

IRS TO FORGIVE \$1.2 BILLION IN PENALTIES ASSESSED DURING THE PANDEMIC

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On Wednesday August 24th, the Internal Revenue Service issued Notice 2022-36, providing penalty relief for businesses and individuals that late filed certain returns for the 2019 and 2020 tax years. Based on IRS reports this will provide more than \$1.2 billion in refunds to nearly 1.6 million taxpayers. In addition to providing much needed relief for taxpayers, this forgiveness will also allow the IRS to convert their resources to processing the backlog of tax returns and correspondence to achieve their goal of returning to normal operations for the 2023 filing season.

What Penalties Will Be Forgiven

The IRS is granting penalty forgiveness on failure to file penalties on certain tax return types. This penalty is assessed at a rate of 5% per month with a maximum rate of 25% of the unpaid tax when the tax return is filed. The penalty forgiveness will apply to:

- Individuals filing most of the 1040 series returns
- Trust filing most of the 1041 series returns
- Partnerships filing Form 1065
- S corporations filing Form 1120-S
- Corporations filing most of the 1120 series returns
- Real Estate Mortgage Investment Conduit (REMIC) Form 1066
- Non-profit entities filing a 990-T or 990-PF return

In addition to tax returns, most informational returns will also qualify for penalty forgiveness, including most 1099 series reports. For taxpayers with foreign reporting, the Notice provides a detailed list of foreign returns and international information returns that qualify for forgiveness.

The penalty forgiveness will not be granted for any other penalties including, but not limited to, failure to pay penalties or underpayment penalties assessed in addition to the failure to file penalty. For taxpayers who were assessed a failure to file penalty for fraudulent reasons, penalty forgiveness will not be granted. The penalty forgiveness also does not apply to any penalties in an accepted offer in compromise, or penalties settled in a closing agreement in a judicial proceeding.

How to Receive Penalty Forgiveness

As long as any qualifying outstanding return is filed by September 30, 2022, the IRS will automatically determine which taxpayers are eligible. For federal informational returns, the due date is August 1st of the respective year.

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For returns currently being filed, no penalties will be assessed. For penalties that have been assessed, the IRS will abate the penalties and issue a notice to show the current account balance. For penalties that have already been paid, the IRS will issue a refund directly to the taxpayer via check. The IRS anticipates all qualified penalties will be forgiven and refunded by the end of September.

ABOUT THE AUTHORS

Donald Trummer is a Senior Tax Manager in the Youngstown, OH office of HBK CPAs and Consultants. He is also a Tax Specialist focused on manufacturing clients and a member of the Tax Advisory Group. Donald has over eight years of experience in taxation with a focus on privately held businesses and high-net-worth individuals. His areas of expertise include partnerships, S corporations, C corporations and individual taxation. He also assists his clients with year-end planning, merger and acquisition planning, choice of entity planning, and conflict resolution. Prior to joining HBK in November of 2020, Donald spent seven years working for a national accounting firm.

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