

FINAL BILL REPORT

SSB 6892

C 2 L 10 E 2

Synopsis as Enacted

Brief Description: Establishing a temporary penalty and interest waiver program for certain excise taxes administered by the department of revenue.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Murray; by request of Department of Revenue).

Senate Committee on Ways & Means

Background: Current tax law provides a variety of penalties related to timely and accurate filing and payment of excise taxes.

Penalties are added to the taxes due under the following circumstances: late filing of tax returns; late payment of taxes (including tax assessments and warrants); failure to register as a taxpayer; disregard of specific written instructions; failure to remit sales tax to the seller; evasion; and misuse of resale certificates or reseller permits. Penalties may be waived or cancelled only upon finding that the underpayment or failure to pay tax was the result of circumstances beyond the control of the taxpayer.

Interest is added to the amount of outstanding taxes. However, interest is not added to the amount of any penalties assessed. The rate of interest is calculated as an average of the federal short term rate plus two percentage points. The rates for calendar year 2010 and 2011 are 3 percent. Interest may only be waived or cancelled if the failure to pay was the direct result of written instructions or a due date was extended for the sole convenience of the Department of Revenue (DOR).

When taxpayers make payment, amounts are applied first to interest, then penalties, and finally to the tax due.

Summary: DOR is authorized to waive most penalties and interest added to the following taxes which became due before February 1, 2011: state business and occupation tax (B&O), state public utility tax (PUT), state or local sales or use taxes.

To obtain an interest and penalty waiver, a taxpayer must meet the following conditions:

- By April 18, 2011, file all outstanding tax returns and any amended tax returns relating to the tax liabilities for which a penalty and interest waiver is requested;
- By April 18, 2011, complete and deliver a request form for a waiver;

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- By May 1, 2011, make full payment of taxes due for which a penalty and interest waiver are requested;
- Timely file all current tax returns and make all tax payments due from January 31, 2011, and before May 1, 2011;
- By May 1, 2011, pay any penalties added for evasion or misuse of reseller permit or resale certificate; and
- The taxpayer must never have been a defendant in a criminal prosecution related to an offense involving the failure to collect or pay the proper amount of any excise tax.

Taxpayers receiving penalty or interest waivers under this legislation may not seek a refund or otherwise challenge their tax liability paid under these conditions.

DOR may not waive penalties for tax evasion or misuse of reseller permits or resale certificates.

Payments made to DOR prior to May 1, 2011, are applied first to B&O, PUT, and sales and use taxes, then to any other taxes, and then to penalties or interest.

If taxpayers are current for tax returns due as of November 25, 2010, tax liability that accrues after that date would not qualify for the temporary waiver of interest and penalties. As a condition to request a waiver of penalties and interest, a taxpayer may never have been assessed penalties for evasion or misuse of a reseller permit or resale certificate.

Votes on Final Passage:

Second Special Session

Senate	38	0
House	93	0

Effective: February 1, 2011