

RULE

Department of Revenue Policy Services Division

Penalty Waiver (LAC 61:III.2101)

Under the authority of R.S. 47:1502, R.S. 47:1511 and R.S. 47:1603(A), as amended by Act 198 of the 2014 Regular Session of the Louisiana Legislature, effective July 1, 2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division adopts LAC 61:III.2101, as amended.

Act 198 of the 2014 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1603(A) to provide with respect to the authority of the secretary of the Department of Revenue to collect and enforce the collection of taxes. Act 198 specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program.

This Rule amends LAC 61:III.2101 to direct taxpayers to rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of penalties under its voluntary disclosure agreement program.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 21. Interest and Penalties

§2101. Penalty Waiver

A. The secretary may waive a penalty in whole or in part for the failure to file a return on time or the failure to timely remit the full amount due when the failure is not due to the taxpayer's negligence and is considered reasonable. All penalty waiver requests must be in writing and be accompanied by supporting documentation. If the combined penalties for a tax period exceed \$100, all of the facts alleged as a basis for reasonable cause must be fully disclosed in an affidavit sworn before a notary public in the presence of two witnesses and accompanied by any supporting documentation. The affidavit must be signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the sworn affidavit may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. In lieu of an affidavit, the taxpayer may submit a request for waiver of penalties for delinquency form signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the request for waiver of penalties for delinquency form may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. The request for waiver of penalties for delinquency form must be accompanied by any supporting documentation.

B. Before a taxpayer's request for penalty waiver will be considered, the taxpayer must be current in filing all tax returns and all tax, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Department of Revenue must be paid.

C. In determining whether or not to waive the penalty in whole or in part, the department will take in account both the

facts submitted by the taxpayer and the taxpayer's previous compliance record with respect to all of the taxes/fees administered by the Department of Revenue. Prior penalty waivers will be a significant factor in assessing the taxpayer's compliance record. Each waiver request submitted by the taxpayer will be considered on an individual basis. Each tax period or audit liability will be considered separately in determining whether the penalty amount mandates approval of the waiver by the Board of Tax Appeals. The delinquent filing and delinquent payment penalties will also be considered separately in making this determination.

D. In the case of a request to enter into a voluntary disclosure agreement with the Department of Revenue, the secretary will remit or waive delinquent penalties as provided in LAC 61:III.2103 and/or any other applicable rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of such penalties under its voluntary disclosure program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:866 (June 2001), amended LR 29:950 (June 2003), amended by the Department of Revenue, Policy Services Division, LR 41:000 (March 2015).

Tim Barfield
Secretary

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