

**Illinois Department of Revenue
Regulations**

Title 86 Part 700 Section 700.315 Collection Penalty

Section 700.315 Collection Penalty (UPIA Section 3-4.5)

- a) Penalty Imposed. The collection penalty is imposed under UPIA Section 3-4.5 when *payment* of any liability subject to the provisions of the UPIA is *not received by the Department prior to the 31st day after a Notice and Demand, Notice of Additional Tax Due, or Request for Payment of Final Liability is issued by the Department* with respect to that liability. (UPIA Section 3-4.5(b)) The collection penalty only applies to liabilities with respect to returns due (without regard to extensions) on or after July 31, 2003. The collection penalty is deemed assessed upon imposition, and is considered additional tax assessed under the Act under which the tax liability giving rise to that penalty was assessed.
- b) Amount of Collection Penalty
 - 1) \$30 Penalty. If the amount of liability (including penalties and interest) that is not timely paid in accordance with this Section is less than \$1,000, the collection penalty is \$30. (See UPIA Section 3-4.5(c)(1).)
 - 2) \$100 Penalty. If the amount of liability (including penalties and interest) that is not timely paid in accordance with this Section is \$1,000 or more, the collection penalty is \$100. (See UPIA Section 3-4.5(c)(2).)
- c) The collection penalty imposed under this Section is not imposed more than once with respect to the liability for a particular tax (including any related penalties and interest) for a given tax period.
- d) UPIA Section 3-8 (abatement of penalties when the taxpayer has reasonable cause for its delinquency) does not apply to the collection penalty.
- e) The provisions of this Section may be illustrated by the following examples.

EXAMPLE 1: On August 15, 2004, the Department issues Taxpayer a Notice and Demand for Payment of \$2,000 (including tax, interest and penalty) with respect to Taxpayer's 2003 Illinois income tax liability. On September 16, 2004, Taxpayer mails a check for the amount of \$2,000 in satisfaction of the Department's Notice and Demand. Taxpayer is subject to a collection penalty of \$100 because payment of the liability shown on the Notice and Demand was not received by the Department prior to the 31st day after the Notice and Demand was issued. The penalty applies even if Taxpayer had reasonable cause for the failure.

EXAMPLE 2: The facts are the same as in Example 1 except that, on September 15, 2004, Taxpayer mails a check for \$1,500 with respect to the Notice and Demand. No additional payment is made. Taxpayer is subject to a collection penalty of \$30 because the amount of the liability shown on the Notice and Demand that was not paid prior to the 31st day after the Notice and Demand was issued is only \$500.

EXAMPLE 3: If, in either Example 1 or Example 2, Taxpayer receives a subsequent Notice and Demand for the amount of penalty imposed in those examples, or for any liability for the same tax for the same taxable period, or any interest or penalty related to that liability, no additional penalty is imposed under this Section.

EXAMPLE 4: The facts are the same as in Example 1 except that, on April 15, 2006, the Department receives Taxpayer's amended return for its 2003 taxable year. That amended return indicates that the tax actually due on Taxpayer's 2003 return was \$0, as the result of taking into account subtraction modifications Taxpayer had failed to claim on its original return. The Department accepts Taxpayer's amended return. Taxpayer is not subject to a collection penalty with respect to the Notice and Demand issued August 15, 2004 because no liability remained unpaid by the 31st day after issuance of the Notice and Demand. If Taxpayer had paid the collection penalty prior to filing the amended return, the amended return is a claim for refund of the collection penalty previously assessed. Because the penalty did not apply, failure of the Taxpayer to timely pay an amount shown due on a subsequent Notice and Demand may be subject to penalty under this Section.

EXAMPLE 5: The facts are the same as in Example 4 except that Taxpayer's amended return relates to the carryback of a federal net operating loss incurred in the taxable year ending December 31, 2005. Taxpayer remains subject to a collection penalty of \$100 because payment of the liability shown on the Notice and Demand was not received by the Department prior to the 31st day after the Notice and Demand was issued. If a liability is reduced by a carryback, that reduction does not affect the computation of interest or penalties for any period before the carryback arises. (See *Manning v. Seeley Tube & Box Co. of New Jersey*, 70 S.Ct. 386 (1949).)

(Source: Added at 43 Ill. Reg. 14342, effective November 26, 2019)