

PENALTY WAIVER OR ADJUSTMENT ON TAX ASSESSMENTS

REQUESTING PENALTY WAIVER OR ADJUSTMENT

All tax and interest must be paid prior to requesting waiver or adjustment of penalties. The tax code does not allow waiver of interest. Requests for waiver or adjustment of penalty must be submitted in writing. Requests should be addressed to:

City of Mesa Tax Audit & Collections
PO Box 1466
Mesa, AZ 85211-1466

Requests must contain the specific information or event that caused the penalty. Upon review, a written decision will be sent to the taxpayer.

CONSIDERATION OF PENALTY WAIVER OR ADJUSTMENT REQUEST

The Tax Code provides that the Tax Collector may waive or adjust penalties for reasonable cause. Reasonable cause is presumed when the taxpayer uses ordinary business care and prudence in the handling of filing and payment of their taxes. This means a taxpayer has a good filing and payment history and the incident that caused the penalty assessment is not a continual problem with the taxpayer, and there are specific reasons why the return was not filed and tax paid timely.

EXCERPTS FROM MESA TAX CODE SECTION 5-10-540:

(F) The Tax Collector shall waive or adjust penalties imposed by Subsections (B)1 and (B)2 above upon a finding that:

1. In the past, the taxpayer has consistently filed and paid the taxes imposed by this Chapter in a timely manner;
2. The amount of the penalty is greatly disproportionate to the amount of the tax; or
3. The failure of a taxpayer to file a return and/or pay any tax by the delinquency date was caused by any of the following circumstances which must occur prior to the delinquency date of the return or payment in question:

- (a) The return was timely filed but was inadvertently forwarded to another taxing jurisdiction.
- (b) Erroneous or insufficient information was furnished the taxpayer by the Tax Collector or his employee or agent.
- (c) Death or serious illness of the taxpayer, member of his immediate family, or the preparer of the reports immediately prior to the due date.
- (d) Unavoidable absence of the taxpayer immediately prior to the due date.
- (e) Destruction by fire or other casualty of the taxpayer's place of business or records.
- (f) Prior to the due date, the taxpayer made application for proper forms which could not be furnished in sufficient time to permit a timely filing.
- (g) The taxpayer was in the process of pursuing an active protest of the tax in question in another taxing jurisdiction at the time the tax and/or return was due.
- (h) The taxpayer establishes through competent evidence that the taxpayer contacted a tax advisor who is competent on the specific tax matter, and after furnishing necessary and relevant information, the taxpayer was incorrectly advised that no tax was owed and/or the filing of a return was not required.
- (i) The taxpayer has never been audited by a City for the tax or on the issue in question and relied, in good faith, on a State exemption or interpretation.
- (j) The taxpayer can provide some public record (court case; report in a periodical, professional journal, or publication; etc.) stating that the transaction is not subject to tax.
- (k) The Arizona Department of Revenue, based upon the same facts and circumstances, abated penalties for the same filing period. A taxpayer may also request a waiver or adjustment of penalty for a reason thought to be equally substantive to those reasons

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itemized above. All requests for waiver or adjustment of penalty must be in writing and shall contain all pertinent facts and other reliable and substantive evidence to support the request. In all cases, the burden of proof is upon the taxpayer.

- (G) No request for waiver of penalty under Subsection (F) above may be granted unless written request for waiver is received by the Tax Collector within forty-five (45) days following the imposition of penalty. Any taxpayer aggrieved by the refusal to grant a waiver under Subsection (F) above may appeal under the provisions of Section 5-10-570 provided that a petition of appeal or request for an extension is submitted to the Tax Collector within forty-five (45) days of the taxpayer's receipt of notice by the City that waiver has been denied.
- (H) For the purpose of this Section, "reasonable cause" shall mean that the taxpayer exercised ordinary business care and prudence, *i.e.*, had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property in this City.
- (I) For the purpose of this Section, "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention, or the like, rather than an "honest mistake." Examples of negligence include:
 1. The taxpayer's failure to maintain records in accordance with Article III of this Chapter;
 2. Repeated failures to timely file returns; or
 3. Gross ignorance of the law.

This publication is for general information only about Transaction Privilege (Sales) Tax. For complete details refer to the City of Mesa Privilege & Excise Tax Code Section: 5-10-540 Interest and civil penalties. In case of inconsistency or omission in this publication, the language of the Tax Code will prevail. The transaction privilege tax is commonly referred to as a sales tax; however, the tax is on the privilege of doing business in Mesa and is not a true sales tax.

FOR LICENSING INFORMATION CONTACT:
480.644.2316
licensing.info@mesaaz.gov

FOR TAX INFORMATION CONTACT:
480.644.2051
salestax.info@mesaaz.gov



TAX AUDIT & COLLECTIONS
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