

## ▪ Penalty Abatement

### General Information

- Contracted service
  - If it is in on the contract, it MUST be completed unless the client chooses not to
  - First Time Administrative Waiver – also referred to as First Time Abatement.
  - Reasonable Cause – Is not subject to the three-year rule. Based on client circumstances

### Types of Penalties

- Failure to file on time – assessed when a return is late
  - 5% per month of the unpaid return
  - Maxes out at 25% of the total tax owed (5 months)
  - Does not apply if a valid extension was filed and return was filed during the extension period
- Failure to pay on time – assessed when balance is not paid at the time of filing
  - 0.5% penalty
  - Maxes out at 25% of the total tax owed
  - Gets reduced to 0.25% if a valid installment agreement is established
- Failure to pre-pay tax – assessed when client fails to make estimated tax payments
  - Applies if the ES obligation was at least \$1,000 or more.
- Miscellaneous Penalty – assessed when the IRS discovers under reported income or when a balance is owed due to an examination. Assessed when understatement is more than 10% of original tax due.
  - Not abatable via First Time Abatement.
- Shared Responsibility Penalty – assessed for not having healthcare during a qualifying period.

- Not abatable. Can only be removed if the client can prove they did in fact have a qualifying plan for the tax year.
- Bad Check Penalty – assessed for NSF/Insufficient fund or a bounced check.
  - Not abatable.

## Relief

- First-time abatement
  - Client qualifies if they have not owed the penalty that is being abated in the prior three tax years/modules.
  - Rule is ambiguous, but this is generally understood to mean that the client cannot owe the SAME penalty in the prior three tax years.
  - EX: If client owes a failure to file penalty in 2018, but only had failure to pay penalties in 2015, 2016, and 2017 then they should qualify for abatement under the First-Time rule
- Reasonable cause
  - TA Responsibilities: Discuss circumstances with client, explain the process, forward explanation to LTP. Make sure to have client discuss:
    - What happened and when did it happen?
    - During the period of time the taxpayer was non-compliant, what facts and circumstances prevented the taxpayer from filing a return, paying a tax, and/or otherwise complying with the law?
    - How did the facts and circumstances result in the taxpayer not complying?
    - How did the client handle the remainder of their affairs during this time?
    - Once the facts and circumstances changed, what attempt did the client make to comply?
  - LTP Responsibilities: Draft explanation, prep 843, submit on behalf of client

- Generally Accepted Causes
  - Death, serious illness, or other unavoidable absence of you or a close family member.
  - Fire, Casualty, Natural Disaster, or other disturbance
  - Inability to obtain proper records for you to prepare and pay your taxes correctly
  - Mistake was made, but you must be able to also demonstrate you practiced ordinary business care and prudence (events occurred outside your control).