

810-13-1-.13 PENALTIES FOR NONCOMPLIANCE

(1) The provisions of Code of Alabama 1975, as amended, shall govern the administration of any tax, interest, or penalty assessed due to late EFT payments, except as provided in these rules.

(2) No specific additional penalty provisions are provided concerning compliance with the EFT tax payment requirement. Rather, the general provisions for all taxpayers apply. To avoid the imposition of penalties, timely filing of the tax return along with timely payment in accordance with the provisions of Code of Alabama 1975, as amended, and the provisions of these rules is required.

(3) Failure of a taxpayer to respond to the notification from the Department concerning the required use of EFT to make payments for a tax type or failure to timely or properly make EFT payments in accordance with these rules shall subject the taxpayer to applicable penalty, interest, and loss of discount, as provided by the Code of Alabama 1975, as amended, for delinquent or deficient tax payments. If payment is made for a tax type for which a taxpayer was selected to make payments using EFT, and the payment is made in a method which is not in accordance with the procedures stated in these rules, a delinquent payment penalty for that tax type as specified in the Code of Alabama 1975, as amended, may be assessed. In addition to any penalty which may be imposed, interest shall be added to the amount of tax due from the due date of the tax payment to the date that the funds become available to the State Treasury. It is presumed, in the absence of evidence to the contrary, that said funds will be available on the third business day following receipt of payment.

(4) Penalties may be waived when the circumstances causing delinquency are beyond the control of the taxpayer. Errors made by the Data Collection Center, the State Treasury or the Department which result in a late payment by the taxpayer shall not subject the taxpayer to late payment penalties, interest, or loss of applicable discount for the late payment.

(5) When a taxpayer uses the ACH Debit payment method, the State of Alabama's bank is the originating bank and is responsible for the accuracy of the transmission. If the taxpayer timely initiated the ACH Debit transaction, received a verification number, and can show adequate funds were available in the bank account, no penalties shall apply with respect to the payment if the transaction was not properly completed.

(6) When a taxpayer uses the ACH Credit payment method, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for the accuracy and proper completion of the transaction. The taxpayer must show timely initiation of the transaction, must have provided the correct information for the NACHA CCD+ entry and the required TXP Banking Convention addenda record, must show that there were

sufficient funds in the account, and must show that the financial institution properly completed the transaction in a timely manner in order to prove timely compliance. If the taxpayer can make this showing, then no penalties shall apply with respect to the payment if the transaction was not properly completed.

(7) A taxpayer who is required to make EFT payments and who is unable to make a timely payment because of system failures within the Automated Clearing House System, which are beyond the taxpayer's control, shall not be subject to penalty or interest for late payment or loss of applicable discount.

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