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Internal Revenue Manual Section 20.1.1.3.2.2.3 (12-11-2009)

Unable to Obtain Records

1. Explanations relating to the inability to obtain the necessary records may constitute reasonable cause in some instances, but may not in others.
2. Consider the facts and circumstances relevant to each case and evaluate the request for penalty relief.
3. If the taxpayer was unable to obtain records necessary to comply with a tax obligation, the taxpayer may or may not be able to establish reasonable cause. Reasonable cause may be established if the **taxpayer exercised ordinary business care and prudence, but due to circumstances beyond the taxpayer's control, he or she was unable to comply.**
4. Information to consider when evaluating such a request includes, but is not limited to, an explanation as to the following:
 - Why the records were needed to comply.
 - Why the records were unavailable and what steps were taken to secure the records.
 - When and how the taxpayer became aware that he or she did not have the necessary records.
 - If other means were explored to secure needed information.
 - Why the taxpayer did not estimate the information.
 - If the taxpayer contacted the IRS for instructions on what to do about missing information.
 - If the taxpayer promptly complied once the missing information was received.
 - Supporting documentation such as copies of letters written and responses received in an effort to get the needed information.