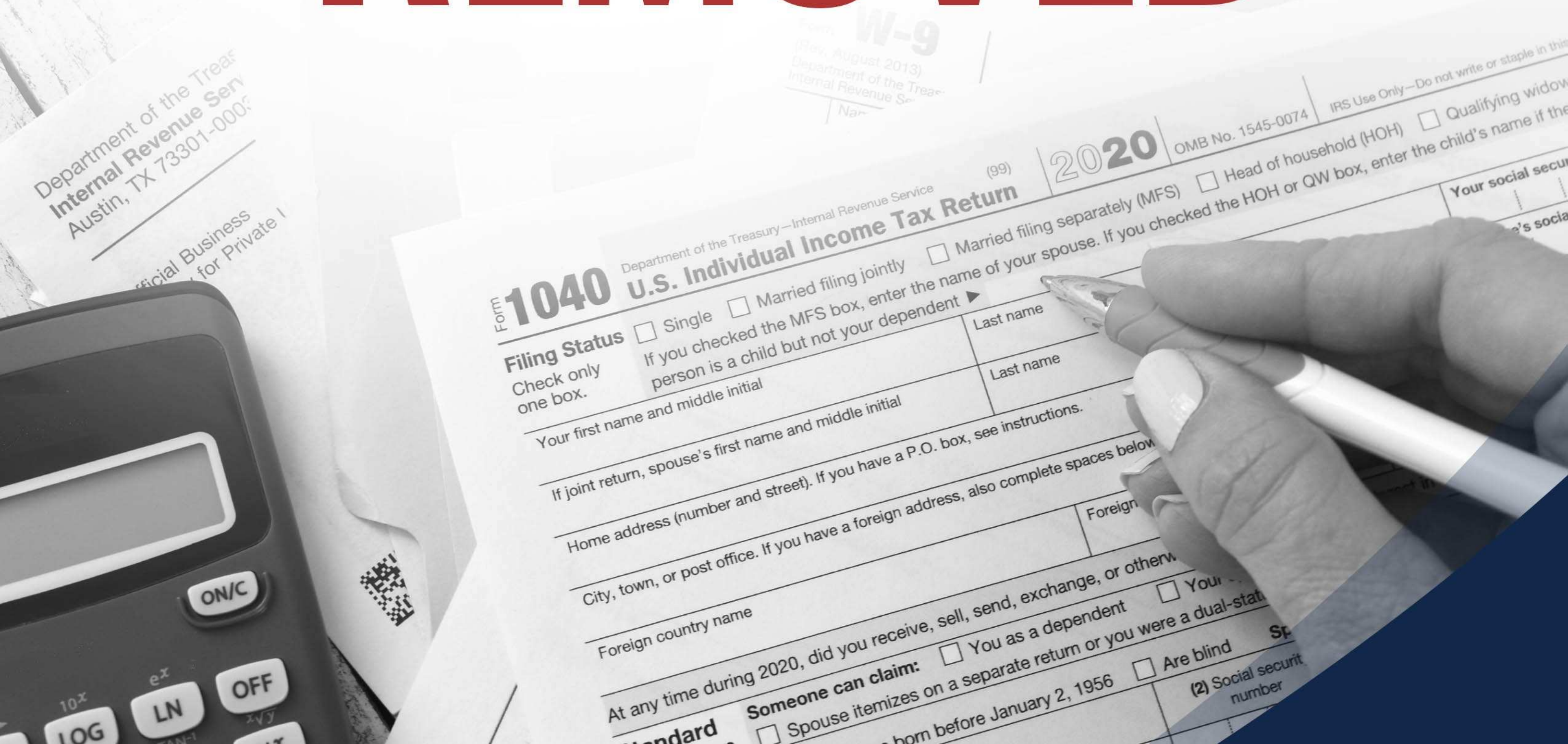
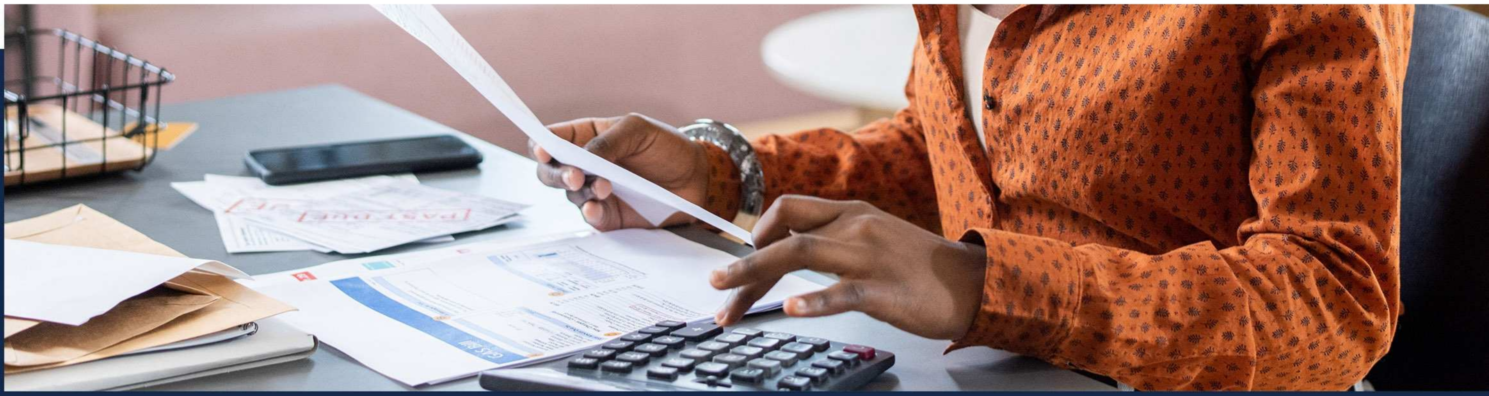
ROZ STRATEGIES™

9 SECRETS
TO GETTING IRS PENALTIES
REMOVED



The IRS has over 148 different penalty types they can hit you with. And the worst part is that the IRS can also charge interest and additional penalties on the original penalty. Penalties can be such a high percentage of the overall tax debt that it generally makes sense to consider requesting the IRS remove or reduce penalties in certain situations.

IRS penalties can often be reduced to ZERO in two ways; You can request penalty relief under the IRS's "fresh start initiative"; and/or you can also request relief from penalties due to "Reasonable Cause". What is "reasonable cause" you ask? The major ones include economic hardship, death or serious illness of a love one, unable to obtain records, and bad advice from a tax preparer, to name a few.



HOW TO GET PENALTIES REMOVED

You can request the removal (abatement) of penalties for your clients 2 ways:

1. **"First Time"** Penalty Abatement
2. Reasonable Cause Argument

FIRST TIME PENALTY ABATEMENT

- Updated May 3, 2013 – (Generally Applies to 1040 tax)
- One-time consideration available only for taxpayers with a "clean" compliance records
- Must not have incurred Failure to File or Failure to Pay penalties for 3 years preceding the year you are requesting FTA on. (must review ROA)

- Can only request one period.
- You can request it verbally with ACS or to a Revenue Officer; Does not have to be in writing;
- If granted by ACS, it is usually approved on the spot.
- All returns must be filed, paid, or arranged (I.A.) to pay.

PRACTICE TIP: REQUEST IT WHENEVER YOU ARE SETTING UP A STREAMLINE (UNDER $50,000 IN LIABILITY) INSTALLMENT AGREEMENT.

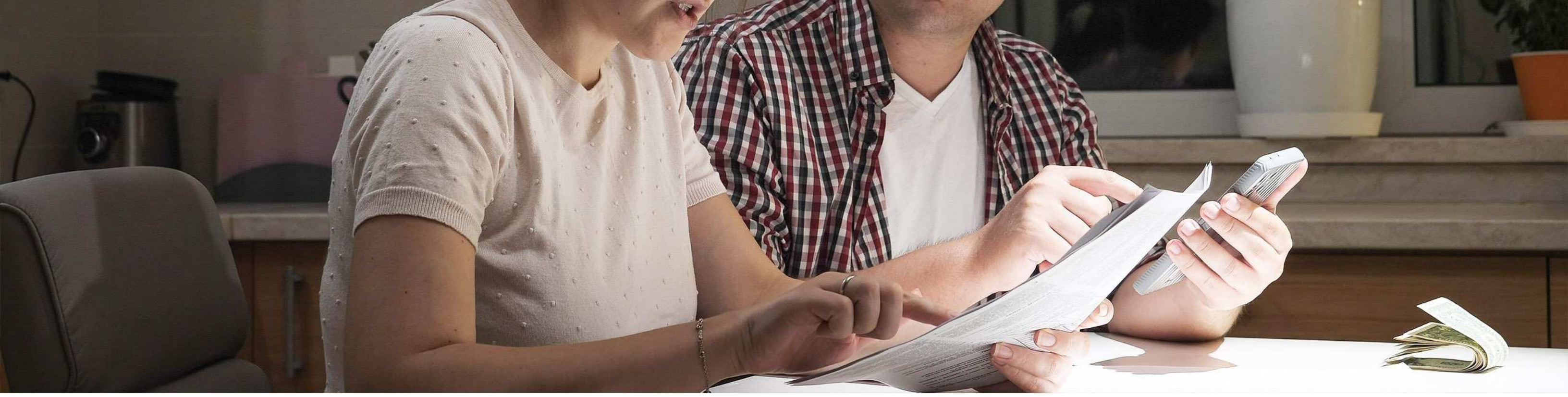
REASONABLE CAUSE ARGUMENTS

Per the **Internal Revenue Manual (IRM)** Section 20 there are 9 main "Reasonable Cause" arguments to get penalties removed:

1. Death, Serious Illness, Unavoidable Absence
2. Fire, Casualty, Natural Disaster
3. Unable to Obtain Records
4. Mistake was made
5. Erroneous Advice or Reliance
6. Written/Oral Advice from the IRS
7. Ignorance of Tax Laws
8. Reasonable Cause/Ordinary Business Care and Prudence
9. Undue Economic Hardship

PENALTY ABATEMENT CHECKLIST

- Reasonable Cause (Per IRM Sec. 20) requests must be in writing
- Timing – the event must correlate to the tax years involved; and
- Supporting Documentation is Essential!



1. Death or Serious Illness, or Unavoidable Absence

- Immediate Family only
- Issue must be addressed in a reasonable time after death/illness
- Show other obligations impaired – not just taxes
- Written proof of illness/death
- Ex: terminal illness, surgery, substance/physical abuse, depression, disability, emotional/psychological distress

2. Fire, Casualty, Natural Disaster

- What steps taken to comply
- Did taxpayer comply as soon as it was possible
- Major disaster's include hurricane, tornado, earthquake, flood, riot or other "emergency"

3. Unable to Obtain Records

- Why the records were unavailable
- Why the records were needed to comply
- When & how did taxpayer become aware that they did not have the necessary records
- What other means were explored to secure the information
- Why didn't taxpayer estimate the information
- Did taxpayer promptly comply once the missing info was obtained

4. Mistake Was Made

- When and how the taxpayer became aware of the mistake
- The extent to which the taxpayer attempted to correct the mistake
- The relationship between taxpayer and person they relied on (if taxpayer delegated the duty)
- Did taxpayer take timely steps to correct the mistake after it was discovered

5. Erroneous Advice or Reliance

- Relates to tax issues considered too technical or complicated for a layperson
- Taxpayer is always responsible for reporting all income to person (CPA) preparing taxes
- Failure to comply was due to a change in the tax law the taxpayer could reasonably be expected to know
- Was unable to comply because they did not have access to their own records

6. Written/Oral Advice from IRS

- Was it reasonable to rely on that advice?
- Was there a clear relationship between taxpayer's situation, the advice provided and the penalty assessed?
- What is the taxpayer's prior tax compliance record and history?
- What type of supporting documentation is available?
- **If Oral advice** – Vey difficult to prove, but depends on circumstances...

> a. Notation of the taxpayer's question to IRS,
>
> b. Documentation regarding the advice provided by IRS,
>
> c. Info regarding the office and method by which the advice was obtained,
>
> d. The date the advice was provided, and
>
> e. The name and badge (ID) number of the employee who provided the information.

7. Ignorance of Tax Laws

- Must prove that a reasonable and good faith effort was made to comply with the law and that the taxpayer could not be reasonably expected to know the requirement
- Factors to consider: taxpayer's education, if taxpayer was previously subject to the tax, if taxpayer has been penalized before for same thing, were there recent changes to forms or the law. Level of complexity of the tax, etc.

8. Reasonable Cause/Ordinary Business Care and Prudence ("Catch all")

- The taxpayer "exercised ordinary business care and prudence" but was still unable to comply with the law
- Events and explanations must correspond with the date of the penalty
- Was taxpayer able to handle other affairs in their life during this time? (were taxes the only thing taxpayer put off?)
- When circumstances changed, what attempt did taxpayer make to be compliant? (too much time between the event and compliance weakens the argument)
- Compliance History: Are there problems in preceding years as well? (shows lack of business care and prudence)
- Must have supporting documentation

9. Undue Financial Hardship

- Taxpayer must show substantial financial loss if required to pay a tax on the due date
- Financial records required; bank statements, bills, payments, assets, liabilities, etc.
- Did not make “discretionary expenditures” prior to paying the tax on due date.
- Ex. Kids tuition, vacations, cars, new houses, unnecessary re-modeling, charity, IRA/401K contributions, etc.
- The taxpayer may claim that enough funds were on hand but as a result of unanticipated
- Bankruptcy – consider inability to pay a factor if the insolvency occurred before the due date of the tax payment.
- When did the taxpayer realize that they could not pay?
- Why was the taxpayer unable to pay?
- Did the taxpayer explore other means to secure/raise funds?
- What did the taxpayer supply in the way of supporting documentation, such as bank statements.
- Did the taxpayer pay when the funds DID become available?

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