



*WMS*

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TAXATION

RICHMOND 23282

MEMORANDUM

TO: Lynn Snyder  
Systems Development Project Team

DATE: July 28, 1983

SUBJECT: Computation of Additional Penalty When Minimum  
Penalty Assessed

You have requested advice about computation of additional penalty on late payments of sales tax when the minimum penalty is assessed initially.

\* Under Section 58-441.27 of the Code, when a dealer fails to pay the full amount of sales tax due, a five percent penalty is to be added to the tax for failure to pay for not more than one month, and an additional five percent penalty is to be added for each additional month, or fraction of a month, not to exceed 25 percent in the aggregate. There is, however, a provision that there be added a minimum of \$10.00, whether or not any tax is due on a late-filed return.

It is my opinion that the statute intends that the minimum penalty be \$10.00, and that in cases where \$10.00 exceeds 25 percent of the tax, that \$10.00 is also the maximum penalty. Of course, interest would accrue monthly on the initial tax and penalty.

*W. R. Warner*

for

*Danny M. Payne*

Danny M. Payne, Director  
Tax Policy Division

pas

cc: Clayton Stewart  
Raymond Dobyns

*review and 8/10/83*

7/28/83

\* Lynn came back and asked also about use tax, no. Va. Has. Tax. & Withholding. I told her the same rule