



February 16, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Jeffrey A. Van Hove
Acting Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Underpayment and Late Payment Penalty Relief for 2020 Tax Year

Dear Commissioner Rettig and Acting Assistant Secretary Hove:

The American Institute of CPAs (AICPA) appreciates the various efforts of the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS) to provide relief to taxpayers affected by the Coronavirus Disease 2019 pandemic (commonly known as “Coronavirus”). However, further penalty relief is needed for the millions of taxpayers that have made a good faith attempt at complying with their tax obligations but were nevertheless unable to meet their full obligation due to illness, financial hardship or social distancing restrictions. Therefore, we urge Treasury and the IRS to provide certain taxpayers relief from underpayment and late payment penalties for the 2020 taxable year.

BACKGROUND

Taxpayers are generally required to make payments of estimated federal income taxes. In order to avoid failure to pay estimated tax (“underpayment”) penalties, individuals, with limited exceptions, are required to pay at least 90% of the tax due for the current year or 100% (110% if adjusted gross income exceeds \$150,000) of the amount of tax shown on their United States (U.S.) income tax return for the prior year, whichever is smaller. Alternatively, taxpayers with a small tax due of less than \$1,000 receive an exception to the underpayment penalties.¹

Taxpayers are also required to pay the amount of tax shown on their U.S. income tax return by the tax deadline or the taxpayer is subject to failure to pay (“late payment”) penalties. If the taxpayer can show reasonable cause for not paying on time, the taxpayer may not have to pay the late payment penalty.² Historically, the IRS has granted relief to taxpayers that request an extension of time to file their income tax return and pay at least 90% of the taxes owed with the request. Taxpayers must pay the remaining balance by the extended due date.³

¹ Section 6654. All references to “section” or “§” are to the Internal Revenue Code of 1986, as amended, and all references to “Treas. Reg. §” and “regulations” are to U.S. Treasury regulations promulgated thereunder.

² Section 6651.

³ IRS, IRS Tax Tip 2013-58, “[Eight Facts on Late Filing and Late Payment Penalties](#),” Tip #5, April 18, 2013.

RECOMMENDATIONS

The AICPA recommends providing taxpayers relief from underpayment penalties and relief from late payment penalties for the 2020 taxable year. Specifically, we recommend taxpayers should receive relief from underpayment penalties if:

- Taxpayers paid at least 70% of the tax due for the current year, or
- Taxpayers paid 70% (90% if adjusted gross income (AGI) exceeds \$150,000) of the amount of tax shown on their U.S. income tax return for the prior year.

Taxpayers should also receive relief from late payment penalties if they timely request an extension of time to file their income tax return and pay at least 70% of the taxes owed with the request.

ANALYSIS

The rapid emergence of the Coronavirus pandemic generated unanticipated uncertainty and difficulties. As a result, taxpayers are facing the largest level of unemployment seen in the United States since the Great Depression⁴ forcing approximately 10.1 million Americans to collect unemployment.⁵ As a result, taxpayers may not have the wherewithal to withhold from their unemployment earnings to meet their tax obligations. Indeed, some taxpayers may have forgone withholding to ensure food on their table.

Additionally, with the widespread United States Postal Service backlog of mail,⁶ important tax documents may become lost or delayed. This delay may cause inaccuracies in preparing tax returns or in preparing accurate extension payment calculations to meet the underpayment and late payment requirements to avoid penalties.

Finally, some taxpayers, such as elderly people or those with pre-existing health conditions, may still be hesitant to meet with their tax advisors to provide all their tax data. Also, social distancing requirements could create difficulties in providing all tax data to preparers to accurately calculate necessary payments required for extensions.

Given the tremendous hardship and challenges taxpayers and tax preparers continue to face during the 2021 tax filing season, it is both necessary and appropriate to provide additional penalty relief.

⁴ Rkesh Kochhar, Pew Research Center, "[Unemployment rose higher in three months of COVID-19 than it did in two years of the Great Recession](#)," June 11, 2020. In April of 2020 unemployment rates reached 14.4%.

⁵ Bureau of Labor Statistics, News Release, "[The Employment Situation – January 2021](#)", February 5, 2021.

⁶ Michael Martin, NPR conversation with Hannah Denham, "[Widespread Mail Delays As USPS Faces Unprecedented Backlog](#)," January 3, 2021.

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Furthermore, by extending underpayment and late payment penalty relief retroactively for the 2020 tax year, there is little room for abuse since the last estimated payments were due on January 15, 2021.

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We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. If you have any questions, please feel free to contact Melanie Lauridsen, Senior Manager – AICPA Tax Policy & Advocacy, at (202) 434-9235 or Melanie.Lauridsen@aicpa-cima.com; or me at (612) 397-3071 or Chris.Hesse@CLAconnect.com.

Sincerely,

A handwritten signature in blue ink that reads "Christopher W. Hesse". The signature is fluid and cursive, with a prominent flourish at the end.

Christopher W. Hesse, CPA
Chair, AICPA Tax Executive Committee