



Penalties and Interest Changes

Informational Bulletin

November 2000

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Director of Revenue

For information or forms...

- ◆ Call us at:
1 800 732-8866 or
217 782-3336
- ◆ Call our TDD
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1 800 544-5304
- ◆ Write us at:
Illinois Department of Revenue
P.O. Box 19044
Springfield, IL 62794-9044
- ◆ Visit our Web site at:
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- ◆ Call
"Illinois Tax Fax," our
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To: Taxpayers and Tax Practitioners

Public Act 91-0803 made several changes to the Uniform Penalty and Interest Act.

- New calculations for the late-filing penalty, the late-payment penalty, and interest are effective for tax returns **due on or after January 1, 2001**.
- An additional penalty known as a bad check penalty will be imposed if your remittance is not honored by the financial institution upon which it is drawn. This penalty is effective **January 1, 2001**.

The calculations for the fraud, negligence, and personal liability penalties have not changed.

When is the late-filing or nonfiling penalty assessed?

You owe a late-filing penalty if

- you do not file a processable return by the due date, including any extended due date (*i.e.*, late-filing penalty); or
- you file a return that we cannot process and you do not correct it within 30 days of the date we notify you (*i.e.*, nonfiling penalty).

What changes were made to the late-filing penalty calculation?

For returns due on or after January 1, 2001, the late-filing penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on the return, after subtracting any payments made or credits allowed by the due date of the return. The penalty cannot exceed \$250.

Do these changes apply to returns due *before* January 1, 2001?

No. For returns due on or after January 1, 1996, and on or before December 31, 2000, the penalty continues to be 2 percent of the amount of tax required to be shown due on the return, determined without regard to any payments made or credits allowed by the due date of the return. The penalty cannot exceed \$250.

Were any other changes made to the late-filing or nonfiling penalty?

No. The late-filing penalty continues to be assessed the day after the original due date of your return (including any extended due date).

The **additional** penalty for nonfiling is still equal to the greater of \$250 or 2 percent of the amount of tax shown on the return, determined without regard to any payments made or credits allowed by the due date of the return, and cannot exceed \$5,000. This penalty will be assessed even if there is no tax liability due.

When is the late-payment penalty assessed?

Estimated or quarter-monthly tax payments — You owe a late-payment penalty if you are required to make either estimated or quarter-monthly tax payments and do not do so, or do not pay the required amount by the payment due date.

Regular tax payments — You owe a late-payment penalty if you do not pay the tax you owe by the original due date of the return (even if you have an extension of time to file).

What changes were made to the late-payment penalty calculation?

For returns due on or after January 1, 2001, this penalty is figured at increasing rates based on the number of days the payment is late. The penalty rates are

- 2 percent of any amount that is paid no later than 30 days after the due date;
- 5 percent of any amount that is paid later than 30 days but no later than 90 days after the due date;
- 10 percent of any amount that is paid later than 90 days but no later than 180 days after the due date; and
- 15 percent of any amount that is paid later than 180 days after the due date.

Do these changes apply to returns due *before* January 1, 2001?

No. For returns due on or after January 1, 1998, and on or before December 31, 2000, the late-payment penalty rate continues to be 20 percent of

- your required estimated or quarter-monthly tax payment for each required filing period, minus any timely payments and credits.
- the amount required to be shown due on your return, minus any timely payments, timely credits, and the tax used in figuring any underpayment of estimated or quarter-monthly tax.

Were any changes made to the additional liability late-payment or non-payment penalty?

No. This penalty continues to be assessed at the rate of 20 percent against the additional tax found to be due if it is not paid within 30 days of our notice of arithmetic error, notice and demand, or a final assessment.

Note: If

- a late-payment penalty for estimated, quarter-monthly, or regular tax payments **and**
- a late-payment penalty for non-payment of additional liability are assessed for the same return,

the late-payment or non-payment of additional liability penalty is assessed on the additional amount of tax due only.

What changes were made to the interest calculation?

For returns due on or after January 1, 2001, interest accrues on the amount of unpaid tax only.

Do these changes apply to returns due *before* January 1, 2001?

No. For returns due on or after January 1, 1994, and on or before December 31, 2000, interest continues to accrue on unpaid tax *and* penalties.

Were any other changes made to the interest calculation?

No. Interest is still figured using a daily rate and the rate continues to be adjusted twice each year in accordance with the underpayment rate established in the Internal Revenue Code.

What penalty will be imposed for writing a bad check?

Effective January 1, 2001, a bad check penalty of \$25 will be assessed if you send a remittance to the department that is not honored by your financial institution. This penalty will be assessed in addition to any other penalty.

What do I do if I disagree with a penalty assessment?

If you have been assessed a penalty and can show "reasonable cause" for not meeting the payment or filing requirements, you may qualify for a penalty abatement. Generally, "reasonable cause" is present when you can show that you exercised ordinary business care and prudence, but still were unable to meet the payment or filing requirement. For more information, see 86 Illinois Administrative Code, Section 700.400.

What if I need more information on penalties and interest?

For additional information, see

- Uniform Penalty and Interest Act, 35 ILCS 735/3-1 *et seq.*
- Publication 103 (R-11/00)
—*Uniform Penalties and Interest*
- Informational Bulletin FY98-22
—*Late-payment Penalty Rate Increases*
- Informational Bulletin FY96-15
—*Changes to Uniform Penalties and Interest Provisions*
- Informational Bulletin FY93-02
—*Uniform Penalties and Interest Act* ▲