



COMMONWEALTH of VIRGINIA

Department of Taxation
Richmond, Virginia 23282

MEMORANDUM

TO: W. S. Cordle, Director
Field Services Division

DATE: July 18, 1990

RE: Sales and Use Tax Audit Penalty

This will reply to your memorandum of June 26, 1990, regarding the assessment of sales and use tax penalties.

Virginia Regulation 630-10-80 sets forth the department's official policy on penalties. Subsection A of the regulation states that penalty is applicable whenever a dealer fails to file a return or fails to pay in full the tax listed on the return. Subsection C of the regulation deals with audits and notes that the penalty will normally be waived in the first audit and also in subsequent audits if compliance is acceptable.

As policy in this area is well established, its application to issues that auditors deal with on an everyday basis should more appropriately be addressed through the FSD audit manual.

As a general rule, auditors may certainly choose to apply penalty whenever a return is filed late or the tax listed on the return is not paid in full. However, in cases where returns were filed and the tax is found in audit to have been underreported, normal audit penalty application under subsection C of VR 630-10-80 should be followed.

Please let me know if you have any questions.

A handwritten signature in cursive script that reads "Janie E. Bowen".

Janie E. Bowen
Tax Policy Director