer? • What is the extent of taxpayer's impairment?
<p><u>IRS error, IRM 20.1.1.3.4</u> The taxpayer claims that an IRS error caused the noncompliance.</p>	<p>What was the nature of the IRS error?</p> <ul style="list-style-type: none"> • Error in an IRS or SSA publication • IRS employee gave incorrect technical advice • IRS incorrectly processed taxpayer's return • IRS incorrectly processed taxpayer's payment • IRS failed to send promised forms • What documentation is provided?
<p><u>Lack of forms</u> The taxpayer did not have the form or schedule required to file the return.</p>	<p>Did the taxpayer request an extension of time to file?</p>
<p><u>Mail problem, IRM 20.1.1.3.2.1</u> Taxpayer claims that the return or payment was late because of a problem with the mail.</p>	<p>What was the nature of the mail problem?</p> <ul style="list-style-type: none"> • Return/payment sent to another taxing agency • Return/payment sent to another creditor • Return/payment lost in mail • Insufficient postage • Taxpayer claims postal service error caused delay in mail • Sent timely to Lock Box

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<p><u>Mitigating circumstance</u> A mitigating circumstance does not refer to an event beyond the control of the taxpayer, but it is an issue mentioned by the taxpayer. Identifying mitigating circumstances helps produce a better penalty disallowance letter.</p>	<p>What kind of circumstance does the taxpayer describe?</p> <ul style="list-style-type: none"> • Lack of willful intent • Taxpayer called IRS for advice, but phones were busy • Filing requirements are too complex • Taxpayer's situation is special or unique • First time taxpayer received unanticipated income, self-employment income, etc. • Taxpayer changed jobs, moved, is having marital difficulties • Taxpayer took corrective action • Taxpayer detected error in the first place • Taxpayer corrected the error
<p><u>Other, IRM 20.1.1.3.2</u> This category applies only if the case does not fit into another category. Abatement in this category requires concurrence by IRS manager.</p>	<ul style="list-style-type: none"> • What does the taxpayer claim? • When did the event preventing compliance begin and end? • What is the basis for the taxpayer's claim? • What impact did this have on the taxpayer? • What documentation is provided? • Does the manager agree to the abatement?
<p><u>Records unobtainable, IRM 20.1.1.3.2.2.3</u> The taxpayer couldn't obtain or reconstruct records.</p>	<ul style="list-style-type: none"> • What types of records were unobtainable? • From whom was the taxpayer unable to obtain records? • Why was the taxpayer unable to obtain the records?
<p><u>Reliance, IRM 20.1.1.3.2.2.5</u> The taxpayer relied on someone else to file or pay, or relied on someone else's advice.</p>	<ul style="list-style-type: none"> • Whom did the taxpayer rely on? • What was the nature of the reliance? <ul style="list-style-type: none"> ○ Person said the taxpayer did not need to file or pay ○ Person handled everything ○ Person failed to send in return or payment ○ Person failed to file extension • What documentation is available?
<p><u>Relocation</u> A move or relocation resulted in the taxpayer's inability to comply.</p>	<p>A relocation does not meet reasonable cause penalty relief criteria. Therefore, no questions are asked in this category. The penalty will automatically be sustained.</p>
<p><u>Signature</u> One or more required signatures were missing from the taxpayer's return.</p>	<p>What was the nature of the signature problem?</p> <ul style="list-style-type: none"> • Joint return unsigned by husband or wife • Not signed, but otherwise complete • Spouse unwilling to sign return or check

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<p><u>Tax law change</u> The taxpayer's failure to comply was directly related to a change in the tax law. Abatement in this category requires concurrence by IRS manager.</p>	<ul style="list-style-type: none"> • Did the taxpayer cite a specific change in the tax law? • Would a return and/or payment have been due if no tax law change had occurred? • When did the taxpayer become aware of the need to file or pay? • Does the manager agree this case should be abated?
<p><u>Unable to pay, IRM 20.1.1.3.3.3</u> The taxpayer lacked the funds to pay, or payment would have been a hardship.</p>	<p>An undue hardship must be more than an inconvenience to the taxpayer. Each request must be considered on a case-by-case basis. The inability to pay does not ordinarily provide the basis for granting penalty relief. The taxpayer must show that he or she exercised ordinary business care and prudence in providing for the payment of the tax liability. Information that the IRS considers when evaluating a request for penalty relief includes the following:</p> <ul style="list-style-type: none"> • When did the taxpayer know he or she could not pay? • Why was the taxpayer unable to pay? • Did the taxpayer explore other means to secure the necessary funds? • What did the taxpayer supply in the way of supporting documentation, such as copies of bank statements? • Did the taxpayer pay when the funds became available? <p>See Treas. Reg. 1.6161-1(b) and Treas. Reg. 301.6651-1(e)</p>