

810-3-80-.01 Penalties.

(1) Penalties are provided for failure to file declarations of estimated tax, failure to pay installments of estimated tax, and for certain substantial underestimations of tax on declarations.

(a) Any person, required under the provisions of § 40-18-82, Code of Alabama 1975, to file a declaration of estimated tax and pay the amount estimated in installments, who fails to file such declaration at the time and in the manner prescribed shall be subject to a penalty. For the purpose of this penalty, the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed, showing an estimated tax equal to the correct tax reduced by the credits allowed by §§ 40-18-78 and 40-18-21. The penalty shall be five (5) percent of each installment due but unpaid for one (1) month, or any fraction thereof, plus one (1) percent of the installment due but unpaid for each month thereafter. In no event shall the penalty exceed ten (10) percent of the unpaid portion of any installment due but unpaid.

(b) Any person, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who files the required declaration but fails to pay the installments timely shall be subject to a penalty. The penalty shall be five (5) percent of each installment due but unpaid for one month, or any fraction thereof, plus one (1) percent of the installment due but unpaid for each month thereafter. In no event shall the penalty exceed ten (10) percent of the unpaid portion of any installment due but unpaid.

(c) Any individual, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who substantially under-estimates his tax shall be subject to a penalty. The penalty shall be the lesser of:

1. In the case of an individual other than a farmer, the amount by which ninety (90) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the amount prepaid by estimated tax payments and/or withholding, or

2. In the case of an individual farmer, the amount by which sixty-six and two-thirds ( $66 \frac{2}{3}$ ) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the amount prepaid by estimated tax payments and/or withholding, or

3. Six (6) percent of the correct tax (after credits allowed by § 40-18-21, if any) reduced by the amount of tax prepaid by estimated tax payment and/or withholding.

(i) The underestimation penalty shall not apply to the taxable year in which:

(l) falls the death of the taxpayer, or

(II) the taxpayer files an estimate and makes timely payments of an amount equal to or greater than the tax for the prior year.

I. If the liability for the previous year was zero (-0-) (except for a net operating loss carryback to such year), it will not be necessary to file a declaration of zero (or to make payments) to qualify for the exception to the penalty in sentence (II) above.

(d) 1. Any corporation, required under the provisions of § 40-18-82 to file a declaration of estimated tax and pay the amount estimated in installments, who substantially under-estimates its tax shall be subject to a penalty. The penalty shall be the lesser of:

(i) The amount by which ninety (90) percent of the correct tax (after credits allowed by § 40-18-21, if any) exceeds the estimated tax, or

(ii) Six (6) percent of the correct tax (after credits allowed by § 40-18-21, if any) reduced by the amount of the estimated tax payments.

2. The underestimation penalty shall not apply to the taxable year in which the corporation files an estimate and makes timely payments of an amount equal to or greater than the tax for the prior year.

(i) If the liability for the previous year was zero (-0-), it will not be necessary to file a declaration of zero (or to make payments) to qualify for the exception to the penalty in section 2. above.

(e) 1. Any person who issues the Department a bad check will, in addition to any other penalties provided by law, pay a penalty equal to:

(i) 10% of the amount of the bad check, if the bad check is for \$500 or more, or

(ii) \$10.00 or the amount of the bad check, whichever is lesser, if the bad check is less than \$500.

2. This penalty shall not apply if settlement is made by the payee within 10 days after notification by the Department. See § 40-29-70, Code of Alabama 1975.

(f) "Person" as used in this regulation includes an officer of a corporation or a member of a partnership whose duty it is to perform the act(s) required. See § 40-29-72(b).

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Code of Alabama 1975

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