

Taxes Are Due April 17th. Have You Paid Your Taxes Yet? If Not, You May Be Entitled To Some Penalty Relief.

By Frank L. Brunetti on March 26th, 2012

The failure to file your tax return on or before the due date, or to pay the taxes that are due, can be very costly and in many cases double one's tax liability.

Under IRC §6651(a)(1), the penalty for the late filing of a tax return is an additional 5% per month of the amount due, up to 25% in total. In addition under IRC §6651(a)(2), the penalty for non payment of a tax is 0.5% per month (one-half of one percent cumulative) of the tax due, up to a total of 25%. The penalties under both (a)(1) and (a)(2) are added, together, to the amount of tax owed unless a reasonable cause is shown as to why such a failure to comply occurred. That means that, in addition to the tax due, the taxpayer who has not filed a timely tax return or pay the tax due may be liable for an additional 50% in penalties. There are also other penalties such as negligence, fraud, and failure to pay estimated taxes that may increase the amount owed. Moreover interest on the unpaid taxes and penalties is calculated under IRC §6601 from the time the tax return is due until the date paid. The current underpayment interest rate is 3%. Consequently it does not take long for a taxpayer who has not filed his tax return or paid his tax to face paying an overwhelming tax bill.

For many years the IRS has had relief programs to alleviate the burden of paying back taxes, penalties, and interest. These include installment payment programs and offers in compromise.

Recently in IR 2012-13 the IRS has expanded its "Fresh Start" initiative to help struggling taxpayers by (1) providing late payment penalty relief to qualifying individuals, and (2) making streamlined installment agreements available to more taxpayers.

Under IRC §6159, the IRS may enter into written agreements with any taxpayer. IRS must enter into an installment agreement requested by an individual whose aggregate tax liability (without interest, penalties, additions to tax, and additional amounts) isn't more than \$10,000, and who hasn't failed to file or to pay income tax, or entered into another installment agreement, during any of the preceding five tax years, if the IRS determines that the taxpayer is financially unable to pay the liability in full when due (and the taxpayer submits information that IRS may require to make this determination). The agreement must require full payment within three years, and the taxpayer must agree to comply with all Code provisions while it's in effect.

New Penalty Relief

Under the Fresh Start program the IRS is now making available to certain wage earners and self-employed individuals a six-month grace period on failure-to-pay penalties. The request for an extension of time to pay will result in relief from the failure to pay penalty for tax year 2011 only if the tax, interest and any other penalties are fully paid by Oct. 15, 2012. Subject to income and balance due limits, the penalty relief applies for these two categories of taxpayers:

- Wage earners who have been unemployed at least 30 consecutive days during 2011 or in 2012 up to the April 17 deadline for filing a federal tax return this year, and
- Self-employed individuals who experienced a 25% or greater reduction in business income in 2011 due to the economy.

A taxpayer's income must not exceed \$100,000 if he or she files as single or head of household (\$200,000 for joint filers). The penalty relief is not available to taxpayers whose calendar year 2011 balance due exceeds \$50,000.

To obtain relief the taxpayer must file Form 1127-A, *Application for Extension of Time for Payment of Income Tax for 2011 Due to Undue Hardship*.

Those qualifying for relief will avoid the penalty until Oct. 15, 2012. Notwithstanding however, the IRS will charge interest on the unpaid taxes.

You are reminded to file your return on time by Apr. 17 or file for an extension because the relief does not extend to the failure to file penalty.

More Taxpayers May Use Streamlined Installment Agreements (See article)

One additional point: The IRS has raised the threshold for using an installment agreement without having to supply IRS with a financial statement from \$25,000 to \$50,000. This means that taxpayers who owe up to \$50,000 in back taxes may enter into a streamlined agreement with IRS that stretches the payment out over a series of months or years. IRS also has raised the maximum term for streamlined installment agreements to 72 months from the preexisting 60-month maximum. These installment agreements can be entered into over the telephone with a IRS representative.

If you owe back taxes, whether state or federal you may contact our tax department for assistance. We have significant experience in resolving state and local personal and business tax controversies.