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First Time Abatement Is Ending: How the IRS's New Relief Program Affects Your Form Penalty Abatement Strategy

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Key Takeaways:

- Starting summer 2026, the IRS automatically waives certain penalties for taxpayers with a clean three-year compliance history, no request needed, replacing FTA for returns due on or after January 1, 2027.
- During the transition, some eligible taxpayers may still get penalty notices by mistake, so practitioners need to catch these and request FTA manually.
- The work shifts from filing abatement requests after the fact to verifying eligibility and account balances upfront, with Form 843 still needed for reasonable-cause cases.

Beginning in summer 2026, the IRS will begin replacing First Time Abatement ("FTA") for many commonly filed returns with Automatic Exemption from Penalty ("AEP"), an automated penalty-relief program for eligible taxpayers. AEP applies to eligible 2025 annual returns and 2026 quarterly returns and will replace FTA for eligible returns with original due dates on or after January 1, 2027. Under the AEP, the IRS will automatically waive covered failure to file, failure to pay, and failure to deposit penalties for taxpayers with a qualifying three-year compliance history (or 12 consecutive quarters for quarterly filers). Relief does not apply to assessed estimated tax penalties. Unlike the FTA, AEP does not require taxpayer request; if eligible, the IRS applies the relief automatically.

This change is significant because under the prior FTA framework, eligible taxpayers were required to request penalty relief, typically by contacting the IRS or submitting Form 843, even when they otherwise satisfied the eligibility requirements. By contrast, AEP applies automatically, ensuring eligible taxpayers receive consistent treatment without needing to know the waiver exists. According to the IRS, the program reflects the Commissioner's authority to waive penalties administratively to promote voluntary compliance.

The practical effect of this change in process is that penalty review should become more front-loaded and more return-type specific. AEP applies only to eligible return series (including Forms 1040, 1065, 1120, 940, 941, 943, 944, 945, and CT-1) and generally excludes information returns and infrequent event-driven returns, like Form 706 (United States Estate (and Generation-Skipping Transfer) Tax Return).

During the transition period, taxpayers who otherwise appear to satisfy the eligibility requirements for FTA may nevertheless receive penalty notices for 2025 annual returns or 2026 quarterly returns, as the AEP is being implemented on a phased basis rather than becoming effective universally at the same time. In those cases, taxpayers should still contact the IRS to request FTA, practitioners will need to keep a close eye on penalty assessments during the transition window and any penalties assessed prior to. During the COVID-19 pandemic, the Service announced that certain penalty abatements would be applied systemically and automatically. In practice, however, many eligible taxpayers did not receive the relief they were entitled to. As with those prior relief efforts, taxpayers should not assume the IRS will automatically apply all available penalty relief. Tax practitioners play a critical role in identifying overlooked relief opportunities, submitting the appropriate requests, and ensuring the IRS properly administers the relief available under the law.

This means practitioners handling collection matters will need to distinguish among three categories of penalties: (1) penalties automatically suppressed under AEP; (2) penalties that may still qualify for abatement through traditional FTA procedures; and (3) penalties for which relief requires a reasonable-cause showing which would require a formal submission on Form 843 (*Claim for Refund and Request for Abatement).*

While this change may reduce the need for practitioners to request administrative waivers, it does not eliminate the need for professional guidance for clients. Instead, the focus will shift from obtaining penalty relief after the fact to identifying eligibility, analyzing account balances, and developing the right collection strategy from the outset.

Under the prior FTA framework, penalty abatement was an important early step in resolving collection matters. Reducing penalties could lower a taxpayer's outstanding balance and make IRS installment agreements, or other collection alternatives, more achievable. With the new AEP procedures, eligible taxpayers will receive relief without a practitioner having to submit a separate request, making it even more important to first determine whether the IRS balance accurately reflects the taxpayer's true liability before negotiating a resolution. This change will also make client intake and account analysis more critical. Before recommending a collection strategy, practitioners must evaluate whether the taxpayer meets the requirements for automatic tax debt relief, whether prior compliance history supports eligibility, and whether the IRS account includes penalties that should be removed automatically.

For taxpayers who do not qualify for the AEP, reasonable cause arguments and other penalty relief strategies will remain an important and available tool. In order to determine eligibility for IRS penalty abatement, a discussion of the taxpayer's individual facts and circumstances will determine the likelihood of success. The analysis is based on relevant case law and IRS internal procedures.

In short, the end of FTA as the primary relief mechanism for eligible returns should reduce the number of routine penalty-abatement requests in collection cases, but it will not eliminate the need for penalty analysis. Practitioners will still need to verify whether the return is AEP-eligible, whether the penalty was assessed during the transition despite apparent eligibility, and whether the facts support statutory reasonable cause where automatic relief is unavailable or insufficient.

Are you dealing with a taxpayer facing IRS penalties and need assistance determining whether they qualify for FTA or whether penalty relief should be addressed through the new AEP process? A careful review of the taxpayer's compliance history, IRS account transcripts, and overall collection position can help identify the best path forward. If you need assistance evaluating penalty relief options, determining reasonable cause, or developing a collection strategy, contact the tax controversy attorneys at Lippes Mathias LLP to discuss your case.