

FINAL BILL REPORT

SSB 5121

C 136 L 97
Synopsis as Enacted

Brief Description: Waiving or canceling interest or penalties for certain estate tax returns.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Johnson, Newhouse and Winsley).

Senate Committee on Ways & Means
House Committee on Finance

Background: The state imposes a tax on the transfer of property at death. The tax is equal to the amount of tax authorized as a credit against the federal estate tax. As a result, the tax would be paid to the federal government if the state did not impose it. Because the tax is tied to the federal credit, it only applies to estates valued at more than \$600,000 (or \$1,200,000 for a community property couple). The state tax return is due when the federal tax return is due, which is usually nine months after the date of death.

The executor is required to file the federal estate tax return and is subject to a penalty under state law for failure to file. The penalty is equal to 5 percent of the tax due for each month that the return is late, not to exceed 25 percent of the tax due. This penalty is in addition to interest charged on the amount of tax due at 2 percent above the average federal short term rate.

With respect to excise taxes, the Department of Revenue is required to waive penalties when the delinquency is due to circumstances beyond the control of the taxpayer. The department has adopted rules that provide for waivers if:

- A return was inadvertently mailed to the wrong agency.
- Delay was caused by death or illness in the taxpayer's or accountant's immediate family.
- Delay was caused by the unavoidable absence of the taxpayer.
- Delay was caused by destruction of the taxpayer's records.
- The taxpayer received erroneous written information from the department that caused the delinquency.
- The department was late in getting forms to the taxpayer.

Current law also requires waiver of penalties if the taxpayer requests the waiver for a tax return that is filed on a regular basis and the taxpayer has timely filed all tax returns with the tax due for the previous 24 months.

Summary: The Department of Revenue is required to waive penalties when the delinquency is the result of circumstances beyond the control of the person responsible for filing the estate tax return.

Votes on Final Passage:

Senate 46 0

House 98 0

Effective: July 27, 1997