
HOUSE BILL 3157

State of Washington 58th Legislature 2004 Regular Session

By Representative McIntire

Read first time 01/30/2004. Referred to Committee on Finance.

1 AN ACT Relating to penalties on assessments; amending RCW
2 82.32.090; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.32.090 and 2003 1st sp.s. c 13 s 13 are each
5 amended to read as follows:

6 (1) If payment of any tax due on a return to be filed by a taxpayer
7 is not received by the department of revenue by the due date, there
8 shall be assessed a penalty of five percent of the amount of the tax;
9 and if the tax is not received on or before the last day of the month
10 following the due date, there shall be assessed a total penalty of
11 fifteen percent of the amount of the tax under this subsection; and if
12 the tax is not received on or before the last day of the second month
13 following the due date, there shall be assessed a total penalty of
14 twenty-five percent of the amount of the tax under this subsection. No
15 penalty so added shall be less than five dollars.

16 (2) If the department of revenue determines, other than through the
17 managed audit process, that any tax (~~is due~~) has been substantially
18 underpaid, there shall be assessed a penalty of five percent of the
19 amount of the tax determined by the department to be due; and if

1 payment of any tax determined by the department to be due is not
2 received by the department by the due date specified in the notice, or
3 any extension thereof, there shall be assessed a total penalty of
4 fifteen percent of the amount of the tax under this subsection; and if
5 the tax is not received on or before the thirtieth day following the
6 due date specified in the notice of tax due, or any extension thereof,
7 there shall be assessed a total penalty of twenty-five percent of the
8 amount of the tax under this subsection. (~~No penalty so added shall~~
9 ~~be less than five dollars.~~) As used in this section, "substantially
10 underpaid" means that less than seventy-five percent of the taxes due
11 were paid and the amount of underpayment is no less than one thousand
12 dollars.

13 (3) If the department of revenue determines through the managed
14 audit process or other than as described in subsection (2) of this
15 section, that any tax is due and payment of the tax due is not received
16 by the department by the due date specified in the notice, or any
17 extension thereof, there shall be assessed a penalty of ten percent of
18 the amount of tax due under this subsection; and if the tax is not
19 received on or before the thirtieth day following the due date
20 specified in the notice of tax due, or extension thereof, there shall
21 be assessed a total penalty of twenty percent of the amount of the tax
22 due under this subsection.

23 (4) If a warrant be issued by the department of revenue for the
24 collection of taxes, increases, and penalties, there shall be added
25 thereto a penalty of ten percent of the amount of the tax, but not less
26 than ten dollars.

27 (~~(+4)~~) (5) If the department finds that a person has engaged in
28 any business or performed any act upon which a tax is imposed under
29 this title and that person has not obtained from the department a
30 registration certificate as required by RCW 82.32.030, the department
31 shall impose a penalty of five percent of the amount of tax due from
32 that person for the period that the person was not registered as
33 required by RCW 82.32.030. The department shall not impose the penalty
34 under this subsection (~~(+4)~~) (5) if a person who has engaged in
35 business taxable under this title without first having registered as
36 required by RCW 82.32.030, prior to any notification by the department
37 of the need to register, obtains a registration certificate from the
38 department.

1 ~~((+5))~~ (6) If the department finds that all or any part of a
2 deficiency resulted from the disregard of specific written instructions
3 as to reporting or tax liabilities, the department shall add a penalty
4 of ten percent of the amount of the additional tax found due because of
5 the failure to follow the instructions. A taxpayer disregards specific
6 written instructions when the department of revenue has informed the
7 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
8 fails to act in accordance with those instructions unless the
9 department has not issued final instructions because the matter is
10 under appeal pursuant to this chapter or departmental regulations. The
11 department shall not assess the penalty under this section upon any
12 taxpayer who has made a good faith effort to comply with the specific
13 written instructions provided by the department to that taxpayer.
14 Specific written instructions may be given as a part of a tax
15 assessment, audit, determination, or closing agreement, provided that
16 such specific written instructions shall apply only to the taxpayer
17 addressed or referenced on such documents. Any specific written
18 instructions by the department of revenue shall be clearly identified
19 as such and shall inform the taxpayer that failure to follow the
20 instructions may subject the taxpayer to the penalties imposed by this
21 subsection.

22 ~~((+6))~~ (7) If the department finds that all or any part of the
23 deficiency resulted from an intent to evade the tax payable hereunder,
24 a further penalty of fifty percent of the additional tax found to be
25 due shall be added.

26 ~~((+7))~~ (8) The penalties imposed under subsections (1) through
27 ~~((+4))~~ (5) of this section can each be imposed on the same tax found
28 to be due. This subsection does not prohibit or restrict the
29 application of other penalties authorized by law.

30 ~~((+8))~~ (9) The department of revenue may not impose both the
31 evasion penalty and the penalty for disregarding specific written
32 instructions on the same tax found to be due.

33 ~~((+9))~~ (10) For the purposes of this section, "return" means any
34 document a person is required by the state of Washington to file to
35 satisfy or establish a tax or fee obligation that is administered or
36 collected by the department of revenue, and that has a statutorily

1 defined due date.

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