Automatic Exemption from Penalty (AEP)

Cross References

- https://www.irs.gov/payments/administrative-penalty-relief

The IRS has announced a new Automatic Exemption from Penalty (AEP) provision. AEP begins in the summer of 2026. Under AEP, if a taxpayer files or pays late in the current year but has timely filed returns and paid tax due for the three prior years (or 12 consecutive quarters for quarterly filers), the taxpayer will not be assessed a penalty. The following return series are eligible for AEP consideration.

- Forms 1040, 1065, 1120
- Forms 940, 941, 943, 944, 945
- Form CT-1

AEP relief begins with this tax year and quarterly returns.

- 2025 tax year returns, and subsequent
- 2026 quarterly returns, and subsequent

Taxpayers will know if they get this relief because they will receive a letter explaining that even though they filed late, paid the tax late, or didn't make the deposit timely, the applicable penalties were not assessed due to the taxpayer's history of timely compliance. If a taxpayer receives a notice showing an assessed penalty but believes they should have qualified for this relief, contact the IRS.

How AEP works. AEP is applied when an original return completes processing.

If a taxpayer files an eligible, original return late, or pays the tax late, and IRS records show a history of timely compliance over the prior three years (or 12 consecutive quarters):

- The IRS won't assess penalties for failure to file, failure to pay, or failure to make a deposit.
- The IRS will send the taxpayer a notice explaining AEP relief was applied.
- The taxpayer does not need to contact the IRS or respond to the notice.

Taxpayers are liable for payment of any unpaid tax, interest, or other penalty assessment not subject to AEP relief.

Penalties eligible for relief. The following penalties are eligible for relief, regardless of amount, under the new AEP.

Failure to file:

- Tax returns – IRC section 6651(a)(1)
- Partnership returns – IRC section 6698(a)(1)
- S corporation returns – IRC section 6699(a)(1)

Failure to pay:
- When the tax shown on the return is not paid by the due date – IRC section 6651(a)(2)
- When the tax is required to be shown on a return, but was not, and that tax was not paid by the date stated in the notice or demand for payment – IRC section 6651(a)(3)

Failure to deposit: When the tax was not deposited in the correct amount, within the prescribed time period, and/or in the required manner – IRC section 6656

How to qualify for the relief. A taxpayer must have a timely compliance history. This means:
- The same return type, as the original return, was timely filed for the prior three years (or 12 consecutive quarters),
- Either no penalty (except the estimated tax penalty) was assessed or a penalty was assessed, but later abated for reasonable cause or IRS error, and
- The taxpayer meets the additional criteria listed below for business returns.

Additional requirements for business taxpayers. In addition to the above:
- The IRS did not waive the failure to deposit penalty four or more times during the prior three years (or 12 consecutive quarters), and
- The failure to deposit penalty was not charged for Electronic Federal Tax Payment System (EFTPS) avoidance.

Not eligible for the relief. A taxpayer cannot receive this relief for:
- Returns filed once or infrequently (i.e., event-based filing requirements)
- The daily delinquency penalty (DDP), or
- Information reporting dependent on another filing.