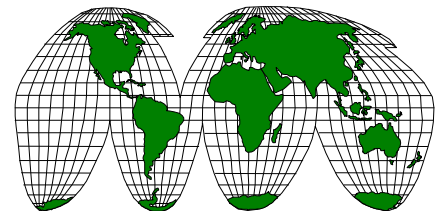


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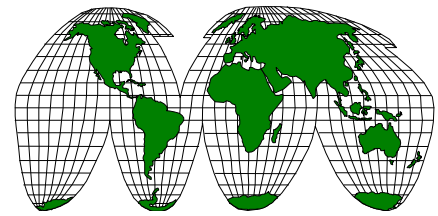


Sample Penalty Abatement And Taxpayer Advocate Letters

February 12, 2021

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Sample Penalty Abatement and Taxpayer Advocate Letters

Introduction

Natural disasters and the COVID-19 has caused CPA offices are having to deal with penalty abatement more frequently than in the past.

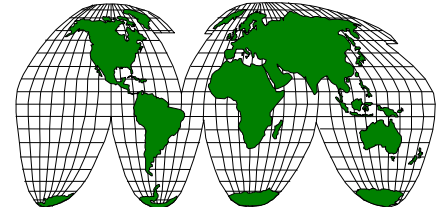
This is a compilation of sample letters I have accumulated and is intended to provide assistance for CPAs in working thru the maze of penalty abatement matters affecting their clients.

The information included herein has been compiled from previous experiences with disasters and previous client matters with IRS. The Federal, State, and Local rules and regulations associated with penalty abatement and disaster matters are constantly changing and CPAs should review the most current rules and regulations to determine how they impact their individual circumstances.

Special thanks to my good friends, Valrie Chambers, PhD, CPA and Joe Marchbein, CPA, CGMA for their assistance in accumulating the information contained herein.

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**HURRICANE MICHAEL
PENALTY ABATEMENT REQUEST SAMPLE LETTER**

(Revised as of Friday, December 04, 2020 8:48 AM)

Each practitioner should consider whether to consider contacting their insurance carrier or an attorney before undertaking the penalty abatement process

This sample letter template is designed to assist CPAs thru the penalty abatement process in answering IRS notices on Hurricane Florence returns.

Date

Internal Revenue Service
Mailing Address
City, State Zip Code

Gentlemen:

Re: Name of Taxpayer(s)
Tax ID No.
Form XXXX-Tax Period
IRS Letter XXXX

My above referenced client(s) has/have requested I reply to your notice of (insert date of IRS Notice), a copy of which is enclosed herewith for your convenience.

An executed Form 2848(Power of Attorney and Declaration of Representative) authorizing me to correspond with you. Please reply directly to me.

I have reviewed your notice and my client's records.

Taxpayer lives within affected area and receives IRS Notice with penalty and interest

Taxpayer(s) resides in XXXXXXXXXXXXXXXX County. This County is listed in IRS Notice .

Accordingly, Taxpayer is covered under this notice and should not be assessed penalty and interest until January 21, 2018.

Mr. and Mrs. _____ are residents of _____ County, _____ and as such are covered by the interruption under Code Section 7508(A) for Hurricane Florence (FEMA DR 4393). The interrupted period as described in IRS News Release 2018-187 is

from September 7, 2018 to January 31, 2019. A copy of this notice is also enclosed herewith for your convenience.

IRS Penalty Notice for practitioner not covered by 7508A-Not in disaster area but assisting those in affected area.

Your notice assesses a failure to timely this return.

I was assisting family members in the Hurricane Harvey disaster area thru (insert date). As soon as I returned to my office from the disaster area, this return was prepared and filed. Relief from the failure to timely file penalty is requested under IRM 20.1.1.3.2.2.2(11-21-2017) and IRM 20.1.1.3.3.5 (11-21-2017).

20.1.1.3.2.2.2 (11-21-2017)

Fire, Casualty, Natural Disaster, or Other Disturbance-Reasonable Cause

1. Determine if the taxpayer could not comply timely because the taxpayer was an "affected person" eligible for disaster relief as provided for in IRM 25.16.1.2, *Identification of Covered Disaster Area and Affected Taxpayers*. Also see IRM 20.1.1.3.3.6, *Official Disaster Area*.

2. For taxpayers not considered an "affected person," reasonable cause relief from a penalty may be requested if there was a failure to timely comply with a requirement to file a return or pay a tax as the result of a fire, casualty, natural disaster, or other disturbance. However, one of these circumstances by itself does not necessarily provide penalty relief.

3. Penalty relief may be appropriate if the taxpayer exercised ordinary business care and prudence, but due to circumstances beyond the taxpayer's control, he or she was unable to comply with the law.

4. Factors to consider include the following:

- Timing
- Effect on the taxpayer's business
- Steps taken to attempt to comply
- If the taxpayer complied when it became possible

5. The determination to grant relief from each penalty must be based on the facts and circumstances surrounding each individual case. Determine if the event resulted in a circumstance for which other penalty relief criteria may apply. For example, if the taxpayer was unable to access his

or her records as the result of a fire. See *IRM 20.1.1.3.2.2.3, Unable to Obtain Records*. If the taxpayer, or responsible party, was unable to comply because he or she was hospitalized as the result of an accident. See *IRM 20.1.1.3.2.2.1, Death, Serious Illness, or Unavoidable Absence*.

20.1.1.3.3.5 (11-21-2017)

Fire, Casualty, Natural Disaster, or Other Disturbance-Major Disasters

1. This section discusses penalty relief provisions for circumstances that generally fall under the definition of "major disaster" (such as a hurricane, tornado, earthquake, etc.) or "emergency" (see *IRM 25.16.1.2, Identification of Covered Disaster Area and Affected Taxpayers*) and that affect a significant number of taxpayers located within a designated geographical area.
2. Generally, relief is provided in the form of extensions of time to file or pay and is usually provided systemically with the setting of an "-O" Freeze or "-S" Freeze posted to the account. See *IRM 25.16.1.7.2, Disaster Assistance and Emergency Relief, -O Freeze*, and *IRM 25.16.1.7.1, Disaster Assistance and Emergency Relief, -S Freeze*.
3. The determination to grant relief from each penalty must be based on the facts and circumstances surrounding each individual case.
4. For additional guidelines, including guidelines for reasonable cause consideration where systemic penalty relief is not applicable, see *IRM 20.1.1.3.2.2.2*.

IRS Penalty Notice-other reason

Your notice assesses a failure to timely this return.

(Insert facts and circumstances that you are claiming reasonable cause relief)

Relief from the failure to timely file penalty is requested under IRM 20.1.1.3.3.6(11-25-2011).

20.1.1.3.3.6 (11-25-2011)

Official Disaster Area

1. When a significant disaster occurs affecting a wide area of taxpayers, the IRS often issues special instructions to facilitate evaluating the request for penalty relief.
2. Because these are one-time instructions, they will not be incorporated in this IRM. Territories, campuses, and customer service sites will be kept informed of any special instructions affecting their areas.

I await a reply at your earliest convenience.

Thank you.

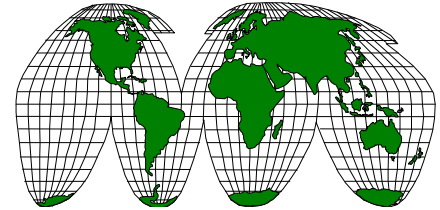
Very truly yours,

XXXXXXXXXXXXXXXXXXXX

Enclosures

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COVID-19

PENALTY ABATEMENT REQUEST SAMPLE LETTER

(Revised as of Monday, January 18, 2021 4:50 PM)

Each practitioner should consider whether to consider contacting their insurance carrier or an attorney before undertaking the penalty abatement process

This sample letter template is designed to assist CPAs thru the penalty abatement process in answering IRS notices on COVID-19 returns.

Date

Internal Revenue Service
Mailing Address
City, State Zip Code

Gentlemen:

Re: Name of Taxpayer(s)
Tax ID No.
Form XXXX-Tax Period
IRS Letter XXXX

My above referenced client(s) has/have requested I reply to your notice of (insert date of IRS Notice), a copy of which is enclosed herewith for your convenience.

An executed Form 2848(Power of Attorney and Declaration of Representative) authorizing me to correspond with you. Please reply directly to me.

Your notice assesses a failure to timely file a Form XXXX.

I have reviewed your notice and my client's records.

Taxpayer has tested positive for COVID-19, has had family member tested positive, or employee tested positive and receives IRS Notice with penalty and interest

Taxpayer(s) has tested positive for COVID-19, has had family member tested positive, or employee tested positive .

Accordingly, Taxpayer was unable to timely and accurately file this return and should not be assessed any failure to file penalty.

Taxpayer exercised ordinary business care and prudence, but due to COVID-19, which was beyond the taxpayer's control, he or she was unable to comply with the filing requirement.

Practitioner or staff has tested positive for COVID-19

The preparer of the return or staff of the preparer preparing the return tested positive for COVID-19.

Accordingly, Taxpayer was unable to timely and accurately file this return and should not be assessed any failure to file penalty.

The preparer exercised ordinary business care and prudence, but due to COVID-19, which was beyond the preparer's control, he or she was unable to comply with the filing requirement.

IRS Penalty Notice-other reason

Your notice assesses a failure to timely this return.

(Insert facts and circumstances that you are claiming reasonable cause relief)

Relief from the failure to timely file penalty is requested under IRM 20.1.1.3.3.6(11-25-2011).

20.1.1.3.3.6 (11-25-2011)

Official Disaster Area

1. When a significant disaster occurs affecting a wide area of taxpayers, the IRS often issues special instructions to facilitate evaluating the request for penalty relief.
2. Because these are one-time instructions, they will not be incorporated in this IRM. Territories, campuses, and customer service sites will be kept informed of any special instructions affecting their areas.

It should be noted taxpayer has timely filed and paid all tax obligations in the past.

I await a reply at your earliest convenience.

Thank you.

Very truly yours,

~~XXXXXXXXXXXXXXXXXXXX~~

Enclosures

HURRICANES LAURA, DELTA, AND ZETA
Insert into R-20128 (1/16) Request for Waiver of Penalties
(Updated as of December 23, 2020 614AM)

Hurricane Laura

Taxpayer(s) resides in XXXXXXXXXXXXXXXX Parish. This Parish is listed in IRS News Release LA-2020-06(November 25, 2020) and Revenue Information Bulletin No. 20-021.

IRS News Release LA 2020-06 and Revenue Information Bulletin No. 20-021 allows individuals and businesses in Acadia, Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, Grant, Iberia, Jackson, Jefferson Davis, Lafayette, La Salle, Lincoln, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Sabine, St. Landry, St. Martin, St. Mary, Union, Vermilion, Vernon, Webster, West Feliciana, and Winn parishes until December 31, 2020, to file various individual and business tax returns and make tax payments.

Accordingly, Taxpayer(s) is/are covered under this IRS News Release and will not be assessed penalty and interest on Federal returns until December 31, 2020.

Similar relief for Louisiana returns is requested and abatement of penalties previously assessed.

A copy of the IRS News Release and Revenue Information Bulletin is enclosed herewith for your convenience.

Hurricanes Delta and Zeta

Taxpayer(s) resides in XXXXXXXXXXXXXXXX Parish. This Parish is listed in IRS News Release LA-2020-06(November 25, 2020).

IRS News Release LA 2020-06 allows individuals and businesses in **all** parishes in Louisiana until February 16, 2021, to file various individual and business tax returns and make tax payments.

Accordingly, Taxpayer(s) is/are covered under this News Release and will not be assessed penalty and interest on Federal returns until February 16, 2021.

Similar relief for Louisiana returns is requested and abatement of penalties previously assessed.

Request for Waiver of Penalties

 Louisiana Department of Revenue
 P.O. Box 201
 Baton Rouge, LA 70821-0201

Louisiana Administrative Code 61:III.2101.B provides that before a request for waiver of penalties can be considered, the taxpayer must be current in filing all tax returns, and all taxes, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Louisiana Department of Revenue must be paid.

PLEASE PRINT OR TYPE.

Taxpayer		
Account Number	Tax	Period(s)
Type of Penalty		
Delinquent Filing <input type="checkbox"/>	Delinquent Payment <input type="checkbox"/>	Underpayment of Estimated Tax <input type="checkbox"/>
		Other <input type="checkbox"/>

I hereby declare that the delinquency in filing the subject return and/or paying the subject tax was not due to my intent to violate any law, but was due to the following reason(s):

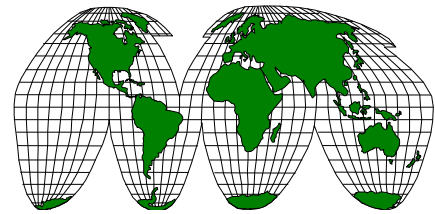
Pursuant to the provisions of R.S. 47:1603 and based on the facts stated above, request is hereby made that payment of penalties in the amount of \$ _____ imposed in accordance with a taxing statute be waived.

Under penalty of perjury, under the laws of the State of Louisiana, I certify that all statements contained in this request for waiver of penalties and any and all accompanying documents are true and correct to the best of my knowledge and belief. I also understand that the complete record of any waiver of penalties exceeding \$25,000 will be reported to the House Ways and Means and the Senate Revenue and Fiscal Affairs Committees.

Date (mm/dd/yyyy)	Signature	Official Title (if acting for a corporation)

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SAMPLE TAXPAYER ADVOCATE LETTER

Criteria per IRM 13.1.7.2 for Accepting Cases

Economic Burden. Economic burden cases are those involving a financial difficulty to the taxpayer: an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer.

- **Criteria 1:** The taxpayer is experiencing economic harm or is about to suffer economic harm.
- **Criteria 2:** The taxpayer is facing an immediate threat of adverse action.
- **Criteria 3:** The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
- **Criteria 4:** The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.

Systemic Burden. Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue.

- **Criteria 5:** The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
- **Criteria 6:** The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
- **Criteria 7:** A system or procedure has either failed to operate as intended, or failed to resolve the taxpayer's problem or dispute within the IRS.

Best Interest of the Taxpayer. TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.

- **Criteria 8:** The manner in which the tax laws are being administered raises considerations of equity, or has impaired or will impair the taxpayer's rights.

Public Policy. Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.

- **Criteria 9:** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

Date

By US Mail and Fax to XXX-XXX-XXXX

Taxpayer Advocate Office
Internal Revenue Service
1555 Poydras Street
Suite 220
Stop 2
New Orleans, Louisiana 70112

Gentlemen:

Re: XXXXXXXXXXXXXXXX
EIN/SSAN XXXXXXXXXXXX
Form XXXX-XXXXXXX XXXX, 2020

My above referenced client has requested I forward you the enclosed Form 911 requesting assistance in the unresolved tax collection matter on their Form XXX for the period ending XXXXX XXX, 2020.

Enclosed herewith are the following:

- An executed Form 2848(Power of Attorney and Declaration of Representative) previously filed with you
- A copy of a refund check in the amount of \$2,259.85 for the June 30, 2020 Form 941 which was returned to IRS on December 16, 2020
- The confirmation from the U. S. Post Office indicating the refund check was received by the Ogden Service Center on December 21, 2020.
- My letter dated January 28, 2021 to the Cincinnati Service Center indicating the refund check has been returned and should be offset against the liability for the September 30th Form 941.
- Various notices concerning this matter including the most recent notice of intent to levy.

XXXX have furnished me with the enclosed Notice of Levy CP504 against XXXX for a balance due on her XXXX income tax return. We are unable to reconcile with her records and the list of IRS payments indicated on the enclosed transcript and bank withdrawal.

Your assistance is requested since the tax liability should be satisfied by the return of the refund check.

The threat of a levy for this tax liability creates an economic and unnecessary burden on this taxpayer since the liability is satisfied by the return of the refund check from the previous quarter and any levy would create an economic burden in not being to meet current obligations.

I await a reply at your earliest convenience.

Very truly yours,

GERARD H. SCHREIBER, JR.

Enclosures

cc: XXXXXXXXXXXXXXXXXXXX.

CASE ACCEPTANCE CRITERIA

As an independent organization within the IRS, the Taxpayer Advocate Service protects taxpayer rights under the Taxpayer Bill of Rights, helps taxpayers resolve problems with the IRS, and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.¹ TAS case acceptance criteria fall into four main categories.

ECONOMIC BURDEN

Economic burden cases are those involving a financial difficulty to the taxpayer: an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer.

- CRITERIA 1** The taxpayer is experiencing economic harm or is about to suffer economic harm.
- CRITERIA 2** The taxpayer is facing an immediate threat of adverse action.
- CRITERIA 3** The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
- CRITERIA 4** The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.

SYSTEMIC BURDEN

Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue.²

- CRITERIA 5** The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
- CRITERIA 6** The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
- CRITERIA 7** A system or procedure has either failed to operate as intended, or failed to resolve the taxpayer's problem or dispute within the IRS.

BEST INTEREST OF THE TAXPAYER

TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.³

- CRITERIA 8** The manner in which the tax laws are being administered raises considerations of equity, or has impaired or will impair the taxpayer's rights.

PUBLIC POLICY

Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.⁴

- CRITERIA 9** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

1 IRC § 7803(c)(2)(A)(i).

2 TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See Internal Revenue Manual (IRM) 13.1.7.3(d), Exceptions to Taxpayer Advocate Service Criteria (Feb. 4, 2015). This IRM is temporarily amended until December 31, 2020. TAS, Interim Guidance Memo (IGM) TAS-13-0220-002, Interim Guidance on Exclusion From TAS Case Acceptance Criteria Taxpayers Impacted by Pre-Refund Wage Verification Hold and Amended Returns (Feb. 14, 2020).

3 See IRM 13.1.7.2.3, TAS Case Criteria 8, Best Interest of the Taxpayer (Feb. 4, 2015).

4 See TAS, IGM TAS-13-0620-0012, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (June 1, 2020).