

13. Consideration of allocating General Fund Undesignated Fund Balance for payment of penalty for late submission of tax forms to the Internal Revenue Service (\$54,550).



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Larry Wojciechowski, Finance Director

DATE: November 7, 2024

RE: Consideration of allocating General Fund Undesignated Fund Balance for payment of penalty for late submission of tax forms to the Internal Revenue Service (\$54,550).

SUMMARY:

On or before January 31 of each year, the Internal Revenue Service (IRS) requires employers to submit W-2/1099-NEC forms for the previous year. On October 23, 2024, the City of Palm Bay was notified by letter from the IRS (attached), that the City was not in compliance for calendar year 2022 and the City owes a penalty of \$54,550.

After researching and confirming that the W-2 and 1099 forms were uploaded on 02/17/23 and 02/28/23, respectively, staff has confirmed that the City did submit after 1/31/23 for calendar year 2022 and therefore was not in compliance with the IRS rule. The calculation for the penalty is \$50 per W-2/1099 and 1,091 were submitted which equals the \$54,550 penalty. When the late submissions were made, no indication or notification was given to the City indicating that a penalty would be forthcoming, so staff was not aware until the attached notice was received.

Historically the City had always submitted these forms in a timely manner, and the 2024 submissions for calendar year 2023 were done by the IRS deadline. Staff has determined that the delay in submission was due to the responsibility for submission being handled by a single staff member who was dealing with significant medical issues at the time. To avoid a repeat of this issue in the future, multiple staff members in the Finance Department now have shared responsibility for this task. Additionally, when the City's new ERP system that is being implemented is online, it will interface with the IRS directly and eliminate the manual uploading of the information, thereby adding an additional improvement to the process in the future.

REQUESTING DEPARTMENTS:

Finance

Honorable Mayor and Members of the City Council

Legislative Memorandum

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FISCAL IMPACT:

Staff is requesting to move \$54,550 from General Fund Undesignated Fund (001-0000-392-100) to the General Government account (001-9010-519-4909).

STAFF RECOMMENDATION:

Motion to approve the use of General Fund Undesignated Funds for a 2022 penalty for late submission of tax forms to the IRS.

ATTACHMENTS:

1. 2022 IRS Penalty Notification
2. 2022 w2 notification
3. 2022 1099 upload

PHILADELPHIA, PA 19255-0633

001288.485072.302002.7782 2 MB 0.622 1341




CITY OF PALM BAY
120 MALABAR RD SE
PALM BAY, FL 32907-3009

IF YOU WRITE OR
CALL US, REFER TO
THIS INFORMATION:

NOTICE NUMBER: 972CG
BOD CODE: TE2
DATE OF THIS NOTICE:
10/21/2024
TAXPAYER IDENTIFICATION
NUMBER: 59-6018984
FORM: CVL PEN
TAX PERIOD: 202212
PENALTY REFERENCE
CODE: 500

FOR INFORMATION,
PLEASE CALL:
1-866-455-7438

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FIN: OCT.23.'24 AM08:53

A PENALTY IS PROPOSED FOR YOUR 2022 INFORMATION RETURNS

ACTION REQUIRED

OUR RECORDS SHOW THAT YOU DIDN'T FILE CERTAIN INFORMATION RETURNS CORRECTLY AS REQUIRED BY INTERNAL REVENUE CODE (IRC) SECTION 6721 FOR THE TAX PERIOD SHOWN ABOVE. THE LAW ALLOWS FOR A PENALTY FOR FILING INFORMATION RETURNS INCORRECTLY. A PENALTY IS PROPOSED IN THE AMOUNT OF \$54,550.00. INTEREST ON THIS PENALTY WILL NOT BE CHARGED UNTIL AFTER YOU RECEIVE A BILL.

PLEASE READ THIS NOTICE CAREFULLY. IT EXPLAINS THE PROPOSED PENALTY AND WHAT YOU SHOULD DO IF YOU AGREE OR DISAGREE WITH THE PROPOSAL. THIS PENALTY WILL BE CHARGED IF YOU DON'T RESPOND TO THIS NOTICE. THE PROPOSED PENALTY IS EXPLAINED UNDER THE "EXPLANATION OF PENALTY" SECTION.

HOW YOU SHOULD RESPOND TO THIS NOTICE

PLEASE REVIEW YOUR RECORDS RELATED TO FILING THE RETURNS LISTED ON PAGE 2.

-- IF YOU AGREE TO THE FULL AMOUNT OF THE PROPOSED PENALTY, DO ALL OF THE FOLLOWING:

1. CHECK BOX (A) ON THE RESPONSE PAGE OF THIS NOTICE.
2. SIGN AND DATE THE CONSENT OF PENALTY ASSESSMENT.
3. ENCLOSE YOUR PAYMENT IN FULL. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY.
4. ENCLOSE THE APPROPRIATE MAILING STUB TO INDICATE WHETHER A PAYMENT IS INCLUDED.
5. ENSURE THE ADDRESS ON THE STUB APPEARS IN THE ENVELOPE WINDOW.

-- IF YOU DON'T AGREE WITH ALL OR PART OF OUR FINDINGS OR BELIEVE YOU HAVE A REASON ALL OR PART OF THIS PENALTY SHOULD NOT BE CHARGED, DO ALL OF THE FOLLOWING:

1. CHECK BOX (B) OR (C) ON THE RESPONSE PAGE OF THIS NOTICE.
2. ENCLOSE A SIGNED STATEMENT EXPLAINING WHY YOU DISAGREE.
3. INCLUDE ANY SUPPORTING DOCUMENTS YOU WISH TO HAVE CONSIDERED.
4. IF YOU AGREE TO PART OF THE PENALTY, ENCLOSE YOUR PAYMENT. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY.
5. ENCLOSE THE APPROPRIATE MAILING STUB TO INDICATE WHETHER A PAYMENT IS INCLUDED.
6. RETURN THE RESPONSE PAGE OF THIS NOTICE WITH YOUR STATEMENT AND DOCUMENTS IN THE ENCLOSED ENVELOPE (ENSURE THE ADDRESS APPEARS IN THE ENVELOPE WINDOW). PLEASE INCLUDE A TELEPHONE NUMBER, INCLUDING THE AREA CODE, AND THE BEST TIME TO CALL.

IT'S IMPORTANT THAT YOUR COMPLETED RESPONSE BE RECEIVED WITHIN 45 DAYS FROM THE DATE OF THIS NOTICE. YOU HAVE 60 DAYS TO RESPOND IF YOU LIVE OUTSIDE THE UNITED STATES. IF YOU DO NOT RESPOND WITHIN THIS PERIOD, YOU WILL RECEIVE A BILL CALLED "NOTICE OF PENALTY CHARGE" (CP15 or CP215) FOR THE AMOUNT OF THE PROPOSED PENALTY. INTEREST WILL BE CHARGED FROM THE DATE OF THE "NOTICE OF PENALTY CHARGE" TO THE DATE PAYMENT IS RECEIVED IN FULL.

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, YOU MAY WRITE TO THE RETURN ADDRESS ON THIS NOTICE. IF YOU PREFER, YOU MAY CALL THE TELEPHONE NUMBER SHOWN ABOVE FOR GENERAL INFORMATION ABOUT THIS NOTICE. HOWEVER, THE OFFICE AT THE ADDRESS SHOWN ON THIS NOTICE IS MOST FAMILIAR WITH YOUR CASE.

A PENALTY IS PROPOSED BASED ON HOW YOU FILED THE FOLLOWING INFORMATION RETURNS. THE EXPLANATION OF THE PENALTY FOLLOWS THE LIST OF INFORMATION RETURNS. THE PAGE TITLED "SUMMARY OF PROPOSED PENALTY" SHOWS YOU THE TOTAL NUMBER OF RETURNS FOR WHICH A PENALTY IS PROPOSED.

CITY OF PALM BAY
120 MALABAR ROAD SE
PALM BAY, FL 32907

FORM 1099-NEC RECEIVED: 02/28/2023
ORIGINAL RETURNS: 98
AMENDED RETURNS: 0
HOW RECEIVED: ELECTRONIC
TRANSMITTER CONTROL CODE: 07D82

PROPOSED PENALTY TYPE: LATE FILING

CITY OF PALM BAY
120 MALABAR ROAD SE
PALM BAY, FL 32907

FORM W2 RECEIVED: 02/17/2023
ORIGINAL RETURNS: 993
AMENDED RETURNS: 0
HOW RECEIVED: ELECTRONIC
TRANSMITTER CONTROL CODE:

PROPOSED PENALTY TYPE: LATE FILING

EXPLANATION OF PENALTY

500
A PENALTY IS PROPOSED FOR EACH INFORMATION RETURN DOCUMENT THAT YOU DIDN'T FILE CORRECTLY BY THE DUE DATE (INCLUDING EXTENSIONS). THIS PENALTY MAY ALSO APPLY IF TIMELY FILED RETURNS WERE SENT BACK TO YOU FOR CHANGES AND YOU DIDN'T RETURN THEM TO US IN THE TIME REQUESTED.

THE PENALTY IS:

- \$50 FOR EACH RETURN FILED WITHIN 30 DAYS AFTER THE DUE DATE, UP TO A MAXIMUM OF \$588,500 PER YEAR (\$206,000 FOR SMALL BUSINESSES AS DEFINED BELOW),
- \$110 FOR EACH RETURN FILED MORE THAN 30 DAYS AFTER THE DUE DATE BUT BY AUGUST 1, UP TO A MAXIMUM OF \$1,766,000 PER YEAR (\$588,500 FOR SMALL BUSINESSES), OR
- \$290 FOR EACH RETURN FILED AFTER AUGUST 1.

THE MAXIMUM PENALTY CHARGE IS \$290 PER INFORMATION RETURN, UP TO \$3,532,500 PER YEAR (\$1,177,500 FOR SMALL BUSINESSES). THERE IS NO MAXIMUM LIMITATION FOR INTENTIONAL DISREGARD.

LOWER MAXIMUM PENALTY FOR SMALL BUSINESSES

THE LOWER MAXIMUM PENALTIES STATED ABOVE FOR SMALL BUSINESSES APPLY IF A BUSINESS HAD AVERAGE GROSS RECEIPTS OF \$5 MILLION OR LESS FOR THE THREE MOST RECENT TAX YEARS (OR TIME IN BUSINESS, IF SHORTER) ENDING BEFORE THE CALENDAR YEAR THE INFORMATION RETURNS WERE DUE. FOR EXAMPLE, IF YOU WERE CHARGED A PENALTY FOR 2022 INFORMATION RETURNS DUE IN 2023, THE THREE MOST RECENT TAX YEARS ARE 2020, 2021, AND 2022. IF THE PENALTY ON THE NOTICE YOU RECEIVED IS MORE THAN THE MAXIMUM PENALTY FOR SMALL BUSINESSES, THE PENALTY MAY BE REDUCED BASED ON EVIDENCE YOU GIVE THAT YOU'RE A SMALL BUSINESS.

SUMMARY OF PROPOSED PENALTY

THE SUMMARY ON THE FOLLOWING PAGE SHOWS THE INFORMATION RETURNS FOR WHICH A PENALTY IS PROPOSED AND THE AMOUNT OF PENALTY FOR EACH PENALTY TYPE. THE AMOUNT OF THE PROPOSED PENALTY MAY BE LOWER THAN THE ACTUAL PENALTY AMOUNT DUE TO THE DOLLAR LIMITATIONS IMPOSED UNDER IRC 6721.

PROPOSED PENALTY AMOUNT: \$54,550

PROPOSED PENALTY AMOUNT -- THIS AMOUNT MAY BE LESS THAN THE TOTAL OF THE INDIVIDUAL PENALTY AMOUNTS SHOWN ABOVE IF MORE THAN ONE TYPE OF PENALTY APPLIES TO ANY OF THE RETURNS FILED. FOR EXAMPLE, IF YOU FILED A RETURN LATE AND WITH A MISSING TAXPAYER IDENTIFICATION NUMBER, THE RETURNS WILL BE SHOWN IN BOTH PENALTY COLUMNS. HOWEVER, THE MAXIMUM CHARGE IS \$290 FOR THAT RETURN.

LATE FILING PENALTY -- THIS PENALTY APPLIES TO RETURNS FILED AFTER THE DUE DATE. IT MAY ALSO APPLY TO RETURNS FILED BY THE DUE DATE BUT NOT FILED CORRECTLY.

ELECTRONIC MEDIA PENALTY -- THIS PENALTY APPLIES TO THE NUMBER OF PAPER RETURNS OVER 250 THAT YOU FILED.

NOTE: FINANCIAL INSTITUTIONS MUST FILE ALL FORM 1042-S DOCUMENTS ELECTRONICALLY.

INCORRECT TIN -- THIS PENALTY APPLIES TO RETURNS FILED WITH A MISSING OR INCORRECT TAXPAYER IDENTIFICATION NUMBER.

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PENALTY TYPE	TIN	ELECTRONIC	LATE			TOTALS
			TIER 1	TIER 2	TIER 3	
W2	0	0	993	0	0	993
1099-NEC	0	0	98	0	0	98
NO. OF PENALTIES	0	0	1,091	0	0	
X	\$290	\$290	\$50	\$110	\$290	TOTALS
GROSS PEN. MINUS DUPS	\$0	\$0	\$54,550	\$0	\$0	\$54,550
	\$0	\$0	\$0	\$0	\$0	\$0
	\$0	\$0	\$54,550	\$0	\$0	\$54,550
TIER CAP LIMITATION	\$0	\$0	\$54,550	\$0	\$0	\$54,550

TOTAL PROPOSED PENALTY----- \$54,550



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RESPONSE TO PROPOSED PENALTY FOR YOUR TAX YEAR 2022 INFORMATION RETURNS

PLEASE CHECK THE BOX THAT APPLIES TO YOU AND RETURN THIS PAGE IN THE ENCLOSED ENVELOPE. PLEASE REMEMBER TO INCLUDE THE APPROPRIATE MAILING STUB AND INSERT IT IN THE ENCLOSED ENVELOPE SO THE ADDRESS APPEARS IN THE ENVELOPE WINDOW.

PLEASE CHECK ONLY ONE BOX:

() (A) TOTAL AGREEMENT WITH THE PROPOSED PENALTY - I CONSENT TO THE IMMEDIATE ASSESSMENT AND COLLECTION OF THE PENALTY AMOUNT SHOWN IN THIS NOTICE, PLUS ANY APPLICABLE INTEREST.
I HAVE () HAVE NOT () ENCLOSED A PAYMENT.

SIGNATURE OF PERSON REQUIRED TO FILE THE RETURN DATE

() (B) PARTIAL AGREEMENT WITH THE PROPOSED PENALTY - I AGREE WITH PART OF THE PROPOSED PENALTY SHOWN IN THIS NOTICE. UNDER PENALTIES OF PERJURY, I HAVE SIGNED BELOW INDICATING MY REQUEST FOR REMOVAL AND HAVE ATTACHED SUPPORTING DOCUMENTS EXPLAINING WHICH ITEMS I DISAGREE WITH AND WHY I DISAGREE, OR WHY I FEEL YOU SHOULDN'T CHARGE PART OF THE PROPOSED PENALTY.
I HAVE () HAVE NOT () ENCLOSED A PAYMENT.

SIGNATURE OF PERSON REQUIRED TO FILE THE RETURN DATE

() (C) TOTAL DISAGREEMENT WITH THE PROPOSED PENALTY - I DISAGREE WITH THE ENTIRE PROPOSED PENALTY SHOWN IN THIS NOTICE. UNDER PENALTIES OF PERJURY, I HAVE SIGNED BELOW INDICATING MY REQUEST FOR REMOVAL AND HAVE ATTACHED SUPPORTING DOCUMENTS EXPLAINING WHY THE PROPOSED PENALTY IS INCORRECT, OR AN ACCEPTABLE REASON WHY YOU SHOULDN'T CHARGE THIS PROPOSED PENALTY.

SIGNATURE OF PERSON REQUIRED TO FILE THE RETURN DATE

TELEPHONE NUMBER: () _____ BEST HOURS TO CALL: _____
(INCLUDE AREA CODE)

PLEASE DO NOT DETACH

IRS INFORMATION: PHILADELPHIA SERVICE CENTER 59-6018984 500 202212 10/21/2024 972CG
CORRESPONDENCE ONLY (NO PAYMENTS)

1. Write on all attached pages:
Name, taxpayer identification number, 972CG Notice, and tax period
2. Include your phone numbers: () - - home () - - work/cell
3. Best time to call: a.m. p.m.

Address change? Correct it below.

59-6018984 10/21/2024
CITY OF PALM BAY
120 MALABAR RD SE
PALM BAY, FL 32907-3009

INTERNAL REVENUE SERVICE
PHILADELPHIA, PA 19255-0633



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596018984 ZF CITY 13 1 202212 640 00005455000

Cut Here



972CG Correspondence Only. Cut the stub (Philadelphia, PA) above, and place in the enclosed envelope, ensuring the entire address appears in the envelope window.

972CG Payment (with or without correspondence). Cut the stub below (Kansas City, MO) and place in the enclosed envelope, ensuring the entire address appears in the envelope window.



Cut Here

IRS INFORMATION: PHILADELPHIA SERVICE CENTER 59-6018984 500 202212 10/21/2024 972CG
PAYMENT (WITH OR WITHOUT CORRESPONDENCE)

1. Make check payable to: United States Treasury Amount Enclosed: \$ _____
2. Write on payment and all attached pages:
Name, taxpayer identification number, 972CG Notice, and tax period
3. Include your phone numbers: () - - home () - - work/cell
4. Best time to call: a.m. p.m.

Address change? Correct it below.

59-6018984 10/21/2024
CITY OF PALM BAY
120 MALABAR RD SE
PALM BAY, FL 32907-3009

INTERNAL REVENUE SERVICE
Kansas City, MO 64999-0202



596018984 ZF CITY 13 1 202212 640 00005455000



Acknowledgement of Receipt

i Retain this page as acknowledgement of receipt and proof of filing date.

Your Wage File Identifier (WFID) has been created and is proof of filing date.

Wage File Identifier (WFID): **A10F3B**

Business Services Online: **www.ssa.gov/employer**

You will need this WFID to reference this submission in all communications with SSA and to check the submission status on the Electronic Wage Reporting (EWR) homepage in Business Services Online.

Confirmation of Formatted Wage File Upload

This file passed preliminary checks and has been submitted to the Social Security Administration.

File Summary

Formatted Wage File Upload

File Summary

Status: **RECEIVED**

Total Wages, Tips and Other Compensation Reported: **\$42,098,399.29**

W-3 Forms Checked: **1**

W-2 Forms Checked: **993**

File Information

Uploaded on: **02/17/2023 03:54:21 PM ET**

File Name: **W2FILE_SSA.txt**

File Size: **498.50 KB**



FIRE Production System

Menu Options

- [Main Menu](#)
- [Log Out](#)

File Processing Results

Filename: ORIG.07D82.0001
Received Date: 2/28/2023
Received Time: 10:53:38 AM
Payee Count: 121

Number of Messages: 1

#1 of 1

The file you submitted is ACCEPTABLE according to the specifications listed in Publication 1220.

If this file is an ORIGINAL, CORRECTION, or REPLACEMENT file and 'Results' indicate:

'Good' and you agree with the 'Count of Payees', you are finished with this file. The file will automatically be released after 10 calendar days unless you contact us within this timeframe to stop the processing. After 10 calendar days, file is released to our mainline processing. If anything would be incorrect within the data, you would need to send corrections only to the records that need corrected, not the entire file. Refer to Publication 1220 for further information on the correction process.

If this is a TEST file, the data is not passed forward.

[IRS Privacy Policy](#)



FIRE Production System

Menu Options

- [Main Menu](#)
- [Log Out](#)

File Status

Search for File Results

Fields with an * are required. Date range not required with filename.

TCC*

TIN/EIN* (no hyphens)

File Status*

Date Range To

(mm/dd/yyyy)*

FIRE Filename-

OPTIONAL

Your Filename-

OPTIONAL

Search Options

Extension Files Only

Files Sent Last Year

Filename	Date Transmitted	Count	Results	Your Filename
ORIG.07D82.0001	2/28/2023 10:53 AM	121	Good	YE1099.DAT

[IRS Privacy Policy](#)

