

Employers that owe payroll taxes find limited sympathy from the IRS



Employers that owe payroll taxes that they can't deposit or pay because their businesses are impacted by COVID-19 have experienced the double whammy of all times. While the IRS isn't totally sympathetic, it is trying to make it easier for you to pay what you owe.

Enhanced tools in the belt

Back in the spring, the IRS came up with its Taxpayer First Initiative. This suspended collection activities and extended very generous terms to taxpayers who owed taxes. Its newest initiative, Taxpayer Relief Initiative, expands on existing tools.

The most generous relief will be extended to those who have a history of tax compliance.

- **Installment agreement options have been expanded** by removing the requirement for financial statements and substantiation in more circumstances, for balances of up to \$250,000, if the monthly payment proposal is sufficient.
- **The IRS will automatically add new tax balances to existing installment agreements** for out-of-business taxpayers. While this doesn't sound particularly taxpayer-friendly, consider the alternative: defaulting on the agreement, which will complicate matters even more.
- **You can contact the IRS to request a temporary delay of the collection process.** If the IRS

determines you're unable to pay, it may delay collection until your financial condition improves.

More reasonable on reasonable-cause defense for owed payroll taxes?

It's next to impossible to claim a reasonable-cause defense for failing to deposit owed payroll taxes. In the only case we know of, a company whose existence depended on government contracts was able to do so successfully. This happened after it refused to pay bribes to corrupt officials to win those contracts.

Nevertheless, for the duration of the pandemic, the IRS is highlighting the reasonable-cause defense. It says it will consider any reason establishing that you used all ordinary business care and prudence to meet your payroll obligations but still weren't able to do so.

We're not really sure how generous this is. A couple of months ago, we [told](#) you about a business owner who tried to claim the pandemic as reasonable cause for failing to deposit the company's owed payroll taxes. The IRS wasn't sympathetic, so we recommend caution if you're thinking about reasonable cause.

First-time penalty abatement

You may have more luck with the IRS' first-time penalty abatement policy. This isn't new, and obviously, it only works the first time you don't deposit your payroll taxes.

You may qualify for administrative relief under the IRS' first-time penalty abatement policy if you:

- Didn't previously have to file a return or you have no penalties for the three tax years prior to the tax year in which you received a penalty
- Filed all currently required returns or filed an extension of time to file
- Have paid, or arranged to pay, any tax due.

Warning: The failure-to-pay penalty will continue to accrue until the tax is paid in full. It may be to your advantage to wait until you fully pay the tax due prior to requesting penalty relief under the Service's first-time penalty abatement policy.

Additional Resource: Learn more about [who may be held responsible for unpaid payroll taxes](#).