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Client Alert: Have You Recently Been Assessed Federal Civil Penalties for Late-Filed or Incorrect Forms W-2? We Should Talk.

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If your company has outstanding assessments or has paid federal civil penalties for Form W-2 compliance failures within the last two years, please call us. Recently, we have had extraordinary success arguing that these types of penalties should not have been imposed in the first place. This resulted in the government conceding and negating the penalties entirely.

Historically, companies faced with these penalties argued there was “reasonable cause” for the compliance failure. “Reasonable cause,” however, is narrowly defined by regulation. Facts to support a “reasonable cause” argument for Form W-2 compliance failures often are lacking and unpersuasive. Because statutes imposing federal tax civil penalties are required to be construed strictly in favor of the party assessed, a more effective defense often can be made with regard to whether the civil penalty was properly imposed in the first place. We have had more success in making this argument rather than conceding that point and solely arguing there was “reasonable cause” for the compliance failure. Even further, Forms W-2 compliance failures are more easily defended from civil penalty than failures involving other types of information returns because the government’s administration of Forms W-2 differs from administration of other returns. You should not overlook this tactical advantage.

We can’t guarantee results, but – if you have made or are making such penalty payments over the past two years – we would like to discuss.

Please call Jeffrey Allen Miller, Esq. at (614) 464-5495.