

ALABAMA DEPARTMENT OF REVENUE  
ADMINISTRATIVE CODE

CHAPTER 810-14-1  
TAXPAYERS; BILL OF RIGHTS AND UNIFORM REVENUE PROCEDURES

810-14-1-.30      Penalty For Failure To Timely Pay Tax.

(1) SCOPE.

(a) The provisions contained herein shall govern the application of the Failure to Timely Pay penalty to all taxes administered by the department, except for:

1. Penalties relating to registration and titling of motor vehicles; and
2. Penalties related to ad valorem taxes on real or personal property. Notwithstanding the preceding sentence, ad valorem taxes related to the property of public utilities are included within the scope of this regulation.

(b) This penalty shall be applied to the net tax liability (tax amount shown due on a return less any payments or credits) that remains unpaid after the due date prescribed for the payment of the tax.

(c) This penalty shall also be applied to tax due in a "Notice and Demand" notification sent to a taxpayer.

(2) DEFINITIONS.

(a) Return. Any form or return that is defined in Sections 40-1-1(2), 40-1-1(14) and 40-2A-3(19).

(b) Notice and Demand. Written notification to a taxpayer of unpaid taxes stating the amount of tax due, the type of tax, the period for which tax is due, and demanding the payment thereof.

(3) PENALTY PROVISIONS. The Failure to Timely Pay Penalty shall be calculated on annual returns differently from monthly or quarterly returns, as follows:

(a) Annual Returns.

1. In the event a taxpayer fails to pay the tax shown as due on an annual return on or before the due date prescribed for the payment of the tax, a penalty of 1 percent of the tax per month or 1 percent of the tax for

each fraction of a month thereof, shall be added. However, this penalty shall not exceed 25 percent of the tax. For example, where a taxpayer timely files an income tax return due on April 15, but fails to pay the amount shown as due on the return until September 30, a nonpayment penalty of 6 percent plus interest applies.

2. In the event a taxpayer fails to pay any amount of tax required to be shown on an annual return within 30 calendar days from the date of the first notice and demand, as defined in paragraph (2) (b), a penalty of 1 percent of the amount of tax due per month or 1 percent of the tax for each fraction of a month thereof, shall be added. However, this penalty shall not exceed 25 percent of the tax. For example, where a taxpayer receives a notice and demand on June 1, for tax which was required to be shown on a return, but was not so shown, a penalty of 4 percent of the unpaid tax plus interest will be added if the tax remains unpaid until October 16.

(b) Taxes for which Monthly or Quarterly Returns are Required.

1. In the event the taxpayer fails to pay the tax shown due on a monthly or quarterly return on or before the due date prescribed for the payment of the tax, a penalty of 10 percent of the amount of the tax not paid on or before the due date shall be added. For any tax for which no return is required until an event triggers a liability, there shall be a penalty of 10 percent of the tax not paid on or before the due date.

2. In the event the taxpayer fails to pay any amount of tax required to be shown on a monthly or quarterly return, or any amount of tax for which no return is required, within 30 calendar days from the date of the first notice and demand, a penalty of 10 percent of the unpaid tax stated in the notice and demand shall be added.

3. The following are examples of taxes which are subject to the 10 percent penalty:

(i) gasoline tax, Section 40-17-33, Code of Ala. 1975;

(ii) motor fuels tax, Section 40-17-5, Code of Ala. 1975;

(iii) lubricating oil excise tax, Sec. 40-17-186, Code of Ala. 1975;

(iv) tobacco tax, Section 40-25-4, Code of Ala. 1975;

- (v) hazardous waste fee, Section 22-30B-5, Code of Ala. 1975;
- (vi) dog race track pari-mutuel pool tax, Section 40-26A-3, Code of Ala. 1975;
- (vii) horse wagering fee, Section 11-65-29, Code of Ala. 1975;
- (viii) state sales tax, Section 40-23-7, Code of Ala. 1975;
- (ix) state use tax, Section 40-23-68, Code of Ala. 1975;
- (x) state rental or leasing tax, Section 40-23-7, Code of Ala. 1975;
- (xi) state utility gross receipts tax, Section 40-23-7, Code of Ala. 1975;
- (xii) state lodgings tax, Section 40-26-3, Code of Ala. 1975;
- (xiii) state contractors gross receipts tax, Section 40-23-7, Code of Ala. 1975;
- (xiv) mobile telecommunications services tax, Section 40-21-121, Code of Ala. 1975;
- (xv) state hospital tax, Section 40-26B-61, Code of Ala. 1975;
- (xvi) state nursing facility tax, Section 40-26B-22, Code of Ala. 1975;
- (xvii) state pharmaceutical providers tax, Section 40-26B-3, Code of Ala. 1975;
- (xviii) counties sales, use, and lodgings taxes, Section 40-23-7, Code of Ala. 1975;
- (xix) municipalities' sales, use, and lodgings taxes, Section 40-23-7, Code of Ala. 1975;
- (xx) utility license tax, Section 40-21-50, Code of Ala. 1975;
- (xxi) coal severance tax, Section 40-13-3, Code of Ala. 1975;
- (xxii) forest products severance tax, Section 9-13-86, Code of Ala. 1975;

(xxiii) withholding tax, Section 40-18-74, Code of Ala. 1975;

(xxiv) income tax estimate payments, Section 40-18-83, Code of Ala. 1975; and

(xxv) oil and gas severance taxes, Sections 9-17-26(b) and 40-20-5, Code of Ala. 1975.

(xxvi) international fuel tax agreement, Sections 40-17-270 through 40-17-275, Code of Ala. 1975.

(4) The "Failure to Timely Pay" penalty shall apply for any tax in which attempted payment is made via:

(a) a check that is returned by the bank due to insufficient funds, or

(b) electronic media when the transaction is subsequently dishonored or invalidated as a result of actions or inactions by the taxpayer.

(5) The "Failure to Timely Pay" penalty may be waived in whole or in part by the Department upon a determination of "reasonable cause" following the guidelines in Rule 810-14-1-.33.01, entitled Assessment and Waiver of Civil Penalties.

**Author:** Ann F. Winborne, Michael Mason

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