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To: Kate Mead (katesmead@gmail.com)
From: Gordon Fischer (gordon@gordonfischerlawfirm.com)
Subject: IRS Penalties
Date: June 7, 2022

Kate,

I apologize for this memo being so late. I am sincerely sorry.

RHSF received an IRS penalty of \$8,862 for filing Form 990 late. Since two other 990s were also filed late, we can expect two more penalties of roughly the same amount.

There are three ways to get an IRS tax penalty reduced or removed.

The first doesn't apply here. A taxpayer can receive a reduction or complete recission of a tax penalty if the taxpayer can prove the penalty was the result of reliance upon advice from the IRS, but the IRS provided incorrect information. Not applicable here.

The second reason for reduction or removal is simply known as "first time, one time pass." If you haven't had any penalties before, the IRS may remove a taxpayer's first penalty as a first time removal. I would think this might apply, except we've got to assume, since we filed three (3) IRS Form 990s late, we won't be eligible for the "one free pass" defense. (Or perhaps one of the three penalties could be rescinded?)

The third and final reason for reducing or eliminating a penalty is if we can prove that failure to file was the result of "reasonable cause." Reasonable cause, in this context, may be defined as follows:

The IRS will look at all the facts and circumstances in a given situation. The IRS will consider any reason which establishes that the taxpayer (i.e., RHSF) used all ordinary business care and prudence to meet its Federal tax obligations but was nevertheless unable to do so.

The reasonable cause statement must be in writing, and signed and sworn by an officer of RHSF. In short, I could draw up a legal opinion letter, you could review it carefully, be sure you agree with it completely, and then sign an affidavit that its true.

Based on the facts I know to date, I think we would have a good shot at establishing reasonable cause.



I advise that we send a reasonable cause letter to the IRS as soon as possible, for two reasons. One, if the penalty is not paid, interest continues to accrue. So we at the least want to stall interest.

Second, perhaps we can dissuade the IRS from levying two more penalties with a strongly written reasonable cause statement. In any case, together, I am sure we can fashion a reasonable cause statement addressing all three failure-to-timely-file penalties.

As you may recall, like all lawyers, I bill my time. While my normal hourly rate is \$300, I am happy to extend to RHSF my “special nonprofit” rate of \$150 (one hundred and fifty dollars) per hour. I charge tenths of an hour, so six minutes equals .10, thirty minutes is .50, forty-two minutes is .70, and so on.

Here is a breakdown of how I would spend my time drafting a reasonable case statement:

1. Legal research, searching for caselaw that reliance on your accountant to file appropriate tax forms is inherently reasonable. This will take between 1 and 2 hours, so I’ll count it as 1.5 hours.
2. Legal research re IRS regulations specifically discussing “reasonable cause.” Again, between 1 and 2 hours, so again: 1.5 hours.
3. Actual writing of the letter would take 3-4 hours, so call that 3.5.
4. Final review and proof read would be an additional hour.
5. Working with you, and anyone/everyone else at RHSF, to get the reasonable cause statement finalized and filed with the IRS would take another hour.

$(1.5 + 1.5 + 3.5 + 1 + 1 = 8.5 \text{ hours})$

This is a total of 8.5 hours. I think this is a very reasonable amount of time.

$8.5 \text{ hours times } \$150.00 = \$1,275.00$

Please let me know if this is agreeable to you and to RHSF, and I’ll send you a formal Engagement Letter and Fee Agreement.

As is always true, I’m happy to answer any questions or address any concerns you have. Please do not hesitate to contact me via email (gordon@gordonfischerlawfirm.com) or on my cell phone (515-371-6077).

Thank you for your time and attention and consideration.

Gordon Fischer
Gordon Fischer Law Firm, P.C.

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