

# IRS to Wipe Clean \$1 Billion in Penalties as Collection Resumes

Posted on Dec. 20, 2023

By Jonathan Curry

Nearly two years after the IRS hit pause on issuing automated collection reminder notices, the agency has set a date to begin resuming that work and coupled it with a clean slate for millions of affected taxpayers.

The IRS [announced](#) December 19 that it will apply roughly \$1 billion in automatic penalty relief to about 4.7 million taxpayers and businesses whose tax year 2020 and 2021 tax returns were affected by pandemic disruptions in notifications. Although the agency had paused much of its automated collection activity, failure-to-pay penalties continued to accrue over the past 22 months. More specific parameters of the relief were provided in [Notice 2024-7](#), 2024-2 IRB 1, which was accompanied by a [fact sheet](#) to help taxpayers better understand the situation.

That's the good news for the taxpayers. The bad news is they still need to pay the outstanding tax liability the IRS seemingly forgot.

Starting in January 2024, the IRS will take a phased-in approach to resuming the issuance of the halted collection notices for individuals with tax debts before tax year 2022, as well as businesses, exempt organizations, and estates with tax liabilities before 2023. The IRS noted that automated collection notices for individuals with tax year 2022 debts have already begun.

Before that kicks off, though, the IRS soon will begin sending special reminder letters — LT38, “Reminder, Notice Resumption” — to affected taxpayers to ease them back into the collection process. The LT38s will remind taxpayers of their outstanding tax liability, inform them of the penalty relief, and present different options for paying tax liabilities. Taxpayers who already paid failure-to-pay penalties will automatically receive a refund or, if applicable, have that amount applied as a credit toward another existing tax liability.

As the IRS was preparing to resume automated collection activities, it was “concerned about taxpayers who haven't heard from us in a while suddenly getting a larger tax bill,” IRS Commissioner Daniel Werfel explained. The automatic penalty relief is a “common-sense approach to help people in this situation,” he said.

Darren Guillot of Alliantgroup LP heartily agreed: “I think the relief from certain penalties for most of these taxpayers shows a heck of a lot of awareness and equal doses of compassion and common sense,” he told *Tax Notes*.

That sentiment was shared by Steven N. Klitzner of Florida Tax Solvers, who said he was very excited to see the penalty waiver. “I'm happy whenever they're willing to give any sort of penalty abatement.

That's a good thing," he said.

It's also fair, said Klitzner, who is a member of the IRS Advisory Council. He observed that many of the affected taxpayers likely became complacent after receiving an initial bill and then seeing the problem effectively disappear — in some cases, for nearly two years.

The IRS's charity won't last forever, though, as failure-to-pay penalties will resume on April 1, 2024, according to the IRS. The relief is also capped at taxpayers who were assessed less than \$100,000 in tax.

## How We Got Here

The IRS announced February 9, 2022, that it was [suspending the issuance](#) of more than a dozen letters, including the automated collection reminder notices that go out when a taxpayer owes tax or failed to file a tax return. The pause came at the height of the COVID-19 pandemic as an overwhelmed IRS shifted its focus and resources to getting a handle on its unprecedented backlog of unprocessed mail and paper tax returns, which was frequently leading to automated notices being sent in error.

The pause in automated collection notice activity, while intended to help the IRS get back on its feet and offer taxpayers a modicum of relief during the pandemic, also had the consequence of leaving many taxpayers in the dark about the status of their tax debt, noted Guillot, who [retired](#) in September as deputy commissioner of the IRS Small Business/Self-Employed Division overseeing IRS Collection. "Among the taxpayer rights, I've always thought the right to be informed was one of the most important — if not the most important — rights," he said. "So, I think those reminders are important, and we needed to get them started again."

Guillot highlighted [2015 research](#) by the Taxpayer Advocate Service on the "collectibility curve," which concluded that the IRS's best chance of collecting a tax debt is in the first year after it's assessed. After that, the odds of doing so plummet dramatically.

Werfel acknowledged that research, but he argued it wouldn't necessarily apply here. "I think that analysis captures years of more traditional tax administration and traditional economic situations," he told reporters during a December 19 briefing. In contrast, the disruption created by the pandemic is unprecedented, he said.

Klitzner also said he thought that this resumption will be different, despite coming nearly two years after a tax debt has been assessed for some taxpayers. He noted that unlike in this pandemic pause, taxpayers in the TAS study would've received steady reminder notices; in this case, taxpayers wouldn't have been under any pressure to pay.

"Much of the time, taxpayers, if they're not getting bothered or getting bills, they don't pay," Klitzner said.

Guillot also praised the decision to start the resumption effort with the LT38 letter as a “very smart move.” Taxpayers who haven’t heard from the IRS in nearly two years shouldn’t just receive a boilerplate notice out of the blue. Instead, inviting them first to reengage with a soft letter that contextualizes the situation and gives them meaningful ways to resolve their tax debt should be more effective, he said.

## Opening the Floodgates

A big question for the agency as it resumes its collection activity is whether the IRS Collection operation will be ready to handle the volume of taxpayer requests for payment plans or to make the case for a hardship exemption to pay a reduced tax debt.

A looming pressure to get this effort off the ground sooner rather than later is the 2024 filing season, Guillot observed. “Calibrating the cadence of these notices is going to be important,” he said, explaining that the IRS will aim to maintain the highest level of phone service possible to avoid discouraging taxpayers who can’t reach the agency from paying their tax liabilities.

The level of service is certainly on Werfel’s mind. “If there’s anything that keeps me up at night, it’s hearing that a taxpayer tried to get through to the IRS and couldn’t,” he said. “We are absolutely laser focused on making sure that we are as easy to reach as possible.”

Fortunately, IRS Collection is in better shape now than it has been in years, according to Guillot. He noted that the automated collection system’s level of phone service in 2023 averaged 54 percent, far higher than in recent years when it hovered around 30 percent. That high level of service likely played a role in IRS Collection collecting more total enforcement revenue than it has in any other year, despite the automated collection notice pause, he said.

“The single most prominent source of that increased revenue came from businesses and individuals paying upon receiving their first notices from IRS,” Guillot said.

The IRS has taken steps to make self-service options increasingly available, Guillot said, pointing to the [launch of voice bots](#) that taxpayers can use to set up an installment agreement without having to talk to a customer service representative, as well as the addition of [QR codes](#) on notices that direct taxpayers to online payment options.

It’s also unclear what role, if any, the [private tax debt collectors](#) used by the IRS will have in the resumption of collection activities, but Guillot said that by law, those private collection agencies can work cases that are more than one year old. Including them in some way to maintain a high level of phone service would be an “acceptable alternative,” he suggested.