



Robert W. Wood

THE TAX LAWYER

Feb. 16 2012 — 6:13 am

'My Dog Ate It' And Other Tax Excuses

There are many [tax excuses](#), but some don't work. The IRS must be tired of hearing them, for this year some tax forms instruct taxpayers to await penalty notices **before** offering any excuses.

For many years, you were generally supposed to attach a "reasonable cause" explanation to a late return when you filed it. Now, no matter how late you are, the IRS says you should **not** attach an explanation when you file. Rather, you should wait to see if you get a penalty notice. If you do, you can offer your dog-ate-my-homework excuse **then**.

We're not talking about every tax form or every penalty. We're only talking about tax returns for partnerships and corporations. In both cases, there are penalties if you file late. The penalty is 5% of the net amount due for each month the return is late. The total penalty can't exceed 25%.

Starting with 2011 forms, the instructions tell you to offer your written explanation only if you receive a notice imposing late-filing or late-tax-



Image via uiowa.edu

payment penalties. **Don't** attach an explanation when the return is filed. The IRS will determine if you meet the reasonable cause criteria.

If you can show your lateness was due to reasonable cause and not due to willful neglect, no penalty. Reasonable cause means exercising ordinary business care and prudence but you were nevertheless unable to file the return within the prescribed time.

There's also penalty for failing to **pay** on time. There too, you won't be penalized if your failure is due to reasonable cause and not to willful neglect. A failure to pay is considered due to reasonable cause if you exercised ordinary business care and prudence in providing for payment of his tax liability and was nevertheless either unable to pay the tax or would suffer an undue hardship if he paid on the due date.

What about individuals? Don't worry, you can still offer your statements why you shouldn't be penalized when you are filing a personal income tax return (any of the [Forms 1040](#)).

For suggestions, see:

['Sick Lawyer' Excuse Not Enough To Escape IRS Penalties](#)

[More Tax Defenses: "I Forgot!"](#)

[Tax Defense: "I Have ADD"](#)

[9/11 Excuse Not Enough To Escape IRS Tax Bill](#)

[To Avoid Fate Of Wesley Snipes, Skip Tax Protester Arguments](#)

[Don't Put Off Taxes Despite Leap Year and Emancipation](#)

[Paper Or E-File Your IRS Return?](#)

[Dual Citizen Tax Relief From IRS](#)

[IRS Relief To Canadian Dual Citizens](#)

[File Those Tax Returns](#)

[Can You Fix The Tax Return You Just Filed?](#)

[E-Filing And IRS Website](#)

[What Triggers IRS Statute Of Limitations?](#)

[IRS Six Year Audit Push May Reach Supreme Court](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*