

How to Request Penalty Abatement to Help Your Clients



**NEW FREEDOM
TAX RELIEF**

Prepared by: Sharon Lewis, EA
t:480.805.9328 e:Admin@LBSTAX.com


Substantial Understatement

If there is a substantial understatement there must be a valid defense to be able to get the penalty abated.

- Valid defenses include:
 - Substantial authority
 - Adequate disclosure
 - Good faith



Penalty Relief is based on one of the following:

- 
- Reasonable cause
 - Statutory exceptions
 - Administrative waivers
 - Correction of IRS error

Reasonable Cause

- No definition in IRC
- Facts and circumstances
 - Ordinary business care
 - Prudence
- Policy Statement 3-2
 - Death or serious illness
 - Unavoidable absence
 - Casualty
 - Lack of funds (potentially)-embezzlement
 - Civil disturbances
 - Other



Reasonable Cause

IRS considers:

Taxpayer's reason

Compliance history

Length of time

Circumstances beyond
taxpayer's control

Reasonable Cause

Acceptable

- Embezzlement or theft
- Casualty or disaster
- Bad accounting advice
- Lost or destroyed records
- Serious health ailment
- Death of a close family member
- Lengthy unemployment

Not Acceptable

- Mistake
- Erroneous advice
 - May or may not be
- Ignorance of law
- Forgetfulness



Reasonable Cause

If ...	Then ...
Return not submitted	Attach statement to return
Return already submitted	Wait for IRS to assess
Penalty already paid	File Form 843

Administrative Waivers – First Time Abatement

- Relief from FTF, FTP and FTD penalties
 - No limit on amount
- TIGTA Report – IRS failed to inform approx. 1.5 million
 - Could have qualified for \$181 million in penalty relief
- FTA currently only administrative waiver
 - Applies to first earliest year



First Time Abatement Qualifications

- 1.No requirement to file a tax return or have no prior liabilities for preceding 3 years
- 2.Has filed (or filed a valid extension) for all currently required returns and paid (or arranged to pay) any tax due
- 3.Cannot have significant penalties assessed in prior 3 years



First Time Abatement Steps

1. Identify first year of penalties
2. Research taxpayer's compliance history
3. Confirm FTA applies
4. Request FTA
5. Confirm penalty was abated



Penalty Abatement Process

Determine if penalty applies

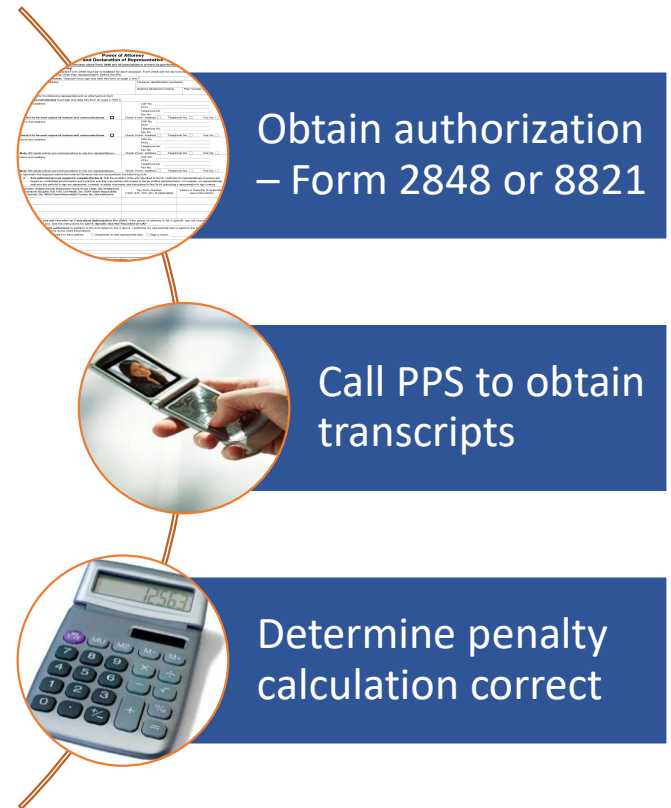
Determine penalty abatement

Request penalty abatement

Follow Up and Appeal

Application of Penalty

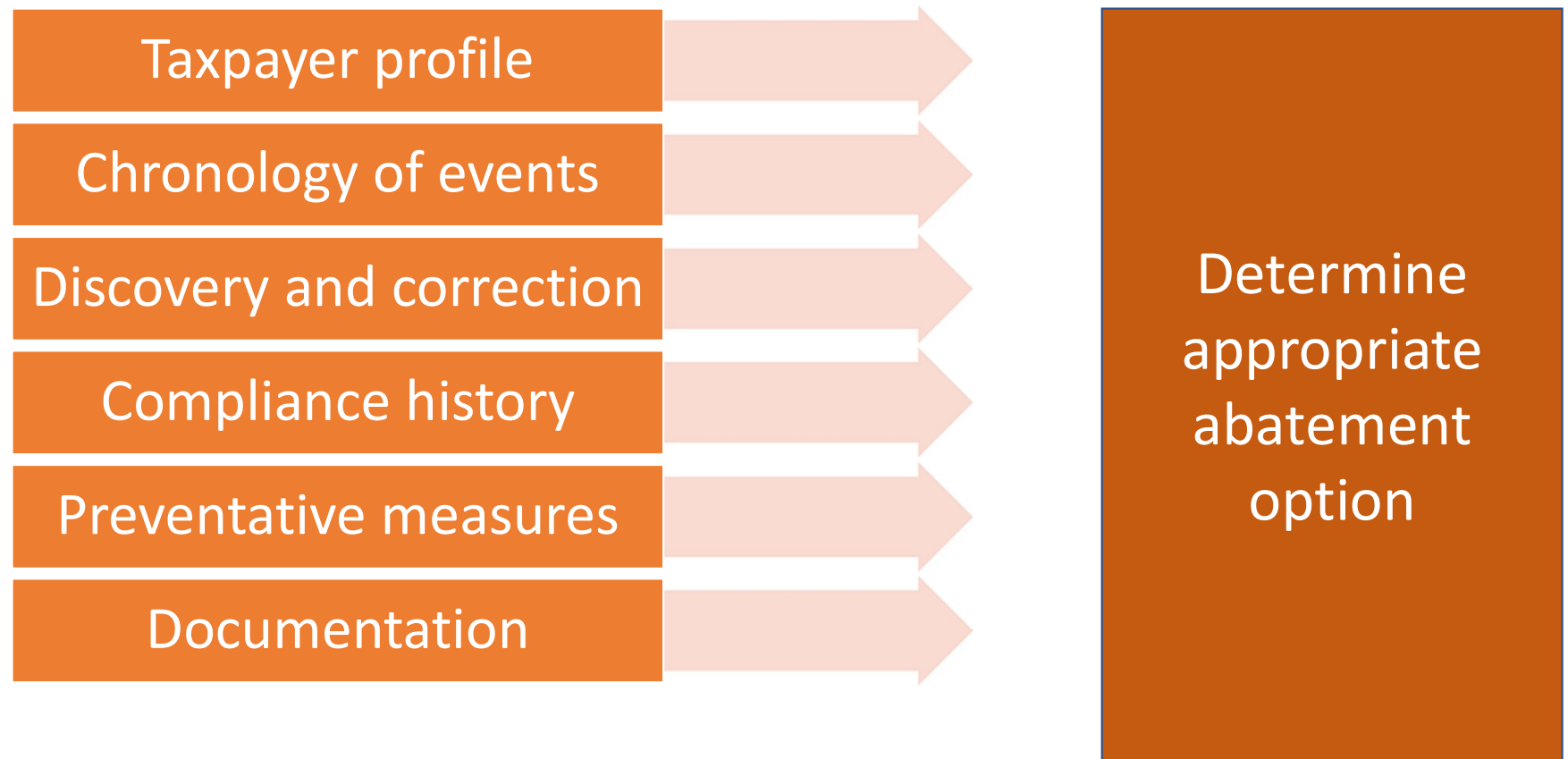
1. Identify penalty assessed and amount
2. Understand compliance history
3. Evaluate 3 prior years for clean compliance



Selection of Abatement Option

- 6 elements of penalty abatement
 1. Isolated incident
 2. Voluntary correction
 3. Future compliance
 4. Timely correction
 5. Life affected
 6. Reasonable cause
- Draft penalty abatement on favorable elements

Its Important to Interview Your Taxpayer



Method for Requesting Abatement

Call the IRS when the taxpayer is:	Write to the IRS when the taxpayer is:
Not in the compliance unit	Providing numerous pages of documents
Requesting abatement for FTF, FTP or FTD	Presenting a complex argument
Requesting abatement for a single year and has clear reasonable cause	Requesting abatement for multiple years using reasonable cause
Requesting FTA	Wanting a paper trail of compliance

Penalty Abatement Request

7 Components

1. Taxpayer and penalty information
2. Clear request for abatement and appeal
3. Explanation of facts and circumstances
4. Applicable authority and law
5. Application of law to taxpayer's facts
6. Request for next action
7. Signature, attestation and attachments

Follow Up and Appeal

Pay the penalty

- No appeal

Appeal the denial

- 60 days to submit written appeal request

Take the case to court

- Pay penalty and file claim on Form 843

Example

The Taxpayer, Jane Doe is requesting an abatement of the penalty for reasonable cause. Jane tax returns was filed late due to being in an auto accident on March 28th, 2021. At that time she was admitted to the hospital for injuries related to the accident.

Jane proceed to be under a doctors care for injuries and physical therapy through December of 2021 when she was released from the hospital.

During the next few months Jane began to suffer from serious depression which lead her to seeking counseling. It wasn't until April 2022 that Jane was able to start to put together the papers needed to file her taxes.

Thank you and wishing you luck in helping your clients.

For more information please contact: New Freedom Tax Relief

Slides by Sharon Lewis with the assistance of Parker Lewis.

www.NewFreedomTaxRelief.com

480.805.9328



**NEW FREEDOM
TAX RELIEF**