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## Internal Revenue Manual Section 20.1.1.3.3.4.3 (11-21-2017)

### Advice From a Tax Advisor

1. Reliance on the advice of a tax advisor generally relates to the reasonable cause exception in IRC 6664(c) for the accuracy-related penalty under IRC 6662. See IRM 20.1.5.7.4, Reliance on Advice, and Treas. Reg. 1.6664-4(c).
2. However, in very limited instances, reliance on the advice of a tax advisor may provide relief from other penalties when the tax advisor provides advice on a substantive tax issue.

#### **Example:**

The employer researched all available IRS publications on the subject of contract labor, provided clear and convincing documentation as to the duties of the workers to the tax advisor, and requested an opinion from the tax advisor as to whether the workers were "contract labor" or "employees." As a result, the tax advisor advised the employer that the workers were "contract labor." However, the IRS later determined that the workers were "employees" and not "contract labor."

3. Penalty relief based on reliance on the advice of a tax advisor is limited to issues generally considered technical or complicated. **The taxpayer's responsibility to file, pay, or deposit taxes generally cannot be excused by reliance on the advice of a tax advisor.**
4. Because the IRC and treasury regulations sections that provide penalty relief criteria for erroneous advice from a tax advisor are generally limited to the accuracy-related penalty, relief from other penalties must meet the reasonable cause standards. See *IRM 20.1.1.3.2*, Reasonable Cause.