

810-14-1-.05 Procedure for Abatement of Penalties.

(1) If the Department fails to substantially comply with Section 40-2A-4, Code of Alabama 1975, the Commissioner or his delegate is hereby empowered to abate any penalty otherwise arising from an examination or assessment upon written application for abatement of penalties by the taxpayer or for other good cause shown.

(a) The taxpayer's written application should outline the basis of the request for the abatement.

(b) Written application by the taxpayer should be made to the supervisor of the appropriate assessing section or division. The written application should be attached to an audit or tax return when it is presented to the supervisor for assessment proceedings or when the audit is paid.

(c) Upon receipt of a written application for abatement or upon request by a taxpayer assistance officer, the supervisor shall request that a recommendation be submitted from the employee who determined that additional taxes are due.

(d) The supervisor shall then make a recommendation regarding the abatement to the appropriate division chief; and the division chief, in turn, shall then be responsible for making a final recommendation for abatement of penalties to the Commissioner or his delegate.

(e) Failure by the Department to comply with any provision of Section 40-2A-4, Code of Alabama 1975, shall not prohibit the Department from assessing any tax, nor excuse the taxpayer from timely complying with any time limitations.

(2) The Department may abate any penalties attributable to erroneous written advice furnished to a taxpayer by an employee of the Department if:

(a) the employee provided the written advice in good faith while acting in an official capacity;

(b) written advice was reasonably relied on by the taxpayer;

(c) the written advice was given in response to a specific written request of the taxpayer; and

(d) the penalties did not result from the taxpayer's failure to provide adequate or accurate information.

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