

## Rule 001 - Waiver of Late Penalty

The Parish sales and use tax ordinances (Section 9.03) state that "If the amount of tax due ... is not paid on or before the twentieth (20<sup>th</sup>) day of the month next following the month for which the tax is due, there shall be collected, with said tax, ... a penalty equivalent to five per cent (5%) for each thirty (30) days, or fraction thereof, of delinquency, not to exceed twenty-five percent (25%) in aggregate, of the tax due, when such tax is not paid within thirty (30) days of the date the tax first becomes due and payable." LA R.S. 47:337.71 states that "If the failure to make any return at the time such return becomes due or the filing of a return without remittance of the full amount due, is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the collector, the collector may remit or waive payment of the whole or part of the specific penalty provided for such failure."

After an assessment is made, the taxpayer has the right to request a waiver of penalty. Any request for waiver must be made in writing. This request becomes a permanent taxpayer record. Requests for waivers of penalties may be granted or denied in whole or part. In all cases, the goal of the Collector is to maintain a consistent and effective policy while treating all taxpayers fairly. The factors listed below are utilized, to the extent applicable, in making all decisions relative to penalty waivers.

The following are situations where, as a rule, late penalties will not be waived:

- A. **Taxpayer Registration.** A taxpayer that has not registered for sales and use taxes purposes with the Parish.
- B. **Taxes Collected but Not Remitted.** The taxpayer has collected, but not remitted taxes, to the Parish.
- C. **Level of Cooperation.** The taxpayer has imposed needless time delays in providing the necessary records to ascertain liability, uses abusive language, subjects Parish personnel to unnecessarily uncomfortable working conditions, or has provided incomplete records.
- D. **Previous Collection/Examination.** There have been previous collections for delinquencies or the tax issues in question have previously been the subject of an examination.
- E. **Taxes Paid Late:** Taxes due are paid more than ninety (90) days late.

The following are situations where waiver of late penalties may be considered:

- F. **Level of Taxpayer Effort.** If a taxpayer is attempting to collect or accrue taxes properly and the errors made do not appear to be intentional, then the taxpayer is more likely to receive favorable consideration.
- G. **Taxpayer Payment History.** If a taxpayer has been paying his taxes timely in prior periods, his chances of receiving favorable consideration are enhanced.
- H. **Complexity of Tax Issue.** There may be circumstances in complex tax situations when it is not clear whether or not tax applies. If the tax issue in question is a complex one where the applicability of tax to the transaction is not clear, the taxpayer is in a better position to obtain favorable consideration.
- I. **Special or Unusual Conditions.** If the tax in question resulted from apparent inadvertent coding errors, the taxpayer is in a better position for obtaining favorable consideration than under other circumstances.
- J. **Prompt Payment.** If a taxpayer pays the tax and interest in a timely manner after being billed, he is in a better position to obtain favorable consideration.
- K. **Corrective Action.** Willingness of a taxpayer to take corrective action to prevent a recurrence of tax underpayment is an important consideration. If a taxpayer is willing to change his method of accounting and procedures in order to reduce the likelihood of the same error occurring again, he is more likely to obtain favorable consideration.
- L. **Taxes Paid Late:** Taxes due are paid less than ninety (90) days late and reasonable cause given.