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Administrative Policies Affecting Penalties on Audits. Husson University 2015

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Department of Administrative and Financial Services

Administrative Policies Affecting Penalties on Audits

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Husson University 2015

Substantial Understatement Penalty Application

- ***First Time Audit***

- Generally, the initial audit of a registered taxpayer that has filed their returns will not be assessed penalty.
- Change in entity type (1120-C changed to LLC with new EIN) would be an exception to this policy provided other details surrounding the entity remained the same.



Substantial Understatement Penalty

- ***First Time Issue***

- Tax liability arising from a subsequent audit of a registered taxpayer that was not addressed on a prior audit, will typically not be subject to penalty.
- Unlike the first time audit policy mentioned previously, which is more universally applied, the individual facts of a case determine whether the penalty is waived on a first time issue.
- A subsequent audit with similar issues to a prior examination would be subject to penalty up to 25%.



Failure to File Penalty Application

- ***First Time Audit***

- The penalty is generally applied in a situation where a return was due but was not filed.



Failure to File Penalty

- ***First Time Issue***

- The penalty is generally applied in a situation where a return was due but was not filed.



Failure to File Penalty

- *Exception*
 - Penalty may be conditional in regard to certain item assessment inquiries for individual use tax.
- Letters sent may include a statement similar to the following:
“If the enclosed Certificate is completed and tax paid within 30 days of the date of this letter, a bill for interest will be sent to you and penalties will be waived.”
- Penalties may be re-applied if conditions for waiver of the penalty are not met. Penalty may still be waived outside of the parameters set forth in the correspondence if the taxpayer has voluntarily submitted requested information and has provided an adequate reason for the delayed response.



Several initiatives are currently in place that employ this internal policy.

- Documented vessels
- ST-6 inquiries (Motor vehicles, Boats, etc...)
- Customs inquiries



Voluntary Disclosure Program

The screenshot shows the Maine.gov website for the Department of Administrative & Financial Services, specifically the Maine Revenue Services page. The page title is "Voluntary Disclosure Program". The navigation menu includes Home, Tax Divisions, Electronic Services, Forms, Publications & Applications, and Tax Relief. The main content area is titled "Voluntary Disclosure Program" and contains the following text:

Maine Revenue Services strives to work with taxpayers to ensure full compliance with Maine tax laws. The Voluntary Disclosure Program is a part of this effort. The purpose of the Program is to provide an opportunity for businesses and individuals with unfiled or underreported tax liability to come forward to meet such obligations voluntarily.

Taxpayer Benefits

- Maintain anonymity during the Voluntary Disclosure process
- Potential reduction in tax periods included
- Potential to reduce look-back periods
- Potential reduction or elimination of penalties

Voluntary Disclosure Program considerations

- The Program is available for most of the major tax types administered by Maine Revenue Services.
- The Taxpayer must not have been contacted by Maine Revenue Services concerning the tax type or period at issue.
- Voluntary Disclosure Requests are processed as quickly as possible.

How to participate in the Voluntary Disclosure Program

- Prepare a Voluntary Disclosure Request by submitting written correspondence including the following information:
- Type of legal entity, e.g. individual, corporation, S-corporation, partnership, etc.
- Tax Type involved
- Years or months at issue
- Detailed description of taxpayer's activities in Maine and information on any products sold or services provided
- A statement affirming or disaffirming collection of taxes from a third party (sales tax, employment withholding tax)
- Confirmation of registration (if business taxpayer) with Maine Revenue Services and the Secretary of State
- A reasonable estimate of tax due per tax type A statement confirming no contact from Maine Revenue Services concerning the tax type or period at issue
- Please note that additional information may be requested
- Submit the Voluntary Disclosure Request to:

- <http://www.maine.gov/revenue/divisions/voldisclosure.html>



Voluntary Disclosure Program

- Anonymous process until agreement is reached.
- Limitation of periods under review compared to audit examinations.
- Reduction in penalty.
- Every application has unique facts that influence the process.



Voluntary Compliance Initiatives

- Authorized by the legislature.
 - Terms of program can vary.
- No initiatives of this type are currently authorized, but the other methods of penalty forgiveness and abatement are currently in place.



Historical Compliance Initiatives

Maine Revenue Services Compliance Initiatives

1991 Maine Tax Amnesty: All the tax and interest was required to be paid and all of the penalty would be waived on existing debts, missing returns and disclosure of unreported tax liabilities. Tax periods paid under the program would eliminate any possibility of criminal prosecution. All taxes administered by Maine Revenue Services were eligible.

2003 Maine Tax Amnesty: All the tax and ½ of the interest must be paid and all of the penalty would be waived on existing debts, missing returns and disclosure of unreported tax liabilities. Tax periods paid under the program would eliminate any possibility of criminal prosecution. All taxes administered by Maine Revenue Services were eligible.

2006 Use Tax Compliance: The Program was for Use tax only. It covered purchases over six calendar years (2000-2005). All prior liability was waived. Payment of the tax (no interest or penalties) was required for the three calendar years with the highest use tax liability; use tax liability for the three “low years” was forgiven. Participants were also absolved from liability for criminal prosecution and civil penalties related to those taxes.

2009 Tax Receivable Reduction Initiative: The 2009 Tax Receivables Reduction Initiative (TRRI) was open to most taxpayers who owed Maine taxes. The TRRI program was for existing debts relating to taxes administered by Maine Revenue Services. Payment of the tax, interest and 10% of the penalty was required, the remaining penalties were waived. Taxpayers could not participate in this program if their case had been referred to the Attorney General for criminal prosecution or if outstanding civil warrants or judgments had been filed with the courts.

2010 Tax Receivable Reduction Initiative: The 2010 Tax Receivables Reduction Initiatives consisted of 2 separate initiatives, the “short-term initiative” and the “5-year initiative.” The TRRI program was for existing debts relating to taxes administered by Maine Revenue Services. **1. Short-term initiative.** A taxpayer who participated in the short-term initiative was entitled to a waiver 95% of the penalties otherwise due if payment of all the tax, interest and 5% of the penalty was paid. **2. Five-year initiative.** A taxpayer who participated in the 5-year initiative was entitled to a waiver by the assessor of 95% of the penalties and interest otherwise due if payment of all the tax, 5% of the interest and 5% of the penalty was paid.

2012 Special Use Tax: The Program was for Use tax only. It covered purchases over six calendar years (2006-2011). All prior liability was waived. Payment of the tax (no interest or penalties) was required for the three calendar years with the highest use tax liability; use tax liability for the three “low years” was forgiven. Participants were also absolved from liability for criminal prosecution and civil penalties related to those taxes.

