

Rule 002 - Waiver of Negligence Penalty

Louisiana R.S. 47:337.73 states that "If any taxpayer fails to make any return required by this Chapter or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided, a specific penalty. The Parish ordinances define this specific penalty as "five percent (5%) of the tax or deficiency found to be due, or ten dollars (\$10), whichever is greater."

After an assessment is made, the taxpayer has the right to request a waiver of penalty. Any request for waiver must be made in writing. This request becomes a permanent taxpayer record. Requests for waivers of penalties may be granted or denied in whole or part. In all cases, the goal of the Collector is to maintain a consistent and effective policy while treating all taxpayers fairly. The factors listed below are utilized, to the extent applicable, in making all decisions relative to penalty waivers.

The following factors will have a bearing on requests for waiver of negligence penalty:

- A. **Grossly incorrect report** means any report filed where there is a substantial understatement of tax for any taxable period. The understatement is substantial if it exceeds the greater of a. ten percent (10%) of the tax required to be shown on the return for the taxable period, or b. ten thousand dollars (\$10,000.00).
- B. **False or fraudulent report** means any report filed with the intent to evade taxes, or a willful attempt to defraud or evade taxes that are due.
- C. **Fraudulent** refers to acts of deception or misrepresentation.
- D. **Willful negligence or intentional disregard** means willing failure to exercise the care that a prudent person usually exercises.

The following are situations where, as a rule, negligence penalties will not be waived:

- E. **Taxpayer Registration.** A taxpayer that has not registered for sales and use taxes purposes with the Parish.
- F. **Taxes Collected but Not Remitted.** The taxpayer has collected, but not remitted taxes, to the Parish.
- G. **Level of Cooperation.** The taxpayer has imposed needless time delays in providing the necessary records to ascertain liability, uses abusive language, subjects Parish personnel to unnecessarily uncomfortable working conditions, or has provided incomplete records.
- H. **Previous Collection/Examination.** There have been previous collections for delinquencies or the tax issues in question have previously been the subject of an examination.