

Taxpayer Penalties (For returns required to be filed in 2025)

Reason	Amount	IRC §
Failure to file	<ul style="list-style-type: none"> 5% of unpaid balance per month—maximum 25%. More than 60 days late—shall not be less than the lesser of \$510 or 100% of the tax due on the return. No penalty if the taxpayer is due a refund. Failure to file penalty is reduced by failure to pay penalty if both apply. 	6651(a)(1) 6651(c)(1)
Failure to pay	<ul style="list-style-type: none"> 0.50% of unpaid balance per month—maximum 25%. 0.25% of unpaid balance per month during term of installment agreement. 	6651(a)(2) 6651(h)
Fraudulent failure to file	15% of unpaid balance per month—maximum 75%.	6651(f)
Underpayment of estimated tax	See <i>Overpayment/Underpayment Interest Rates</i> , page 15-1.	6654 6655
Accuracy related penalty	20% of underpayment due to: <ul style="list-style-type: none"> Negligence—includes failure to make a reasonable attempt to comply or intentional disregard. Substantial understatement of tax—more than the greater of 10% (5% for taxpayers claiming IRC section 199A deduction) of the actual amount due or \$5,000. Substantial valuation misstatement. 	6662
Fraud	75% of understatement due to fraud.	6663
Failure to file correct information returns (penalty assessed per information return)	<ul style="list-style-type: none"> \$60 if filed within 30 days – maximum \$664,500 per year (\$232,500 for small business). \$130 if filed more than 30 days after due date but before August 1 – maximum \$1,993,500 per year (\$664,500 for small business). 	6721
Failure to furnish correct payee statements (penalty assessed per information return)	<ul style="list-style-type: none"> \$330 if filed after August 1 or not filed at all – maximum \$3,987,000 per year (\$1,993,500 for small business). Minimum of \$660 with no maximum limit if failure to file or furnish was due to intentional disregard of the requirements. 	6722
Tax evasion	Willful attempt to evade tax is a felony. Maximum fine of \$250,000 (\$500,000 for a corporation) and/or up to five years in prison.	7201 (18 U.S.C. §3571)
Failure to collect or pay over tax	Willful failure to collect, account for, and pay over tax is a felony. Maximum fine of \$250,000 and/or five years in prison.	7202 (18 U.S.C. §3571)
Perjury and fraud	Knowingly filing or helping in the filing of a false return or aiding in fraud is a felony. Maximum fine is \$250,000 (\$500,000 for a corporation) and/or up to three years in prison.	7206 (18 U.S.C. §3571)
Earned Income Credit (EIC) claimed even though taxpayer is not eligible	<p>Error due to reckless or intentional disregard of the EIC rules.</p> <ul style="list-style-type: none"> Taxpayer is not allowed to take the EIC for two years, even if eligible. <p>Error due to fraud.</p> <ul style="list-style-type: none"> Taxpayer is not allowed to take the EIC for 10 years, even if eligible. 	32(k)

Reasonable cause. Reasonable cause is based on all the facts and circumstances in each situation. Any reason which establishes the taxpayer exercised ordinary care and prudence, but nevertheless was unable to comply with tax law, may be considered for noncriminal penalty relief.

Business failure-to-file penalties. For C corporations, see *Penalties*, page 18-1. For S corporations, see *Penalties*, Tab 19. For partnerships, see *Penalties*, page 20-4.

Return Preparer Penalties

Reason	Amount	IRC §
Understatement of tax caused by an unreasonable position taken on the tax return by the preparer.	The greater of \$1,000 per return or 50% of the income derived from the return to which the penalty was imposed.	6694(a)
Understatement of tax caused by the preparer's reckless or intentional disregard of the rules or regulations.	The greater of \$5,000 per return or 75% of the income derived from the return to which the penalty was imposed.	6694(b)
Failure to furnish a copy of the return to the taxpayer.	\$60 per return. Maximum \$31,500 per year.*	6695(a)
Failure to sign the return.	\$60 per return. Maximum \$31,500 per year.*	6695(b)
Failure to furnish the identifying number of the preparer on the return.	\$60 per return. Maximum \$31,500 per year.*	6695(c)
Failure to retain a copy of a return for three years or maintain a list of names and ID numbers of the taxpayers for whom the returns were prepared.	\$60 per return. Maximum \$31,500 per year.*	6695(d)
Failure to file correct information returns.	\$60 per failure. Maximum \$31,500 per year.*	6695(e)
Endorsing or negotiating the taxpayer's refund check.	\$635 per check.*	6695(f)
Failure to be diligent in determining eligibility for HOH filing status EIC, CTC, or AOC.	\$635 per return.*	6695(g)
Disclosure or use of information by the preparer of the return without the taxpayer's consent.	Upon conviction, up to \$1,000 and/or up to one year in prison. \$100,000 if in connection with identity theft.	7216

* For a return or claim for refund filed in 2025.

Private Letter Ruling (PLR)

A PLR is a written statement issued to a taxpayer by the IRS that interprets and applies tax laws to his or her specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of a particular transaction before the transaction is consummated or before the taxpayer's return is filed. A PLR is binding on the IRS if the taxpayer fully and accurately described the proposed transaction and carries out the transaction as described. A PLR may not be relied on as precedent by other taxpayers or IRS personnel. User fees apply based on taxpayer gross income and other factors.

Accuracy Related Penalty Relief

Accuracy related penalties may be removed or reduced based on reasonable cause or adequate disclosure.

Reasonable cause. A taxpayer may qualify for accuracy related penalty relief if he or she:

- Acted in a responsible manner before and after the failure to file an accurate return, and/or
- Used a competent and experienced tax advisor and provided him or her with all necessary information.

Adequate disclosure. Form 8275, *Disclosure Statement*, can be used to disclose items or positions, except those taken contrary to a regulation, that are not adequately disclosed on a tax return. Form 8275-R, *Regulation Disclosure Statement*, can be used to disclose positions that are contrary to Treasury regulations. These disclosures may avoid certain accuracy-related penalties for the following.

- Non-tax shelter items if the return position has a reasonable basis.
- Economic substance transactions. (Notice 2014-58)
- Tax understatements due to an unreasonable position (Form 8275) or that are contrary to regulations (Form 8275-R).

Private Debt Collection

The IRS uses private agencies to collect certain outstanding, inactive tax debts. These agencies give taxpayers information about electronic payment options. Payment by check should be made out to the U.S. Treasury and sent directly to the IRS. The names of the authorized agencies and additional information can be found at www.irs.gov/businesses/small-businesses-self-employed/private-debt-collection.

First Time Penalty Abatement

A taxpayer may qualify for administrative relief from the failure-to-file, failure-to-pay, and/or failure-to-deposit penalties if the taxpayer:

- Did not have a filing requirement or penalties for three prior tax years,
- Has filed all currently required returns or filed an extension, and
- Has paid or arranged to pay any tax due.

The failure-to-pay penalty will continue to accrue until the tax is paid in full. It may be to the advantage of the taxpayer to wait to request the first time abate (FTA) until the balance is paid. Taxpayers should call the number on the notice to determine eligibility and request the abatement.

Disaster Extended Tax Deadlines

Cross References

- Form 4684, *Casualties and Thefts*
- IRS Pub. 547, *Casualties, Disasters, and Thefts*

Related Topics

- Casualty and Theft Losses, Tab 4

Disaster Relief

The IRS has provided tax relief for taxpayers affected by certain disasters by extending deadlines that apply to filing returns, paying taxes, and performing certain other time-sensitive acts. The IRS will announce the disaster area and the specific tax relief provided. For a current list of federally-declared disaster areas, go to www.fema.gov/disaster/declarations. For IRS tax relief in specific disaster situations, go to www.irs.gov/newsroom/tax-relief-in-disaster-situations.

Affected taxpayers. Taxpayers include individuals and businesses located in the disaster area, those with tax records located in the disaster area, and relief workers. The same relief will apply to any places added to the disaster area.

Extensions to file or pay taxes. The IRS gives affected taxpayers until the last day of the disaster extension period to file tax returns or make tax payments, including estimated tax payments, that have either an original or extended due date falling within this period. The extension also applies to certain other acts such as filing a petition with the Tax Court, filing a claim for a refund, or bringing a suit upon a claim for refund or credit. The extension does not apply to information returns, or to employment and excise tax deposits.

Forgiveness of interest and penalties. The IRS may abate the interest and penalties on any underpaid income, estate, gift, employment, or excise tax for the length of any extension.

Statutes of Limitations

Cross References

- IRS Pub. 1035, *Extending the Tax Assessment Period*
- IRC §6501, *Limitations on assessment and collection*
- IRC §6502, *Collection after assessment*
- IRC §6511, *Limitations on credit or refund*

Related Topics

- Amended Returns, page 14-12

Definition. The statute of limitations is the period of time in which the IRS can assess additional tax or a taxpayer can amend a return to claim a credit or refund.

Statutes of Limitations for Income Tax Returns

<i>If a taxpayer:</i>	<i>Then the statute of limitations is:</i>
1) Owes additional tax, and conditions 2,3, and 4, below, do not apply	Three years after the return is filed.*
2) Omits income that is more than 25% of gross income on the return	Six years after the return is filed.*
3) Files a fraudulent return	Unlimited.
4) Does not file a return	Unlimited.
5) Files a claim for credit or refund after filing an original return*	The later of three years after the return is filed or two years after tax is paid.
6) Files a claim for loss from worthless securities or bad debt deduction	Seven years after the return is filed.*

*A return filed early is treated as being filed on the due date.

Recordkeeping

Taxpayers are required to keep records that support an item of income, deduction, or credit shown on the tax return until the statute of limitations for that tax return runs out.

Assets. Records relating to property must be kept until the statute of limitations expires for the year in which the property is disposed of. For example, if a piece of business equipment is sold in 2021, records must be kept until April 15, 2025 (three years after the due date of the 2021 tax return).

Military Exceptions

The deadline extension provision extends the statute of limitations for filing a claim for credit or refund of any tax, assessment of any tax by the IRS, and any collection by the IRS of any tax due for any qualified military personnel. See *Extensions and Deferrals*, page 14-7.

Date Considered Filed

Early filing. Returns and payments filed before the due date are considered to be filed on the due date.

Late filing. Returns and payments filed after the due date are considered to be filed on the date received by the IRS.

Electronic returns. See *Timely Filing*, page 15-14.

Mailbox rule. If a document or payment has a timely postmark, the document or payment is considered to be filed on time even though it is received by the IRS at a later date.

In order for the mailbox rule to take effect, the document or payment must be received by the IRS. Other than direct proof of actual delivery, proof of proper use of registered or certified mail is the exclusive means to establish prima facie evidence of delivery of a document to the IRS. No other evidence of a postmark or of mailing will be prima facie evidence of delivery or raise a presumption that the document was delivered. [Reg. §301.7502-1(e)]

Private postmark. If a taxpayer uses a private delivery service (PDS) designated by the IRS to mail their return, the postmark date generally is the date the private delivery service records in its database or marks on the mailing label. The private delivery service can tell the taxpayer how to get proof of the date. Designated private delivery services are offered by FedEx, United Parcel Service (UPS), and DHL Express.

Deposits made by the Electronic Federal Tax Payment System (EFTPS). Deposits must be initiated by 8 p.m. ET at least

one calendar day before the deposit due date to be considered timely. For more information, see *Electronic Federal Tax Payment System (EFTPS)*, page 23-2.

Assessment

Any additional tax must be assessed within three years after a return is filed. The three-year assessment period applies to both the IRS and the taxpayer, such as when a taxpayer files an amended return to pay additional tax. (Ltr. Rul. 201052003)

The rule applies regardless of whether the return was filed on time. See *Date Considered Filed*, page 15-3.

Exceptions to Three-Year Assessment Limit

IRC §6501(c)(1,2)	False or willful attempt to evade tax	If a taxpayer files a false or fraudulent return, or files a return with the intent to evade tax, there is no statute of limitations.
IRC §6501(c)(3)	Failure to file	If a taxpayer fails to file a return, collection proceedings may be undertaken without assessment at any time.
IRC §6501(c)(4)	Extension by agreement	A taxpayer may enter into an agreement with the IRS to extend the statute of limitations for assessment.
IRC §6501(e)(1)	Substantial omission	If the taxpayer omits income in excess of 25% of gross income reported on the return, the assessment period is extended to six years.

Collection

After assessment of tax, collection activity must begin within 10 years after the date of assessment. The 10-year period may be extended in certain situations or by agreement between the parties.

Unfiled Returns

Filing. Past due returns should be filed the same way and to the same location where a current-year return would be filed. If an IRS notice is received, the return should be sent to the location indicated on the notice.

e-Filing past due returns. The current year and prior two tax years are accepted during each processing year. For example, in processing year 2025, individual tax returns for tax years 2022, 2023, and 2024 can be electronically filed.

Refunds. The last date for claiming a refund is generally the later of:

- Three years from the return due date plus extensions, or
- Two years from the date the tax was paid.

For example, refunds of taxes paid for 2024 on returns filed by the normal due date, must be filed by April 15, 2028. The IRS may hold or reduce refunds in cases where state or federal taxes are due.

Extensions. Refund request deadlines may be extended:

- By signed agreement with the IRS,
- In presidentially declared disaster areas,
- When serving in a designated combat zone,
- If filing because of a bad debt or worthless security loss, or
- If the taxpayer is disabled. (Rev. Proc. 99-21)

Self-employed taxpayers. If a taxpayer is self-employed and does not file a tax return, income will not be reported to the Social Security Administration and he or she will not receive credits toward retirement or disability benefits. An earnings record can be corrected at any time up to three years, three months, and 15 days after the year in which the self-employment income was derived.

Substitute return. If no return is filed, the IRS may file a substitute return and the taxpayer may not receive credits or deductions he or she may be entitled to. Even if the IRS files a substitute return, it is still in the best interest of the taxpayer to file his or

her own tax return. The IRS will generally adjust the taxpayer's account to reflect the correct amounts.

The filing of a substitute return does not constitute a return for purposes of starting the statute of limitations for tax assessments, collections, or refunds. However, a substitute return prepared by the IRS will lead to a tax bill, which, if unpaid, will trigger the collection process. See *IRS Collection Process*, page 15-11.

Penalty for Underpayment of Estimated Tax

Cross References

- Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts*
- Form 2210-F, *Underpayment of Estimated Tax by Farmers and Fishermen*
- IRS Pub. 505, *Tax Withholding and Estimated Tax*
- IRC §6654, *Failure by individual to pay estimated income tax*

Related Topics

- C Corporation Estimated Tax, page 18-4

2025 Estimated Payment Dates for Individuals

Installment	Tax Period Covered	Due Date
First	January 1 to March 31, 2025	April 15, 2025
Second	April 1 to May 31, 2025	June 16, 2025
Third	June 1 to August 31, 2025	September 15, 2025
Fourth	September 1 to December 31, 2025	January 15, 2026*

* Underpayment penalty for fourth installment does not apply if the 2025 return is filed and balance paid by January 31, 2026. **Note:** It may be advantageous to pay the fourth period installment of state estimated taxes by December 31, 2025, in order to deduct the amount as an itemized deduction for 2025.

Estimated Tax Penalty for 2024

Safe harbor. An estimated tax penalty will not apply if either of the following amounts is paid through withholding or timely estimated tax payments for 2024.

- 1) At least 90% of the tax shown on the 2024 return, or
- 2) 100% of the tax shown on the 2023 return (110% if 2023 AGI was greater than \$150,000/\$75,000 MFS).

An estimated tax penalty for tax year 2024 will not apply if:

- The balance due on the individual's 2024 tax return is less than \$1,000, or
- The taxpayer was a U.S. citizen and had no tax liability in 2023 for a tax year that covered 12 months.

Return. The return refers to a taxpayer's original income tax return, including an amended return filed by the due date and a joint return that replaces previously filed separate returns.

Tax shown on return. The tax is generally a taxpayer's total tax minus refundable credits.

Farmers and fishermen. Only one estimated payment is required if two-thirds of the taxpayer's gross income for 2023 or 2024 is from farming or fishing. The due date of the estimated payment for tax year 2024 is January 15, 2025, and the required payment is two-thirds of the tax liability for the year. Due dates for the first three installments do not apply.

Exception: No estimated payment is required if the 2024 tax return is filed and the balance due paid by March 3, 2025. See *Income Averaging for Farmers and Fishermen*, page 5-28, for more information about farmers and fishermen.

Form 2210-F, Underpayment of Estimated Tax by Farmers and Fishermen. Farmers and fishermen can use Form 2210-F, to calculate an underpayment penalty. It must be filed if a waiver is requested or if the taxpayer filed a joint return for the current or preceding year, but not for both years.

U.S. Armed Forces personnel. Servicemembers who qualify may not be subject to a penalty. See *Extensions and Deferrals*, page 14-7.

Joint Return to Separate

If a married couple filed a joint tax return in 2023, but are filing separate returns in 2024, for purposes of avoiding the penalty for underpayment, tax must be allocated between the spouses.

Compute the tax that each spouse would have paid for 2023 using the same filing status as 2024. Then multiply the tax on the joint return by the following fraction.

$$\frac{\text{Tax payable by each spouse on a separate return}}{\text{Total tax payable by both spouses on separate returns}}$$

Example: Ray and Jane filed a joint return for 2023 showing taxable income of \$49,000 and tax of \$5,443. Of the \$49,000 of taxable income, \$41,000 was allocable to Ray, and \$8,000 was allocable to Jane. The couple divorced in 2024, and each used the Single filing status for the 2024 tax year. For purposes of determining any underpayment of estimated tax, Ray's shares of 2023 tax is computed as follows.

	Taxable Income		Tax
2023 tax based on Single rate:	Ray.....	\$41,000	= \$4,703
	Jane.....	\$ 8,000	= 803
	Total		\$5,506

Ray's share of 2023 tax: $\$4,703 \div \$5,506 = 85.4\%$. $\$5,443 \times 85.4\% = \$4,648$

If a couple filed separate returns in 2023 (either MFS or two Single returns), but are filing MFJ in 2024, combine the income and tax of each on the 2023 returns to determine the applicable estimated tax rules for 2024. [Reg. §1.6654-2(e)(3)]

Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts

The underpayment penalty is computed on Form 2210. If an underpayment penalty is due, enter the amount of the penalty on line 38, Form 1040, but do not file Form 2210 unless one of the following exceptions applies.

- The taxpayer requests a penalty waiver,
- The annualized income installment method is chosen, or
- The choice is made to treat federal tax withholding as paid at the time withheld instead of paid in equal amounts on the payment due dates.

Waiver of penalty. The IRS will waive the penalty for underpayment of estimated tax if:

- In 2023 or 2024 the taxpayer retired after age 62, or became disabled, and the underpayment was due to a reasonable cause, or
- The underpayment was due to a casualty, disaster, or other unusual circumstance, and it would be unfair to impose the penalty.

Requesting a waiver. Part II, Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts*, contains checkboxes and instructions for requesting a waiver of the underpayment penalty. File Form 2210 with the tax return and include a statement explaining the reasons for requesting the waiver. The IRS will review the information and decide whether to grant the waiver.

Annualized income installment method. Under the regular installment method, required payments may be determined by multiplying annual estimated tax due by 25%. However, if income is not received evenly throughout the year, using the annualized income installment method may reduce the underpayment

penalty. The annualized installment method is computed on Form 2210 (Schedule AI).

Example: Brad is in the business of providing tax practitioners with research materials. All of Brad's income for 2024 is derived in the last three months of the year. Because he has no income for the first nine months of the year, Brad makes no estimated tax payments until January 15, 2025. If Brad were to file his 2024 Form 1040 without electing the annualized income installment method, the IRS would use the regular installment method that assumes his income was earned evenly throughout the year and would assess a penalty for underpayment of estimated tax. Instead, Brad files Form 2210 with his tax return and chooses the annualized income installment method. Because Brad's income was attributed to the final payment period in the year, and he made the payment before the final estimated payment due date, no underpayment penalty will be assessed.

Withholding dates. Federal income tax withholding is considered to be withheld evenly throughout the year. Underpayment is computed by taking the entire withholding for the year and applying one-fourth of that amount to each installment period.

Exception: Actual dates tax was withheld can be used in the computation of underpayment of estimated tax. Form 2210 must be filed to make this choice. This choice can be beneficial if a larger amount of tax was withheld early in the tax year.

Planning Tip: If a taxpayer is behind on estimated tax payments for the year, and the taxpayer is an employee, withholding may be accelerated toward the end of the year to make up the difference. The withholding will be considered to have been paid evenly throughout the year.

Directing Payments

Under the "voluntary payment rule," when a taxpayer has an outstanding tax liability and makes a payment, the IRS will usually honor a taxpayer's specific written direction to apply the payment to minimize interest, penalties, or other collection actions. If the taxpayer does not provide specific written direction, the IRS will apply the payments in a way that best serves the IRS' interests.

Taxpayer Unable to Pay

Cross References

- Form 1127, *Application for Extension of Time for Payment of Tax Due to Undue Hardship*
- Form 9465, *Installment Agreement Request*
- IRS Pub. 594, *The IRS Collection Process*

Related Topics

- Guide to an IRS Audit, page 33-2

File the Tax Return on Time

Missing the tax return due date (including extensions) makes the taxpayer subject to late-filing penalties, which can be as much as 25% of the tax due on the return. The tax return can be filed without payment and the IRS will send the taxpayer a bill for tax owed plus penalties and interest. The taxpayer should pay as much as possible with a timely filed return to reduce the late-payment penalty and interest charges.

Credit card or loan. The interest rate and fees charged by a credit card company or other lender may be lower than the interest and penalties charged by the IRS. The interest is generally not tax deductible.

Additional Time to Pay

Tax payment alternatives that can extend the time to pay:

- Request an extension from IRS to pay within 180 days of the return due date,
- Apply for a 6-month extension due to undue hardship, or
- File for an installment agreement to make monthly payments.

Form 9465, Installment Agreement Request. A taxpayer requesting a monthly installment plan should file Form 9465, *Installment Agreement Request*, or apply online at www.irs.gov/opa. The following individuals are eligible to use Form 9465.

- Owe income tax on Form 1040,
- Is or may be responsible for a Trust Fund Recovery Penalty, or
- Owes employment taxes related to a sole proprietor business that is no longer in operation.

New for 2024 **User fees.** Effective July 1, 2024, the installment agreement user fees have been reduced.

Installment Agreement User Fees (effective July 1, 2024)	
Direct debit via online payment application.	\$22
Direct debit not using online payment application.	\$107
Online payment application without direct debit.	\$69
No online payment application and no direct debit.	\$178
Change an existing installment agreement (not online).	\$89
Low-income reduced fee by IRS notice or Form 13844, <i>Application for Reduced User Fee for Installment Agreements</i> .	\$43*
Installment agreements revised, reinstated, or restructured through an online payment arrangement.	\$10*

* For a taxpayer with AGI at or below 250% of the federal poverty level, the IRS will waive or reimburse user fees if certain conditions are met.

Payment Plans—Individuals¹

Plan	Application
Short-term payment plan (180 days or less)	<ul style="list-style-type: none">• Apply online: \$0 setup fee (individuals only, currently limited to 180 days).²• Apply by phone (800-829-1040), mail, or in-person: \$0 setup fee (up to 180 days).
3-year installment agreement (\$10,000 or less)	<ul style="list-style-type: none">• File Form 9465 or apply online.³• Guaranteed approval if conditions are met.
6-year installment agreement (\$50,000 or less)	<ul style="list-style-type: none">• File Form 9465 or apply online.³• Direct debit required if the amount owed is over \$25,000.
6-year installment agreement (more than \$50,000)	<ul style="list-style-type: none">• File Form 9465 with Form 433-F, <i>Collection Information Statement</i>.

¹ Interest and penalties accrue until the amount owed is paid in full.

² Online application allowed if amount owed is less than \$100,000.

³ All required returns must be filed to apply online.

Extension for undue hardship. Taxpayers can request a 6-month extension of time to pay due to undue hardship by filing Form 1127, *Application for Extension of Time for Payment of Tax Due to Undue Hardship*, by the due date of the return (not including extensions) or due date for payment indicated on the tax bill. The requirements to qualify are strict and must be more than an inconvenience. Interest will accrue on the unpaid amount. Penalties will not apply unless the amount is not paid within the extension period granted.

Payment plans for businesses. Different rules apply to payment plans for partnerships and S corporations. See *Payment Plans—Business* chart, page 33-3.

Offer in Compromise (OIC)

Cross References

- Form 656, *Offer in Compromise*
- Form 656-B, *Offer in Compromise Booklet*
- Form 656-L, *Offer in Compromise (Doubt as to Liability)*
- IRS Pub. 594, *The IRS Collection Process*
- IRC §7122, *Compromises*

Related Topics

- Foreclosures, Repossessions, Cancellation of Debt, page 6-27

Offer in Compromise (OIC) Summary

An OIC is an offer made by a taxpayer to settle a tax liability for less than the full amount owed. It is a legitimate option if the taxpayer cannot pay the full tax liability, or doing so creates a financial hardship. Facts and circumstances considered include:

- Ability to pay.
- Expenses.
- Future earning potential.
- Income.
- Asset equity.

The IRS will usually approve an OIC when the amount offered represents the most the IRS can expect to collect within a reasonable period of time. The ultimate goal is a compromise that suits the best interests of the taxpayer and the IRS. Submitting an offer application does not ensure that the IRS will accept the offer. It begins a process of evaluation and verification. Generally, the IRS will not accept an offer if the tax debt can be paid in full via an installment agreement or lump sum.

OIC Eligibility

Before the IRS can consider an offer, the taxpayer must be current with all filing and payment requirements and cannot be in an open bankruptcy proceeding.

Online pre-qualifier tool. A taxpayer can use the online IRS tool, *Offer In Compromise Pre-Qualifier*, to see if he or she may be eligible for an OIC. The taxpayer can enter his or her financial information and tax filing status to calculate a preliminary offer amount. The tool is available at: https://irs.treasury.gov/oic_pre_qualifier/.

To Submit an Offer

- Complete Form 656, *Offer in Compromise*,
- Complete Form 433-A (OIC), *Collection Information Statement for Wage Earners and Self-Employed Individuals*, or Form 433-B (OIC), *Collection Information Statement for Businesses*,
- Submit the nonrefundable \$205 application fee, unless low-income certification is met,
- Submit the nonrefundable initial offer payment, unless low-income certification is met, and
- Select a payment option.

Payment Options

Option	Requirements
Lump sum cash	<ul style="list-style-type: none">• 20% of the total paid with offer.• Remaining balance paid in 5 or fewer payments and within 5 months of acceptance of the offer.
Periodic payment	<ul style="list-style-type: none">• First payment paid with offer.*• Remaining balance paid monthly within 6 to 24 months.• Monthly payments continue while IRS is evaluating offer.*

* Except individuals meeting the low-income certification guidelines.

Low-income certification. The low-income certification guidelines are included on Form 656.

Doubt as to liability. Doubt as to liability exists if there is a genuine dispute as to the existence or amount of the correct tax debt. Doubt as to liability does not exist if the tax debt has been established by a final court decision or judgment or if the tax

debt is based on current law. A taxpayer wishing to file a doubt as to liability OIC must complete Form 656-L, *Offer in Compromise (Doubt as to Liability)*. The amount of the offer should be based on what the taxpayer believes is the correct amount of tax debt.

Note: There is no application fee or deposit required to submit a doubt as to liability offer.

Evaluation Process

While the offer is being evaluated:

- The nonrefundable payments and fees will be applied to the tax liability (the taxpayer can designate how the payments are applied),
- A Notice of Federal Tax Lien may be filed,
- Penalties and interest will continue to accrue,
- Other collection activities are suspended,
- The legal assessment and collection period is extended,
- All required payments associated with the offer must be made,
- If the periodic payment plan option was selected, the monthly payments must be made unless low-income certification is met,
- Continue to timely file and pay all required tax returns, estimated tax payments, and federal tax payments,
- Existing installment agreement payments are not required to be made, and
- The offer is automatically accepted if the IRS does not make a determination within two years of the IRS receipt date.

IRS Audits

Cross References

- Form 2848, *Power of Attorney and Declaration of Representative*
- Form 8919, *Uncollected Social Security and Medicare Tax on Wages*
- IRS Pub. 1, *Your Rights as a Taxpayer*
- IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*
- IRS Pub. 5341, *The Taxpayer Roadmap*
- Circular 230, *Regulations Governing Practice before the Internal Revenue Service*

Related Topics

- Hobby Loss Rules, Tab 5
- Independent Contractor vs. Employee, Tab 5
- Business Deductions, Tab 8
- Business Audits, Tab 33

Selection of Returns for Examination

Computer scoring. A computer program called the Discriminant Inventory Function System (DIF) assigns a numeric score to each individual and some corporate tax returns after they have been processed. A return may be selected for audit due to a high score under the DIF system.

Search for unreported income. The IRS performs matching functions to reconcile information reported on Forms 1099 and W-2 with information reported on the taxpayer's return. If income reported by the taxpayer does not meet or exceed amounts reported to the IRS, the taxpayer will receive a letter indicating that there is a discrepancy and proposing changes to the return.

Worker reclassification. The IRS conducts employment audits to determine whether workers classified as independent contractors are in fact employees. For more information on reclassification, see *Voluntary Classification Settlement Program*, Tab 5.

Reporting uncollected Social Security and Medicare wages. Taxpayers who disagree with classification as an independent contractor are able to file Form 8919, *Uncollected Social Security and Medicare Tax on Wages*, to inform the IRS of the potential misclassification. For classification criteria, see *Independent Contractor vs. Employee*, Tab 5.

Other sources. A tax return may be selected as a result of information received from other sources on potential noncompliance with the tax laws or inaccurate filing. This information can come from sources, including newspapers, public records, and individuals. The information is evaluated for reliability and accuracy before it is used for the basis of an examination.

Schedule C (Form 1040), Profit or Loss From Business

Issues associated with sole proprietorships are common audit triggers. The IRS has several approaches to reviewing income tax and self-employment tax.

Unreported income. There is a relatively high potential for unreported income from cash transactions with sole proprietorships. The IRS will examine the taxpayer's bank records to detect deposits that are unaccounted for, compare revenue and expenses of similar businesses, and in some cases will perform a "lifestyle" audit to reconstruct income based on changes in the sole proprietor's net worth based on valuation of assets.

Losses. Significant losses reported on Schedule C (Form 1040), or losses continuing over two or more years, may increase the chance of audit. If the IRS is successful in reclassifying an activity as a hobby instead of a for-profit business, losses will be disallowed. See *Hobby Loss Rules*, Tab 5.

Another common target is to reclassify business expenses as nondeductible start-up costs. See *Start-Up/Organizational Costs*, page 8-22.

Bartering. The fair market value of products and services received through bartering can be considered business income if the products or services rendered are associated with the sole proprietorship. If the sole proprietor trades through a barter exchange program, the program will issue Form 1099-B, *Proceeds From Broker and Barter Exchange Transactions*.

IRS Audits

IRS notice (CP) or letter (LTR). The IRS will send a notice or letter if:

- The taxpayer has a balance due.
- The taxpayer is due a larger or smaller refund.
- The IRS has questions about the tax return.
- The IRS needs to verify the taxpayer's identity.
- The IRS needs additional information.
- The IRS changed the tax return.
- The IRS is notifying the taxpayer of processing delays.

Go to www.irs.gov/Individuals/Understanding-Your-IRS-Notice-or-Letter to search for specific IRS notices and letters. Common notices and letters are listed in the chart below.

CP or LTR	Description
CP01	Identify theft claim verified.
CP01A	Identity Protection Personal Identification Number (IP PIN) the IRS sent the taxpayer.
CP05	Refund is being held while the tax return is reviewed.
CP14	Inform taxpayer of unpaid taxes.
CP32	Replacement refund check has been sent.
CP45	Unable to apply overpayment to estimated tax as requested.
CP49	All or part of refund used to pay tax debt.
CP59	No prior year tax return on file.
CP79A	Two year ban from claiming certain refundable credits.
CP90	Notice of intent to levy for unpaid taxes.
CP91	Notice of intent to levy up to 15% of Social Security benefits.
CP92	State tax refund was levied for unpaid taxes.

continued on next page

CP or LTR	Description
CP166	Monthly payment not processed due to insufficient funds.
CP180/CP181	Tax return is missing a schedule or form.
CP231	Refund or credit payment was returned to IRS. Taxpayer's current address needs to be updated.
CP501	Reminder of balance due.
CP521	Reminder that an installment payment is due.
CP523	Intent to terminate installment agreement and seize (levy) assets. Payment due immediately. Taxpayer has defaulted on agreement.
CP2000	Notice of proposed changes to the tax return.
Letter 2030	Notice or proposed changes to Form 1120 or Form 1041.
CP2057	Information received by IRS not reported on tax return. Request for amended return.
CP2566	No tax return received so IRS calculated tax return based on third party reporting.

Examination by mail. The IRS sends the taxpayer Notice CP 2000 to disclose proposed changes. The taxpayer typically has 30 days to respond and can either agree to all proposals, partially agree to the proposals, or dispute all proposed changes.

The taxpayer is allowed to sign an authorization that enables another party to represent him or her in connection with the Notice CP 2000. The authorization is part of Notice CP 2000, and a separate power of attorney is not required.

Field audit. The revenue agent will send a letter to the taxpayer requesting that the taxpayer phone the agent. At that time, the date, location, and agenda for the first meeting will be set. The taxpayer has the right to request that the examination take place at a reasonable time and place that is convenient for both the taxpayer and the IRS.

Author's Comment: Based on the author's experience in working with the IRS, it appears that agents on a field audit may be under unofficial pressure to close an examination with additional tax payable by the taxpayer. Even a small adjustment in tax is preferable to the agent than a "no change." A no change exam might indicate either the agent missed something or was not aggressive enough. If the agent uncovers an overpayment in tax, he or she might inform the representative to file a claim for refund instead of making the adjustment as part of the audit report.

Audit Preparation

To prepare for an audit, the following steps are recommended for someone who is representing a taxpayer.

- Hold a pre-audit interview with the taxpayer.
- Obtain documentation from the taxpayer related to audit issues organized by year and the type of income, expense, or credit.
- Evaluate items lacking necessary documentation as potential concessions during the audit.
- Discuss the audit strategy with the taxpayer to prepare him or her for negative adjustments.

For more information, see *Business Audits*, Tab 33.

Author's Comment: Any comments made to an IRS employee that could be interpreted as a threat against the employee will be taken seriously and fully investigated. Advise clients not to joke around with IRS employees during an examination.

Repeat Examinations

If a return was examined for the same items in either of the two previous years, and no change was proposed to the tax liability, contact the IRS immediately and the examination will likely

be discontinued. This policy is in accordance with IRC section 7605(b), which states that no taxpayer shall be subjected to "unnecessary examinations."

Concluding an Audit

An audit can be concluded in one of three ways.

- **No change.** An audit where the taxpayer has substantiated all of the items being reviewed and results in no changes.
- **Agreed.** An audit where the IRS proposed changes and the taxpayer understands and agrees with the changes.
- **Disagreed.** An audit where the IRS has proposed changes and the taxpayer understands but does not agree with the changes.

No change letter. If the return is accepted as filed, the IRS will issue a "no change letter," and no further action by the taxpayer is required.

30-day letter. In an unagreed case, the IRS will issue a "30-day letter" (also known as a "preliminary letter"). The 30-day letter states the proposed changes and is accompanied by a copy of the examiner's report. The taxpayer is given the option of agreeing with the proposed changes and is also given information about protesting and appealing the results of the audit. If the taxpayer does not respond to the letter within 30 days, a statutory Notice of Deficiency (90-day letter) will be issued. If the taxpayer submits a protest within 30 days, the IRS will postpone issuance of the Notice of Deficiency.

90-day letter. A statutory Notice of Deficiency allows the taxpayer 90 days to file a petition to the Tax Court (150 days if the taxpayer is outside the United States).

Appeal Within the IRS

If a taxpayer disagrees with the proposed changes, he or she can appeal the results of the examination in the following ways.

- For examinations taking place in an IRS office, the taxpayer can request an immediate meeting with the examiner's supervisor.
- Use mediation services offered by the IRS.
- Appeal to a local IRS Appeals Office.

Mediation. Appeals mediation, also known as alternative dispute resolution (ADR), is an informal, nonbinding, confidential, and voluntary process taxpayers may use to resolve issues with the IRS. Mediators facilitate communication between the taxpayer and the IRS, helping identify core issues or barriers to settlement and possible settlement terms. Mediation is also used for tax collection. See *Fast Track Mediation—Collection (FTMC)*, page 15-11.

Independent Office of Appeals. The IRS Office of Appeals is an independent office within the IRS whose role is to settle disputes in a fair and impartial manner that favors neither the government nor the taxpayer. It does not undertake investigative actions of its own.

Tax Court

Petition to Tax Court. Upon receipt of a statutory Notice of Deficiency (90-day letter), the taxpayer has 90 days to petition Tax Court or pay the tax and file a claim for refund. If the taxpayer takes no action, the amount will be assessed and no appeal is available.

When a Tax Court petition is received within the IRS, the representative will receive a call from Appeals to try to settle the case before it goes to the Tax Court. If a petition is not timely filed, the proposed tax will be assessed, and a bill will be sent by the IRS. In that case, the taxpayer will be prohibited from taking the case to the Tax Court or otherwise appealing the case.

Small case procedure. If the disputed amount is \$50,000 or less, the taxpayer can request the case be heard under the small case procedure. This procedure is less formal than the general procedure. Cases decided under the small case procedure may not be appealed.

Practice before the Tax Court. Only attorneys and other individuals admitted to practice before the Tax Court may represent a taxpayer. Individuals who are not attorneys but would like to practice before the Tax Court must pass a written admission examination. Currently the exam is offered every other year. The next exam will be conducted in the fall of 2025.

Appeals/Court Options for Taxpayer

IRS issues 30-day letter as result of examination	<p>Option 1. Request a meeting with IRS Appeals Division. The 30-day letter will provide contact information.</p> <p>Option 2. Take no action and wait for the IRS to issue a 90-day Notice of Deficiency. A request may be made for the IRS to issue the Notice of Deficiency so the taxpayer can proceed to court.</p> <p>Option 3. Pay the tax.</p>
IRS issues statutory Notice of Deficiency (90-day letter)	<p>Option 1. The taxpayer can petition Tax Court within 90 days. A petition cannot be filed until receipt of the 90-day letter.</p> <p>Option 2. The taxpayer can pay the tax then file a claim for a refund. This keeps the case open.</p> <p>Option 3. If the taxpayer takes no action, the tax is assessed and an appeal is not allowed.</p>
Taxpayer petitions Tax Court	If the taxpayer disputes the Tax Court decision, the taxpayer may file an appeal with the U.S. Court of Appeals. No appeal is allowed if the case was heard under the Small Case Procedures.
U.S. District Court/Court of Federal Claims (after IRS rejects taxpayer's claim for refund)	If the taxpayer paid the tax assessed with a 90-day letter, files a claim for a refund, and the IRS rejects the claim, the taxpayer can appeal to the U.S. District Court or Court of Federal Claims. The taxpayer has two years from the rejection of the refund claim to file suit. The taxpayer must wait to file the suit either until the claim is rejected by the IRS or six months after the claim was filed.
U.S. Court of Appeals	If the taxpayer disputes the findings of the Tax Court, the U.S. District Court, or the Court of Federal Claims, the taxpayer may file suit with the U.S. Court of Appeals.
United States Supreme Court	If the U.S. Court of Appeals rules against the taxpayer, the U.S. Supreme Court is the next step. The U.S. Supreme Court chooses which cases to hear.

Annual Filing Season Program

Cross References

- IRS Pub. 5227, *A Guide to the Annual Filing Season Program*
- Circular 230, *Regulations Governing Practice before the Internal Revenue Service*

Related Topics

- Due Diligence Requirements, page 11-2

Annual Filing Season Program (AFSP)

The Annual Filing Season Program (AFSP) is a voluntary program geared toward non-credentialed tax return preparers. AFSP participants are included in a public database of return preparers on the IRS website. The directory includes the credentials and qualifications of all qualified federal tax return preparers.

AFSP Requirements

In order to receive the AFSP—Record of Completion and be included in the IRS public directory, tax preparers must complete a certain number of continuing education hours annually by December 31. Preparers must have a valid PTIN and consent to specific practice obligations in subpart B and section 10.51 of Treasury Department Circular No. 230.

Continuing Education (CE) Requirements

Preparer Classification	AFTR Course	Federal Tax Law	Ethics	Federal Tax Law Updates	Total CE hours
Non-exempt	6	10	2	n/a	18
Exempt*	n/a	10	2	3	15

*A credentialed preparer who elects to participate in the AFSP must meet the same requirements as preparers in the exempt category.

Exempt individuals. The following individuals are exempt from taking the AFTR course to obtain the AFSP—Record of Completion.

- Anyone who passed the Registered Tax Return Preparer (RTRP) test between November 2011 and January 2013.
- Established state-based return preparer program participants currently with testing requirements (California, Oregon, Maryland).
- Special Enrollment Exam (SEE) Part I test passers within past two years.
- VITA/TCE volunteers with active PTINs.
- Other accredited tax-focused credential holders.
- CPAs, enrolled agents, attorneys, enrolled retirement plan agents, and enrolled actuaries.

Taxpayer representation. Attorneys, CPAs, and enrolled agents have unlimited representation rights. Any return preparer who represents a taxpayer before the IRS is subject to Circular 230.

- PTIN holders without an AFSP—Record of Completion or without other professional credentials are not allowed to represent clients before the IRS.
- PTIN holders with only an AFSP—Record of Completion have limited representation rights, meaning both non-exempt and exempt tax return preparers can represent clients whose returns they prepared and signed, but only before revenue agents and similar IRS employees, including the Taxpayer Advocate Service.

Practice Before the IRS

Cross References

- Form 2848, *Power of Attorney and Declaration of Representative*
- Form 8821, *Tax Information Authorization*
- IRS Pub. 947, *Practice Before the IRS and Power of Attorney*
- Circular 230, *Regulations Governing Practice before the Internal Revenue Service*

Related Topics

- Business Audits, Tab 33

Practice Before the IRS

Practice before the IRS is covered by Circular 230 and includes all matters relating to any of the following.

- Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing or filing documents, including tax returns, with the IRS for a taxpayer.
- Providing a client with written advice on one or more federal matters.

Any individual may for compensation prepare portions of a tax return or assist with the preparation of a tax return or claim for refund, appear as a witness for the taxpayer before the IRS, or furnish information at the request of the IRS.

Who can practice before the IRS. Any individual who is authorized to practice must be designated as the taxpayer's representative by filing a written declaration, typically Form 2848,

Power of Attorney and Declaration of Representative. The following individuals are authorized to practice before the IRS.

- Attorneys.
- Certified public accountants (CPAs).
- Enrolled agents (EAs).
- Enrolled retirement plan agents.
- Enrolled actuaries.
- Unenrolled return preparers (for the return they prepared) who hold an AFSP—Record of Completion for the tax return year and year the examination is conducted.
- Other representatives include:
 - An individual.
 - An immediate family member.
 - A corporate officer.
 - A general partner.
 - A full-time employee.
 - A fiduciary.

Who cannot practice before the IRS:

- Individuals who are not eligible or who have lost the privilege.
- Corporations, associations, partnerships, and other persons who are not individuals.

Rules of practice. Circular 230 sets forth standards of professional conduct for practice before the IRS. Individuals have a duty to perform certain acts, are restricted from performing other acts, and cannot engage in disreputable conduct. Violations of the regulations, which may affect a practitioner's ability to practice before the IRS, and items of incompetence and disreputable conduct are described in Subpart C, Circular 230.

Performance as a notary. A practitioner who is a notary public and is employed as counsel, attorney, or agent in a matter before the IRS, or has a material interest in the matter, cannot engage in any notary activities related to that matter.

Authorizing a Representative

A representative is an individual who acts in place of the taxpayer in dealings with the IRS. If authorization is not limited, the representative generally can perform all acts that the taxpayer can, except negotiating a check. Authorization includes, signing consents extending time to assess or collect tax, signing a closing agreement, and executing waivers agreeing to a tax adjustment. The representative may not sign the taxpayer's tax return unless permitted by regulations and specifically authorized in the power of attorney.

Limited representation. Representation by enrolled retirement plan agents and enrolled actuaries are limited to certain Internal Revenue Code sections that are related to their area of expertise. For unenrolled return preparers, see *Taxpayer representation*, page 15-9.

Form 2848, Power of Attorney and Declaration of Representative. Form 2848 authorizes a person to represent a taxpayer before the IRS. The power of attorney (POA) authorizes the representative to perform any and all acts the taxpayer can perform, such as signing consents extending the time to assess tax, recording the interview, or executing waivers agreeing to a tax adjustment.

Revocation of POA or withdrawal of representative. If the taxpayer wants to revoke an existing POA and does not wish to name a new representative, or a representative wants to withdraw from representation, mail or fax a copy of the previously-executed POA to the IRS. Write the term "REVOKE" or "WITHDRAW," whichever is applicable, across the top of the first page and include a current signature and date below the annotation.

If a copy of the POA is not available, see the instructions for Form 2848, for information about how to revoke or withdraw the POA.

Form 8821, Tax Information Authorization. Form 8821 is used to authorize the IRS to release taxpayer information to an individual or organization. The use of Form 8821 is not mandatory, but all of the of the same information must be present in an alternate authorization. It may also be used to revoke a prior authorization. It does not authorize representation.

Central Authorization File (CAF) number. A CAF number is a unique 9-digit identification number assigned to representatives the first time a third-party authorization is filed with the IRS. The CAF number is not an indication of authority to practice. If the IRS has not previously assigned a CAF number, write "None" on line 2, Form 2848, and the IRS will issue a CAF number directly to the representative. The representative should use the assigned CAF number on all future powers of attorney.

Tax Pro Account. Tax practitioners who are authorized to practice before the IRS and have a valid CAF number, may request power of attorney authorizations through their online Tax Pro Account. The authorizing taxpayer must have an IRS online account in order to receive and respond to the request. Practitioners can also view their active POAs and withdraw from authorizations online through their Tax Pro Account. For more information, see www.irs.gov/tax-professionals/tax-pro-account.

Tax Transcript

Format. The revised transcript format better protects a taxpayer's information from identity theft. All financial information remains fully visible, but certain taxpayer identification information is partially redacted.

Note: The IRS can provide an unmasked Wage and Income transcript for tax professionals who meet certain requirements.

Customer file number. The IRS allows an entry for a 10-digit customer file number that can be created by third-parties to allow them to match a transcript to a taxpayer since Social Security Numbers are no longer visible.

Get Transcript (taxpayers). Individuals may use the IRS Get Transcript service to request an online or mailed tax transcript at <https://www.irs.gov/individuals/get-transcript>. To obtain photocopies of returns use Form 4506, *Request for Copy of Tax Return*. A \$30 service fee is charged per photocopied return. The IRS no longer faxes transcripts to taxpayers or third parties.

Income verification express service (IVES). This program is used by mortgage lenders and others in the financial community to confirm the income of a borrower during the processing of a loan application.

Transcript Delivery System (tax professionals). The Transcript Delivery System (TDS) is for use only by tax professionals with the proper authorization to access taxpayer transcripts. Tax professionals can also use a 10-digit customer file number.

The TDS can be accessed with proper credentials at: www.irs.gov/tax-professionals/transcript-delivery-system-tds.

Sign-in. All users register or sign in with ID.me, the current IRS credential service provider.

Disclosure of Tax Return Information

Cross References

- IRC §7216, *Disclosure or use of information by preparers of returns*
- Rev. Proc. 2013-14

Related Topics

- Form 1040, *U.S. Individual Income Tax Return 2024*, page 3-2

Disclosure or Use of Tax Return Information

Preparer penalties may apply if the tax return preparer discloses or uses information obtained from a client's return without the taxpayer's consent. Criminal penalties apply for tax return preparers who knowingly or recklessly disclose or use tax return information for a purpose other than preparing a tax return.

Preparer Penalties for Improper Disclosure or Use		
Reason	Amount	IRC §
Unauthorized disclosure or use	\$250 per incident, up to \$10,000 per year	6713(a)
Unauthorized disclosure or use related to identity theft	\$1,000 per incident, up to \$50,000 per year	6713(b)
Knowing or reckless disclosure or use	\$1,000 and/or imprisoned up to one year	7216
Knowing or reckless disclosure or use relating to identity theft	\$100,000 and/or imprisoned up to one year	7216

Tax Return Information

Tax return information is any information on the return, including a taxpayer's name, address, and Social Security Number, which is furnished in connection with the preparation of a tax return. It includes information that the taxpayer furnishes and information furnished by a third party. Tax return information includes information the tax return preparer derives or generates in connection with the preparation of the tax return.

Taxpayer Consent

Unless specifically authorized, a tax return preparer may not disclose or use a taxpayer's tax return information prior to obtaining a written consent from the taxpayer. The consent must be knowing and voluntary. See *Permissible disclosures or uses without consent of the taxpayer*, below.

Form and content of taxpayer consent. A consent to disclose or use tax return information must satisfy the following requirements. (Rev. Proc. 2013-14)

- It must include the names of the tax return preparer and the taxpayer.
- It must identify the intended purpose of the disclosure and the specific recipient of the disclosure.
- It must specify the tax return information to be disclosed or used.
- It must be signed and dated by the taxpayer.

If the consent is furnished on paper, the sheets must be 8½ inches by 11 inches or larger. All the text must pertain solely to the disclosure or use, and the text must be in at least 12-point type.

Language of consent. The consent must contain certain language in a certain order.

Duration of consent. Unless the consent document specifies differently, the consent to the disclosure or use of tax information will be effective for a period of one year from the date the taxpayer signed the consent.

Permissible disclosures or uses without consent of the taxpayer. Specific situations, such as disclosures to the IRS or by court order, do not require the consent of the taxpayer. (Reg. §301.7216-2)

IRS Collection Process

Cross References

- IRS Pub. 1, *Your Rights as a Taxpayer*
- IRS Pub. 594, *The IRS Collection Process*
- IRC §6334, *Property exempt from levy*

Related Topics

- Foreclosures, Repossessions, Cancellation of Debt, page 6-27
- Trust Fund Recovery Penalty, page 23-7

Taxpayer Bill of Rights

IRS Pub. 1, *Your Rights as a Taxpayer*, includes the Taxpayer Bill of Rights and will be sent to taxpayers when they receive IRS notices on issues ranging from audits to collections.

Fast Track Mediation—Collection (FTMC)

The FTMC is specifically directed at resolving certain collection cases and issues. It allows taxpayers an opportunity to resolve certain offer-in-compromise (OIC) and trust fund recovery penalty issues on an expedited basis with an IRS Office of Appeals mediator serving as a neutral party. For taxpayers with collection issues, the goal is to resolve these cases within 40 days from the date the Fast Track application is accepted. Note that the appeals mediator does not have settlement authority. (Rev. Proc. 2016-57)

Payment Options

If the taxpayer owes money and agrees with the amount, see *Taxpayer Unable to Pay*, page 15-5, and *Offer in Compromise (OIC)*, page 15-6.

Federal Tax Liens

Liens give the IRS a legal claim to the taxpayer's property as security for payment of the tax debt. The lien arises when:

- The tax is assessed,
- The IRS sends a Notice and Demand for Payment, a bill that tells how much is owed, and
- The taxpayer does not fully pay the debt within 10 days after notification.

IRS Levies

A levy is a legal seizure of property to satisfy a tax debt. The levy usually takes place after all of the following requirements are met.

- The tax is assessed, and a Notice and Demand for Payment is sent to the taxpayer,
- The tax is not paid, and
- The IRS sends a Final Notice of Intent to Levy and Notice of Your Right to a Hearing at least 30 days before the levy.

Appealing the filing of a lien or levy. The taxpayer may ask an IRS manager to review the case, or may request a Collection Due Process (CDP) hearing with the Office of Appeals, by filing a request for a hearing with the office listed on the notice. The taxpayer must file the request for an appeal within 30 days of the date listed on the notice.

Requesting a CDP hearing will suspend the lien or levy actions while the hearing is pending.

Disqualified employment tax levy (DETL). A DETL gives the IRS the ability to enforce collection action against repeat employment tax offenders without a pre-levy CDP hearing. A DETL situation can exist if a CDP hearing has been requested, but not yet heard, and additional employment taxes have accrued.

Property exempt from levy:

- Apparel and school books as are necessary for the taxpayer or members of the family.
- Furniture and personal effects of the household up to \$11,390 (2024).
- Unemployment benefits.
- Workers' compensation.
- Certain service-connected disability payments.
- Public assistance payments.
- Judgments for support of minor children.
- Business property up to \$5,700 (2024).

State law. State law cannot prevent the attachment of a federal tax lien or levy to property for the collection of any federal tax.

Revocation or Denial of Passport

Fixing America's Surface Transportation (FAST) Act. The FAST Act authorizes the IRS to certify to the Department of State if a taxpayer owes more than \$62,000 (2024).

CP508C Notice. The IRS sends a taxpayer a CP508C Notice to inform the taxpayer that his or her tax debt is seriously delinquent and has provided that information to the Department of State. In this case, the Department of State generally will not issue or renew a taxpayer's passport and may revoke or place restrictions on the passport.

Taxpayer options. Generally, the IRS will not recommend revoking a taxpayer's passport if the taxpayer is making a good faith effort to resolve his or her tax debts. Frequently a taxpayer will qualify for one of several relief programs including a payment agreement with the IRS or an offer-in-compromise.

Relief from Joint and Several Liability on Joint Returns

Cross References

- Form 8379, *Injured Spouse Allocation*
- Form 8857, *Request for Innocent Spouse Relief*
- IRS Pub. 971, *Innocent Spouse Relief*
- Rev. Proc. 2013-34
- IRC §6015, *Relief from joint and several liability on joint return*

Related Topics

- Filing Status, Tab 3
- Community Property, page 14-4

Innocent Spouse

When a joint tax return is filed, both taxpayers are jointly and individually liable for the tax and any interest or penalty due on the return, even if they later divorce. This is true even if a divorce decree states that a former spouse will be responsible for any amounts due on a previously-filed joint return. One spouse may be held responsible for payment of all tax due even if all the income was earned by the other spouse.

Types of relief available to married individuals who filed joint returns are:

- Innocent spouse relief.
- Separation of liability relief.
- Equitable relief.
- Relief from liability arising from community property law.

Joint Liability Relief

	<i>Innocent Spouse Relief</i>	<i>Separation of Liability</i>	<i>Equitable Relief</i>
<i>Filing status</i>	Joint return for year of liability.	Joint* return for year of liability.	Joint* return for year of liability.
<i>Marital status at time of relief</i>	Considered by IRS with other factors.	<ul style="list-style-type: none"> • Divorced, widowed, legally separated, or • Not living together for at least 12 months prior to election. 	Considered by the IRS with other factors.

continued in next column

<i>Joint Liability Relief continued</i>			
	<i>Innocent Spouse Relief</i>	<i>Separation of Liability</i>	<i>Equitable Relief</i>
<i>When to file Form 8857, Request for Innocent Spouse Relief.</i>	<ul style="list-style-type: none"> • As soon as requesting spouse becomes aware of the tax liability, or • No later than 2 years after the first IRS attempt to collect the tax. 	<ul style="list-style-type: none"> • As soon as requesting spouse becomes aware of the tax liability, or • No later than 2 years after the first IRS attempt to collect the tax. 	Exceptions: <ul style="list-style-type: none"> • Within the 10-year statute of limitations for collection of tax, or • 2- or 3-year statute of limitations for credit or refund of tax.
<i>Type of liability</i>	Deficiency (understated tax).	Deficiency (understated tax).	Deficiency or underpayment of tax.
<i>Knowledge of erroneous items</i>	Taxpayer had no knowledge of or reason to know about erroneous items.	Taxpayer disqualified if IRS establishes that he or she had actual knowledge of erroneous items.	<ul style="list-style-type: none"> • Taxpayer knowledge of erroneous items considered by the IRS with other factors. • Streamlined determinations possible. (Rev. Proc. 2013-34)
<i>Refund available</i>	Yes.	No refunds for liabilities that have not been paid.	<ul style="list-style-type: none"> • Yes, for requesting spouse's separate payments, and • When requesting spouse provided funds for joint payments.

* MFS allowed in community property states.

Conditions. Additional conditions apply for obtaining equitable relief. See IRS Pub. 971, *Innocent Spouse Relief*.

Court Case: The IRS determined that a married couple was jointly liable for taxes, penalties, and interest based on unreported income from a business. The taxpayer argued that she was not in control of the bank account because her physically-abusive husband effectively controlled the account through fear and intimidation. The taxpayer also stated she was not involved with preparation and filing of the income tax returns, and her husband forged her signature on the documents. The Tax Court granted the taxpayer innocent spouse relief. All the liability was assigned to her husband. (*Wilson*, T.C. Memo. 2007-127)

Community property laws. Taxpayers who are married and live in a community property state must generally follow community property laws when filing a tax return. However, community property laws are not taken into account in determining whether an item belongs to the taxpayer or spouse or former spouse for purposes of requesting any relief from liability.

Exception for relief based on community property law. A request for relief must be filed no later than six months before the expiration of the period of limitations on assessment (including extensions) for the tax year relief is being requested.

Injured Spouse

An injured spouse is a taxpayer who files a joint return and all or part of a refund is, or is expected to be, applied against debts of the other spouse. The following debts apply for this purpose.

- Past-due federal tax.
- Child or spousal support.
- Federal non-tax debt (such as a student loan).
- State income tax.
- State unemployment compensation debts.

Form 8379, Injured Spouse Allocation. File Form 8379 if:

- 1) The injured spouse is not legally obligated to pay the past due amount, and
- 2) The injured spouse meets any of the following conditions:
 - a) The injured spouse made and reported tax payments, such as federal income tax withholding or estimated tax payments.
 - b) The injured spouse had earned income, such as wages, salaries, or self-employment income and claimed the Earned Income Credit or the Additional Child Tax Credit.
 - c) The injured spouse claimed a refundable tax credit, such as the American Opportunity Credit, Premium Tax Credit, credit for federal tax paid on fuels, or refundable prior year minimum tax.

Exception: If the main home of the injured spouse was in a community property state, the spouse may file Form 8379 if only item (1), above, applies. See *Community property states*, below.

Filing. Form 8379 may be filed with the tax return. If the return was already filed, send Form 8379 by itself to the IRS center for the place the injured spouse lived when the return was filed. Attach a copy of all Forms W-2, and W-2G for both spouses, and any Forms 1099 showing federal income tax withholding.

Allocation. Part III, Form 8379 lists income and withholding amounts shown on the joint return, amounts allocated to the injured spouse, and amounts allocated to the other spouse. The IRS will compute the amount of any refund due the injured spouse.

Community property states. For guidance on the amount of an overpayment that may offset a spouse's separate tax liability, refer to the Revenue Ruling corresponding to the taxpayer's residency.

AZ or WI	Rev. Rul. 2004-71	NM, NV, or WA...	Rev. Rul. 2004-73
CA, ID, or LA	Rev. Rul. 2004-72	TX	Rev. Rul. 2004-74

Electronic Filing

Cross References

- Form 8453, *U.S. Individual Income Tax Transmittal for an IRS e-file Return*
- Form 8879, *IRS e-file Signature Authorization*
- Form 8948, *Preparer Explanation for Not Filing Electronically*
- IRS Pub. 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*
- IRS Pub. 3112, *IRS e-file Application and Participation*
- IRS Pub. 4164, *Modernized e-File (MeF) Guide for Software Developers and Transmitters*

Related Topics

- Monitoring of Authorized IRS e-File Providers, page 33-11

e-File Requirement for Tax Return Preparers

Any tax return preparer who reasonably expects to file 11 or more covered returns in a calendar year is required to e-file returns.

Covered tax return. A covered tax return is an income tax return for an individual (Form 1040), trust, or estate (Form 1041).

Reasonably expect to file. Reasonably expect to file means the estimated number of covered returns that the tax return preparer expects to prepare and file. File means submitted to the IRS on the taxpayer's behalf either electronically or in non-electronic (paper) form. See *Applying to Become an e-File Provider*, next column.

Exception: For specific circumstances, tax preparers can apply for a hardship waiver by filing Form 8944, *Preparer e-file Hardship Waiver Request*. A return preparer receiving a hardship waiver

must file Form 8948, *Preparer Explanation for Not Filing Electronically*, with each paper-filed return.

Explanation for not e-filing. Tax preparers required to e-file must furnish Form 8948 for taxpayers who file by paper. The reason for paper filing must be identified on Form 8948.

Returns filed by paper solely because the returns are not eligible for e-file do not require Form 8948. See *Individual Returns Not Eligible for e-File*, below.

Applying to Become an e-File Provider

A tax practitioner can apply to become an authorized e-file provider at: www.irs.gov/e-file-providers/become-an-authorized-e-file-provider, and must have an IRS e-Services account to begin the online e-file application. The application process may take up to 45 days. The e-file application includes setting up an IRS e-services account, providing the necessary information, and passing a suitability check. In setting up the account, practitioners who want to e-file for a client should select ERO.

Electronic fingerprinting. Electronic fingerprinting with an IRS authorized vendor is required for any principal who is not an attorney, CPA, EA, officer of a publicly traded corporation, or a bonded bank official. The appointment can be scheduled by accessing the scheduling link located on the e-file application summary page.

Electronic Return Originators (EROs)

Tax preparers who offer electronic filing to their clients generally function as Electronic Return Originators (EROs). An ERO originates the electronic submission of a return after the taxpayer authorizes the filing of the return via IRS e-file.

ERO responsibilities. The ERO has a variety of responsibilities, including, but not limited to the following.

- Timely originating the electronic submission of returns.
- Submitting any required supporting paper documents to the IRS.
- Providing copies to taxpayers.
- Retaining records and making records available to the IRS.
- Accepting returns only from taxpayers and providers.
- Having only one EFIN for the same firm for use at one location, unless the IRS issued more than one EFIN to the firm for the same location.

Record retention. EROs must retain the following material until the end of the calendar year in which a return was filed.

- A copy of signed Form 8453, any supporting documents that are not included in the electronic return data.
- Copies of Forms W-2, W-2G, and 1099-R.
- A copy of signed IRS e-file consent to disclosure forms.
- A copy of the electronic portion of the return that can be converted into an electronic transmission that the IRS can process.
- The acknowledgement file for IRS accepted returns.

Form 8878 and Form 8879. These forms must be retained for three years from the due date of the return or the IRS received date, whichever is later.

Scanning. The EROs may store an electronic image of all paper records they are required to retain for IRS e-file. This includes Forms W-2, 1099-R, and Forms 8878 and 8879. See Revenue Procedure 97-22, for information about standards for an electronic storage system. (Rev. Proc. 97-22)

Individual Returns Not Eligible for e-File

Amended return. Taxpayers can file Form 1040-X, *Amended U.S. Individual Income Return*, electronically to amend Forms 1040, 1040-SR, 1040-NR, or 1040-SS/PR for the current or two prior tax periods. The taxpayer must have e-filed the original return.

Ineligible returns. Returns that cannot be e-filed with the IRS include, fiscal year returns and returns containing forms or schedules that cannot be processed electronically by the IRS. In addition, returns with taxpayer identification numbers within the range of 900-00-0000 through 999-99-9999 are not eligible for e-file.

Exception: Certain adoption (ATINs) and individual (ITINs) within the range noted above may be accepted.

Timely Filing

An electronically filed return is not considered filed until the electronic portion of the return has been acknowledged by the IRS. However, if the return is successfully transmitted on or before the due date, and the provider complies with the requirements for signing the return, the return will be considered timely filed. The practitioner has the responsibility to ensure that a return accepted for electronic filing before the deadline is submitted to the IRS before the deadline.

Rejected returns. If an electronically filed return is rejected by the IRS, the ERO must take reasonable steps to notify the taxpayer within 24 hours and provide the reject codes accompanied by an explanation. If the return cannot be accepted for processing by the IRS or if the taxpayer chooses not to file electronically, a paper return must be filed by the later of the due date of the return or 10 calendar days after the IRS gives notification that the electronic portion of the return is rejected.

Signing an Electronic Return—Individuals

Signature options. Taxpayers may sign electronic returns one of two ways.

- 1) **Self-select PIN.** The taxpayer enters a personal identification number (PIN) directly into the electronic return (using the practitioner's keyboard). When using a self-select PIN, signature documents are not required. However, the taxpayer must provide prior-year AGI for use by the IRS to authenticate the taxpayer.
- 2) **Practitioner PIN.** Form 8879, *IRS e-file Signature Authorization*, authorizes an ERO to enter a taxpayer's PIN on an electronic return. The taxpayer must sign and date Form 8879 and return the completed Form 8879 to the ERO in person, by mail, private delivery service, fax, email, or a website prior to the return being transmitted to the IRS. The practitioner must retain Form 8879 for three years from the return due date or the IRS received date, whichever is later, but Form 8879 is not required to be sent in unless requested by the IRS.

Stockpiling of returns. Stockpiling is waiting more than three calendar days to submit returns to the IRS after the preparer has all necessary information for origination. Collecting tax returns prior to the startup of IRS e-file is not stockpiling. However, preparers must advise taxpayers that returns cannot be transmitted prior to the startup date. An ERO must ensure that stockpiling of returns does not occur at its offices.

Tax return changes require new signature. If a declaration has already been signed by a client, and a correction is made on the return, a new signature is required if the correct amounts differ by more than either \$50 to total income or AGI, or \$14 to total tax, federal income tax withheld, refund, or amount owed.

Form 8453, U.S. Individual Income Tax Transmittal for an IRS e-file Return. Form 8453 is used when submitting by paper certain forms and documents supporting a tax return filed electronically. See Form 8453 for a complete list of documents eligible for submission.

PDF attachments. Many documents that previously needed to be mailed in, can now be attached to the electronic return as a PDF attachment.

Corporations, Partnerships, Estates, and Trusts

Corporations, partnerships, estates, and trusts can generally e-file income tax returns with related forms, schedules, and attachments, as well as extensions, employment tax, and other information returns.

Ineligible to e-file. Returns and extensions meeting certain conditions cannot be currently e-filed. For current exclusions, see IRS Pub. 4164, *Modernized e-File (MeF) Guide for Software Developers and Transmitters*.

Required e-filers. For tax years ending on or after December 31, 2023, corporations and partnerships are subject to the following e-file requirements.

Corporations. Corporations are required to file Form 1120 or Form 1120-S, and related forms and schedules electronically if they file 10 or more returns of any type during the tax year, including information, income tax, employment tax, and excise tax returns.

Partnerships. Partnerships are required to file Form 1065 and related forms and schedules electronically if they file 10 or more returns of any type during the tax year, including information, income tax, employment tax, and excise tax returns.

Partnership with more than 100 partners are required to file Form 1065, Schedules, K-1, and other related forms and schedules electronically.

Information Returns Intake System (IRIS). The IRS offers a free online portal for e-filing 1099 series information returns. IRIS also allows the filing of corrections and requesting automatic extensions. For access to IRIS, see www.irs.gov/filing/e-file-information-returns-with-iris.

Penalties. If a taxpayer fails to e-file a business income tax return when required to do so by regulations, the IRS may determine that the taxpayer failed to file the return. The taxpayer then becomes subject to additions to tax, typically resulting in monetary penalties on the amount of underpayment. Additionally, any return not in compliance with the e-filing requirement will be considered to not have been timely filed, rendering any elections invalid.

Waivers from required e-filing. Waivers are available for entities where a specific situation precludes them from meeting the e-file requirement due to technology constraints or where compliance with the requirements would result in undue financial burden.

Signing an Electronic Return

Signing e-Filed Business and Trust Returns

Return Type	Pin Method	Signature Method
1120 and 1120-S	Complete Form 8879-CORP and do not file with return.	Complete Form 8453-CORP and e-file with return.
1065	Complete Form 8879-PE and do not file with return.	Complete Form 8453-PE and e-file with return.
1041	Complete Form 8879-F and do not file with return.	Complete Form 8453-FE and e-file with return.

Record retention. Practitioners must retain these forms for three years from the later of the due date of the return, the extended due date, or the IRS received date.