

MEMORANDUM

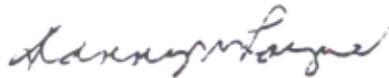
TO: Jane Bailey, Manager  
Systems Development Project Team

DATE: December 21, 1984

SUBJECT: Assessment of penalty and interest: Miscellaneous Taxes

Attached is the information prepared by Tax Policy Division on the assessment of penalty and interest on miscellaneous taxes. This information was requested by your staff.

If you have any further questions or comments, please let me know.



Danny M. Payne, Director  
Tax Policy Division

dlk

SUBJECT: Assessment of initial penalty and interest and additional penalty and interest.

The purpose of this paper is to review the authority and time period for assessing penalty and interest and assessing additional penalty and interest subsequent to original assessment on the miscellaneous taxes.

Generally:

Section 58-1160, 58.1-1812 on and after January 1, 1985, imposes interest "at the rate equal to the rate of interest established pursuant to Section 6621 I.R.C." Since this section provides only for State conformity with federal rates, it cannot be construed to incorporate the new Section 6622 I.R.C. and daily interest compounding. Accordingly, Virginia does not conform to the federal method of compounding interest daily.

General Provisions for penalty and interest:

Section 58.1-1812 provides for the assessment of penalties and interest if a proper return is not filed or if the full proper tax is not paid. This section applies to all taxes unless penalties or interest are otherwise specified.

Penalties:

If no penalty is otherwise prescribed, the penalty is 5% of the tax due. If failure to pay in full is fraudulent, the penalty is 100% of tax due.

Interest:

In addition to penalties, interest on the outstanding tax and penalty shall be charged at the rate established under Section 58.1-15 for the period between the due date and date of full payment.

Additional interest:

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Virginia Watercraft Sales and Use Tax

Tax due return:

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Failure to file return:

If taxpayer fails to file required return or pay tax within 30 days after the required filing and payment date, a 5% penalty shall be added to the unpaid tax.

After 60 days after the required filing and payment date, additional penalties of 5% of unpaid tax shall be added for each 30 day, or fraction thereof, periods. The maximum penalty is 25% unless there is a false or fraudulent return with willful intent or willful failure to file with intent to defraud in which case penalty is 50% or less of the proper tax assessed.

Interest:

Interest accrues on the unpaid amount of tax and penalty from the day after the last day for timely filing and paying tax until the tax is paid.

Additional interest:

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Aircraft Sales and Use Tax

§ 58.1-1510

Tax due return:

Failure to file return:

If taxpayer fails to file required return or pay tax within 30 days after the required filing and payment date, a 5% penalty shall be added to the unpaid tax.

Additional penalties of 5% of unpaid tax shall be added for each additional 30 days, or fraction thereof, that tax remains unpaid. The maximum penalty is 25% unless there is a false or fraudulent return in which case penalty is 50% of proper tax.

Interest:

Interest accrues on the unpaid amount of the tax and penalty from the day after the last day for timely filing and paying tax until the tax is paid.

Additional interest:

If taxes, penalties and interest are not paid within 30 days from the date of the original assessment, interest accrues on total tax, penalty and interest originally assessed from the date of the assessment until payment.

Forest Products

§ 58.1-1619

Tax due return: § 58.1-1619

Deficiency return: § 58.1-1620

If taxpayer fails to pay tax when due, a 5% penalty shall be added to the unpaid tax.

Interest:

Interest accrues on the unpaid amount of tax and penalty due six months from the due date until the tax is paid.

Additional interest: § 58.1-1812

If taxes, penalties and interest are not paid within 30 days from the date of the original assessment, interest accrues on total tax, penalty and interest originally assessed from the date of the assessment until payment.

Audited records: § 58.1-1621

After taxpayer is notified, if deficiency not paid within 30 days from the date of notification, penalty accrues at 1/2 of 1% per month on unpaid amount from the date taxes became due unless willful or fraudulent intent, then penalty is 25% of tax.

Litter Tax

§ 58.1-1709

Failure to pay tax timely:

Penalty:

Penalty is equal to 100% of amount of tax due.

Interest: Regulation

Interest accrues on the unpaid amount of tax and penalty from June 1 until time of payment.

Bank Franchise Tax

§ 58.1-1216

Tax due return:

Failure to file return:

Penalty:

Penalty is 5% of the tax due.

Interest:

Interest accrues for the period between the due date and date of full payment.

Additional interest

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Estate Tax

§§ 58.1-905 and 58.1-906

Tax due return:

Failure to file return:

Section 58.1-1812 computation of interest and penalty applies to timely filed returns with tax due. Therefore, penalty is 5% of the tax due and interest accrues on the outstanding tax and penalty for the period between the due date and date of full payment. If failure to pay in full was fraudulent, the penalty is 100% of the tax due.

Additional interest:

If taxes, penalties and interest are not paid within 30 days from the date of the original assessment, interest accrues on total tax, penalty and interest originally assessed from the date of the assessment until payment.

Return filed under extension:

Interest accrues for the period between the date when the tax was due with no extension and the date of full payment.

Amended Returns: § 58.1-906

- A. Tax due: Interest accrues for the period between the date when the tax was originally due and the date of full payment.

B. Assessed tax by federal government: If taxpayer's representative files required notice within 60 days of determination, interest accrues for the period between the date when the tax was originally due and the date of full payment.

Corn

§ 3.1-1046

Tax not paid when due:

If taxpayer fails to pay tax required when due and payable, interest accrues at the rate of 1% per month for the period from the due date to the date of full payment.

Slaughter Hog and Feeder Pig

§ 3.1-763.10

Tax not paid when due:

If taxpayer fails to pay the tax required when due and payable, a 5% penalty shall be added to the unpaid tax.

Interest:

If the tax and 5% penalty is not paid within 30 days from date of notice to taxpayer, interest accrues on the unpaid amount of tax and penalty for the period from the due date to the date of full payment.

Additional interest:

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Peanut

§ 3.1-660

Tax not paid when due:

If taxpayer fails to pay the tax required when due and payable, a 5% penalty shall be added to the unpaid tax.

Interest:

If the tax and 5% penalty is not paid within 30 days from date of notice to taxpayer, interest accrues on the unpaid amount of tax and penalty for the period from the due date to the date of full payment.

Additional interest:

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Eggs

§ 3.1-796.016

Tax not paid when due:

If taxpayer fails to pay tax required when due and payable, interest accrues for the period from the due date to the date of full payment.

Soybean

§ 3.1-684.16

Tax not paid when due:

If taxpayer fails to pay the tax required when due and payable, interest accrues on the unpaid amount of tax for the period from the due date to the date of full payment.

Beer and Beverage

§ 58.1-714

Tax due return:

Failure to file return:

If taxpayer fails to file required return and pay tax required, a 5% penalty shall be added to the unpaid tax.

Additional penalties of 5% of unpaid tax shall be added for each additional 30 days, or fraction thereof, that tax remains unpaid. The maximum penalty is 25% unless there is a false or fraudulent return with willful intent to defraud in which case penalty is 50% of proper tax due.

Interest: § 58.1-1812

Interest accrues on the unpaid amount of tax and penalty for the period between the due date and date of full payment.

Additional interest

Interest accrues on the total assessment of taxes, penalties and interest if not paid within thirty days from the date of such assessment until payment.

Soft Drink

§ 58.1-1703

Interest and penalties accrue the same as income taxes. (Corporate, individual and partnership.) The provisions are:

Failure to pay tax when due: §§ 58.1-351 and 58.1-455

If taxpayer fails to pay required tax when due, a 5% penalty shall be added to the unpaid tax.

Failure to file return:

Corporations:

If taxpayer fails to file required return when due, a \$100 penalty will be assessed.

All others:

If taxpayer fails to file required return when due, a 10% penalty shall be added to the unpaid tax.

Interest:

Interest accrues on the unpaid amount of tax and penalty between the date when the tax was originally due and the date of full payment.

Return filed under extension:

Interest accrues for the period between the date when the tax was originally due and the date of full payment.

Cigarette Tax

Cash sales. No interest applicable.