



FILE
T.T.
Incl.
late filing Penalties

COMMONWEALTH of VIRGINIA

Department of Taxation
Richmond, Virginia 23282

MEMORANDUM

TO: Farley Beaton, Supervisor
Information Systems Division

FROM: Janie E. Bowen, Director *JB*
Tax Policy Division

DATE: May 24, 1991

SUBJECT: HB 1830: Application of Penalties to Pre-1990 Income
Tax Returns

You requested further clarification on the application of the late filing/payment penalties for income tax returns for taxable years prior to 1990 that are filed before July 1. Specifically, you wish to know whether late payment penalties will continue to accrue if such a return remains unpaid after July 1.

If a return for a taxable year prior to 1990 is filed before July 1, the maximum amount of late filing/payment penalties which may be assessed is 15% (10% and 5%, respectively). Thus, a taxpayer will not become liable for additional penalties if the return remains unpaid after July 1. Likewise, sales tax returns and other applicable returns which are subject to the maximum late filing/payment penalties of 25% prior to July 1, which have already been assessed the maximum penalty for 5 months prior to July 1, will not be subject to additional penalties.

In contrast, returns which have not yet reached the maximum penalty allowed by July 1, may be liable for additional penalties at the 6% rate after July 1. The following examples illustrate the application of the penalty in various situations:

1A - A taxpayer timely files its sales tax return on February 20, 1991 without payment. The taxpayer would be subject to late payment penalties of 5% per month for the five month period February - June, up to the maximum penalty of 25%. No additional penalties would be due, even if full payment is not received until after July 1, since the taxpayer has been assessed the maximum penalty allowed prior to July 1.

1B - A taxpayer timely files its sales tax return on April 20, 1991 without payment. The taxpayer would be subject to late payment penalties of 5% per month for April, May and June. The penalty rate would increase to 6% per month for July and August since the penalty has only been assessed for 3 months prior to July 1.

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2A - A taxpayer files its 1989 income tax return in February 1991 without payment. The taxpayer would be subject to a late filing penalty of 10% and late payment penalty of 5%, the maximum amount allowed. No additional penalties would be due, even if the return remains unpaid after July 1, since the maximum amount of penalties applicable prior to July 1 has already been assessed.

2B - A taxpayer files its 1989 income tax return in August 1991 without payment. The taxpayer would be subject to late filing/payment penalties of 6% per month, up to the maximum 30%, since the return is filed after July 1.

2C - A taxpayer files its 1990 income tax return May 15, 1991 without payment. The taxpayer would be subject to late filing/payment penalties of 5% per month for May and June. The rate will increase to 6% per month for July, August and September.

I hope this answers your question.

c: Ron Holt, Supervisor
Technical Services Section
Office Services Division