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‘Sick Lawyer’ Excuse Not Enough To Escape IRS Penalties

It’s hard to offer an excuse the IRS has never heard for they hear some [doozies](#). It’s important to consider the context and the specific penalty in question. Some penalties might be waived for one condition but not for others. Take the estate tax.

Federal estate tax returns are due nine months after the decedent’s death. There’s a late penalty of up to 25% unless the failure was due to reasonable cause, and not from willful neglect. Reasonable cause requires showing that you exercised ordinary business care and prudence but nevertheless were unable to file on time.

In [Freeman v. United States](#), Freeman was an executor who hired attorney Dennis Byrne to represent the estate. Because Byrne was to handle all administration and tax work, all mail went directly to him, including from the IRS. Byrne assumed responsibility for ensuring that estate tax returns were filed and payments were made.

Unbeknownst to Freeman, Byrne was suffering from physical and mental ailments. These ailments led Byrne to neglect his duties, including filing



an estate tax return. Byrne became increasingly difficult to reach and Freeman eventually learned he had embezzled money from the estate.

Freeman ended up with penalties and sought to avoid them by pointing to Byrne's actions—and inactions. The IRS abated some of the penalties, but Freeman argued for more, saying Byrne's serious mental and physical ailments constituted reasonable cause to excuse the late filing. He reasonably trusted Byrne to file the return, but Byrne failed because of his health.

The court agreed with the IRS. The estate didn't have reasonable cause to file its return after the deadline despite the fact that Byrne suffered from physical and mental ailments.

For more see:

[IRS Penalties Despite Accountant's Mistake](#)

[Relying On Tax Advisers May Not Prevent Penalties](#)

[No More Laughing At Turbo Tax Defense](#)

[IRS Penalties Despite Dead/Embezzling Accountant](#)

[Using John Edwards "It Was A Gift" Defense](#)

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