

## IRS Provides Dramatic Penalty Relief

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September 1, 2022

On Aug. 24, 2022, the IRS released Notice 2022-36 providing automatic relief from failure to file penalties for the 2019 and 2020 tax years for a significant number of individuals and businesses that were late in filing their 2019-2020 tax returns.

Relief is provided for failure to file penalties generally applied to late-filed returns on certain forms, if they are filed by Sept. 30, including:

- Form 1040 series (individual income tax)
- Form 1041 series (estates and trusts)
- Form 1120 series (corporations)
- Form 1065 series (partnerships)
- Forms 990-T (unrelated business income tax) and 990-PF (excise tax payments on investment income for exempt organizations)
- Certain international information returns such as Form 5471 and 5472 for controlled foreign corporations and 25% foreign-owned U.S. corporations, attached to a late-filed Form 1120 or 1065
- Forms 3520 and 3520-A for reporting transactions with foreign trusts

### ***The Relief is Automatic***

Qualifying taxpayers are automatically granted the penalty abatement and no action is required by or on behalf of affected taxpayers. Taxpayers that have previously paid the applicable penalty will have that amount refunded or credited with no need from the taxpayer to request such action.

The IRS is scheduled to begin mailing out boilerplate notices over the next three months to taxpayers that will receive a refund or credit.

### ***Filing Penalties Waived for Forms 1099 and W-2 if filed by Aug. 1, 2020 and 2021***

Some late filing penalties for information returns, such as forms 1099 and W-2 for the 2019 and 2020 tax years, are also waived if they were filed by Aug. 1, 2020, and Aug. 1, 2021, respectively.

### ***Relief Not Provided for Other Penalties or Other Forms***

Some forms are conspicuously missing from the list of forms getting penalty relief, such as:

- Forms 990 and 990-EZ annual returns for tax-exempt organizations
- Forms 706 and 709 for estate and gift taxes
- Form 8856 for foreign partnerships

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Furthermore, the relief does not apply to other penalties, such as failure to pay or estimated tax penalties.

Any fraudulently filed returns are excluded from the relief granted by Notice 2022-36, as are any penalties accepted in an offer in compromise entered into with the IRS.

For specific details, see **this blog post** by the National Taxpayer Advocate Services. Please contact your Miller Canfield attorney for help if you receive a letter from the IRS assessing a penalty for the 2019 and 2020 tax years or do not timely receive penalty abatement.