

RCW 82.38.170 Civil and statutory penalties and interest—

Deficiency assessments. (1) If any person fails to pay any taxes due the state of Washington within the time prescribed by RCW 82.38.150 and 82.38.160, the person must pay a penalty of 10 percent of the tax due.

(2) If the tax reported by any licensee is deficient a penalty of ten percent of the deficiency must be assessed.

(3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any person, other than a licensee, fails, neglects, or refuses to file a required fuel tax report, or files a false or fraudulent report, the department must calculate and assess a penalty. The penalty under this subsection is \$100 plus an additional five cents per gallon not properly reported or falsely reported. An assessment made by the department pursuant to this subsection is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(5) If any person establishes by a fair preponderance of evidence that failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1), (2), and (4) of this section.

(6) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, there is added to the amount of deficiency a penalty of 25 percent of the deficiency, in addition to all other penalties prescribed by law.

(7) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person a penalty of 100 percent of the tax in addition to the tax owed.

(8) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment. The department may waive interest when it determines the cost of processing the collection exceeds the amount of interest due.

(9) Except in the case of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate the assessments.

(10) Except in the case of a fraudulent report or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the 25th day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires later.

(11) (a) Any person against whom an assessment is made under the provisions of subsections (1), (2), and (4) of this section may petition for a reassessment within 30 days after service upon the person of the assessment. If such petition is not filed within such 30 day period, the amount of the assessment becomes final.

(b) If a petition for reassessment is filed within the 30 day period, the department must reconsider the assessment and, if the person has requested in the petition, must grant a review by the department and give 10 days' notice of the time and place. The department may continue the review as needed. The decision of the department upon a petition for reassessment becomes final 30 days after service upon the person.

(c) Every assessment made by the department becomes due and payable at the time it becomes final and if not timely paid to the department, a penalty of 10 percent of the amount of the tax is added to the assessment.

(12) Any notice of assessment required by this section must be served by depositing such notice in the United States mail, postage prepaid addressed to the person at the address shown in the records of the department.

(13) Any licensee who has had a fuel license revoked must pay a \$100 penalty, submit an application for reinstatement on forms prescribed by the department, and must resolve all outstanding violations, noncompliance items, and debts owed under this chapter, and chapters 46.87 and 82.42 RCW to the satisfaction of the department, prior to the issuance of a new license.

(14) Any person required to be licensed under RCW 82.38.090(1)(f) found operating without such license is subject to an assessment of \$500 in addition to all other penalties prescribed by law.

(15) Any person who, upon audit or investigation by the department, is found to have not paid fuel taxes as required by this chapter is subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who will hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

(16) RCW 43.05.110 does not apply to the civil penalties imposed under this section. [2024 c 1 s 8; 2013 c 225 s 118; 2002 c 183 s 4; 1998 c 176 s 70; 1996 c 104 s 12; 1995 c 274 s 24; 1994 c 262 s 25; 1991 c 339 s 7; 1987 c 174 s 6; 1983 c 242 s 4; 1979 c 40 s 13; 1977 c 26 s 3; 1973 1st ex.s. c 156 s 7; 1972 ex.s. c 138 s 3; 1971 ex.s. c 175 s 18.]

Effective date—2024 c 1: See note following RCW 46.87.020.

Effective date—2013 c 225: See note following RCW 82.38.010.

Effective date—1987 c 174: See note following RCW 82.38.160.

Effective date—1972 ex.s. c 138: See note following RCW 82.38.080.