

IRS Issues Guidance on Penalty Relief for Taxable Years 2020 And 2021

December 22, 2023

Joseph A. Peterson
(248) 433-7158
jpeterson@plunkettcooney.com

During the pandemic, the IRS suspended the issuance of notices to taxpayers. The suspension began on Feb. 9, 2022 and will run through January 2024. It specifically impacted new notices for tax periods in 2021 and earlier years. The suspended notices included balance due notices and notices for unfiled tax returns. This suspension does not include notices for the 2022 tax year and for 2023 through the third quarter.

Due to this suspension, many taxpayers who did not file and/or fully pay their tax balances for the 2020 and 2021 tax years were not sent initial notices for overdue tax bills. While the notice suspension was active, failure to pay penalties were accruing for these unpaid balances. The result of the suspension is that taxpayers were not given notice of these unpaid balances and therefore did not have the opportunity to pay their unpaid tax bill while the failure to pay penalty was accruing against these balances.

The normal resumption of collection activity at the IRS would have led to taxpayers with unpaid taxes in 2020 and 2021 receiving a larger tax bill than normal without any prior warning. IRS Commissioner Danny Werfel, said “As the IRS has been preparing to return to normal collection mailings, we have been concerned about taxpayers who haven’t heard from us in a while suddenly getting a larger tax bill. The IRS should be looking out for taxpayers, and this penalty relief is a common-sense approach to help people in this situation.”

The result of this announcement by the IRS is that the IRS will be issuing automatic waivers or credits for failure to pay taxes related to the 2020 and 2021 tax years. This waiver will only impact the failure to pay penalty. Any other penalties (i.e., accuracy, failure to file, etc.) are **not** impacted by this announcement.

Who Will Qualify for This Relief?

Individuals or businesses who were assessed income tax less than \$100,000 for 2020 or 2021 are eligible for this automatic waiver of the failure to pay penalty. Assessed income tax is the tax owed for either 2020 or 2021 excluding any applicable additions for penalties or interest.

This waiver specifically applies to individuals or businesses that filed specific 1040, 1120, 1041 and 990-T income tax returns.

An eligible taxpayer includes any taxpayer:

- Whose assessed income tax for taxable year 2020 or 2021, as of Dec. 7, 2023, is less than \$100,000, excluding any applicable additions to tax, penalties, or interest;
- Who was issued an initial balance due notice (including, but not limited to Notice CP14 or Notice CP161) on or before Dec. 7, 2023, for taxable year 2020 or 2021; and
- Who is otherwise liable during the relief period for accruals of additions to tax for the failure to pay under § 6651(a)(2) or 6651(a)(3) with respect to an eligible return for taxable year 2020 or 2021.

It is important to note that a taxpayer can only qualify for this waiver if it has filed the required returns for 2020 and 2021, and the IRS has assessed tax against these returns. If you have not filed returns for 2020 or 2021, the automatic failure to pay waiver will not be available.

The IRS will be issuing special reminder letters to individuals and businesses starting in January 2024 to alert taxpayers of any outstanding tax liabilities and to provide information on how to address these unpaid balances.

Additional Information

Taxpayers should note that for several years now the IRS has not been issuing notices for any tax years prior to 2021. Taxpayers should assume that any silence on the part of the IRS for tax balances or unfiled returns relating to the 2021 or earlier tax years is due to this suspension and that normal collection activity will resume in 2024.

It is in the best interest of individuals and businesses who know or suspect that they may have unresolved tax issues to seek tax professionals now to address these issues. By doing so, taxpayers can reduce or eliminate any penalties or interest that will likely take effect once IRS collections resume in 2024.

For more information on the failure to pay waiver for 2020 and 2021 and its applicability to your circumstances, see IR-2023-244 and Notice 2024-7.