

Chapter 02 – Damages for Delinquent Payment of Tax

- 100 The Sales Tax Law requires that monthly sales tax returns shall be filed by the twentieth of the month following the period covered, and quarterly sales tax returns shall be filed by the twentieth of the month following the end of the quarter. Persistent, willful or recurring failure to file such returns on or before the due date subjects the taxpayer to damages and interest on the amount due.
- 101 Any taxpayer who violates Section 27-65-33 the second time in any calendar year will be considered a persistent, willful or recurring delinquent for purposes of this regulation. Any taxpayer, to whom a twenty-day delinquent notice has been directed, as provided by Section 27-65-35, will be subject to damages and interest for delinquent filing when the tax is paid.
- 102 Any taxpayer that files a return after the due date or makes a payment after the due date, will be assessed a 10% penalty. This is applicable in those instances where the failure to file and/or pay is due to the taxpayers' negligence and the failure to comply is determined to be without the intent to defraud.
- 103 In the instance a taxpayer files a return after the due date and/or makes a late payment, and it is determined by the Commissioner that there is intentional disregard of the law or done with intent to defraud, there will be a 50% penalty assessed. This will be used in cases where the taxpayer continually files and/or pays late, or where the taxpayer continues to disregard instruction given through an audit and is subsequently audited and found to owe on the same issue.
- 104 Taxpayers that are found to collect tax but fail to remit the tax to the Department of Revenue will be assessed a 300% penalty. This can be in addition to the 10% or the 50% late file or late pay penalty.
- 105 The only exceptions to this procedure will be in those cases where the taxpayer makes a bond, or when the taxpayer requests, and is granted an extension of time in which to file, as provided by Section 27-65-33. When the taxpayer makes bond, returns may be filed quarterly; and if the extension is granted, returns may be filed before expiration of the extension without penalty.
- 106 The taxpayer discount will not be allowed on returns which are filed after the twentieth of the month next succeeding the period covered or if the return is not fully paid. The granting of extensions of time in which to file returns does not extend the period for claiming the discount. In the instance a taxpayer files and pays a timely return claiming a discount, and then subsequently files an amended return owing more tax, the discount claimed shall be added back in the amended calculation.
- 107 (Reserved)