

Department of the Treasury  
IRS Service Center  
To: Penalty Abatement Coordinator  
Austin, TX 73301-0002

**Re: Request for Penalty Abatement**

From: [REDACTED]  
[REDACTED]

December 26, 2013

To Whom It May Concern:

I am requesting an abatement of penalties, based on reasonable cause, totaling \$13,098.89, on the 201112 1040 module, for failure to pay and failure to file timely. This penalty abatement request is based on the taxpayer's reasonable cause, as outlined in the IRM:

20.1.1.3.2 (11-25-2011)

Reasonable Cause

1. Reasonable cause is based on all the facts and circumstances in each situation and allows the IRS to provide relief from a penalty that would otherwise be assessed. Reasonable cause relief is generally granted when the taxpayer exercised ordinary business care and prudence in determining their tax obligations but nevertheless failed to comply with those obligations.
2. In the interest of equitable treatment of the taxpayer and effective tax administration, the non-assertion or abatement of civil penalties based on reasonable cause or other relief provisions provided in this IRM must be made in a consistent manner and should conform with the considerations specified in the IRC, Treasury Regulations (Treas. Regs.), Policy Statements, and IRM Part 20.1, *Penalty Handbook*.
3. Taxpayers have reasonable cause when their conduct justifies the non-assertion or abatement of a penalty. Each case must be judged individually based on the facts and circumstances at hand.

20.1.1.3.2.2.1 (11-25-2011)

Death, Serious Illness, or Unavoidable Absence

1. **Death**, serious illness, or unavoidable absence of the taxpayer, or a death or serious illness in the taxpayer's immediate family, may establish reasonable cause for filing, paying, or depositing late for the following:
  - A. **Individual:** If there was a death, serious illness, or unavoidable absence of the taxpayer or a death or serious illness in the taxpayer's immediate family (taxpayer's wife did).
2. If someone other than the taxpayer, or the person responsible, is authorized to meet the obligation, consider the reasons why that person did not meet the obligation when evaluating the request for relief. In the case of a business, if only one person was authorized, determine whether this was in keeping with ordinary business care and prudence.
3. Information to consider when evaluating a request for penalty relief based on reasonable cause due to death, serious illness, or unavoidable absence includes, but is not limited to, the following:
  - A. The relationship of the taxpayer to the other parties involved,
  - B. The date of death,
  - C. The dates, duration, and severity of illness,
  - D. The dates and reasons for absence,

- E. How the event prevented compliance,
- F. If other business obligations were impaired, and
- G. If tax duties were attended to promptly when the illness passed, or within a reasonable period of time after a death or return from an unavoidable absence.

The courts have held the death of a spouse as evidence of the taxpayer satisfying his burden of proof. Pursuant to the holding in, Ernest N. Zweifel, Et Al., (2012) Failure to timely file returns penalties weren't upheld against taxpayer for 1 of 3 years for which he filed late: **although fact of taxpayer's late filing satisfied IRS's burden of production on penalties' applicability, taxpayer's deceased wife's fatal illness and death supplied reasonable cause for 1st year's delinquency.**

The taxpayer, [REDACTED], paid and filed late due to his wife's death, [REDACTED], in January of 2012. [REDACTED] wife, [REDACTED], lost her fight against cancer in January of 2012 after a long battle. [REDACTED] health deteriorated rapidly in late 2011, which ultimately lead to her death in January of 2012. The death of [REDACTED] wife caused serious emotional trauma during his time of mourning. Although [REDACTED] failed to file his 2011 1040 by 04/15/2012, merely three months after losing his longtime spouse, and pay during this difficult time, he does acknowledge his behavior was irresponsible. All tax returns are filed up to date and current taxes are being paid as required. [REDACTED] has since paid the total tax bill in full, including all penalties and interest.

Enclosed are the following, in support of this abatement request:

1. 201112 1040 Account Transcript
2. Copy of the 2012 Tax Return Transcript which reflects the MFJ return with Janis listed as deceased.

The computation for the penalty abatement amount request:

FTE: \$9,824.17  
FTP: \$3,274.72  
TOTAL: \$13,098.89

Please abate the penalties based on reasonable cause, as supported by the IRM and current case law, as applied to the taxpayer's individual facts and circumstances. If you have any further questions, please feel free to contact me at (818)-339-8921.

Thank you in advance for your time and consideration.

Sincerely,

Jessie S. Seaman, Esq./E.A.  
Senior Associate: Tax Attorney and Enrolled Agent  
Tax Defense Network  
13901 Sutton Park Drive South, Suite 220  
Jacksonville, Florida 32224