

CHAPTER 9

Penalties

SECTIONS

- § 901. Willful violation of revenue laws.**
- § 902. Monthly penalty upon unpaid taxes and fees.**
- § 903. Waiver.**

§ 901. Willful violation of revenue laws.

Except where another penalty is specified for a violation of a provision of this title, any person who willfully violates any of the provisions of this title, or any license, rule, or regulation issued thereunder, shall upon conviction be imprisoned for a period of not more than one year, or fined not more than \$500, or both.

Source: COM PL 3-32 § 1 (part); TT Code 1970, 77 TTC 201; TT Code 1980, 77 TTC 201; PL 9-139 § 59.

§ 902. Monthly penalty upon unpaid taxes and fees.

In case of failure to pay any tax levied or imposed under this title when due, there shall be added to the amount due five percent of the principal amount of such tax, if the failure is not for more than one month, with an additional one percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate, in addition to any penalties assessed under section 155 of this title.

Source: COM PL 3-32 § 1 (part); TT Code 1970, 77 TTC 202; TT Code 1980, 77 TTC 202; PL 13-61 § 5.

Case annotations: The statement in 54 F.S.M.C. 144(2) that penalties provided in chapter 1 will apply to the gross revenue tax law does not preclude the penalty specified in 54 F.S.M.C. 902 from applying. *FSM v. George*, 2 FSM R. 88, 91 (Kos. 1985).

PL 3-32, the predecessor of 54 F.S.M.C. 902, is subject to the interpretation that it was to be a catch-all provision applicable to all taxes which subsequently might be established by Congress. *FSM v. George*, 2 FSM R. 88, 94 (Kos. 1985).

The penalty provisions of 54 F.S.M.C. 902 apply to failure to make timely payment of the gross revenue tax imposed under 54 F.S.M.C. 141. *FSM v. George*, 2 FSM R. 88, 94 (Kos. 1985).

Statutory provisions designed to enhance the capacity of the government to enforce penalties for failure to pay taxes are penal, not remedial, and should be strictly construed. In re Island Hardware, Inc., 3 FSM R. 428, 432 (Pon. 1988).

Under 54 F.S.M.C. 902, a monthly penalty is imposed on delinquent payment of any tax specified in Title 54, including gross revenue tax. *Setik v. FSM*, 5 FSM R. 407, 409 (App. 1992).

By statute, a taxpayer is liable for penalties and interest on any underpayment of his gross revenue tax liability regardless of the reason for underpayment, unless some other principle of law applies to afford the taxpayer relief. *NIH Corp. v. FSM*, 5 FSM R. 411, 413-14 (Pon. 1992).

Where the government's prior audit methods had the effect of permitting gross revenue tax computation on the cash basis and where the government's attempts to advise businesses that they are required to use the accrual method have for many years been woefully inadequate, the government will be barred by equitable estoppel from assessing penalties and interest on any underpayment of taxes that was the result of being led to believe that the cash basis was an acceptable method of tax computation. *NIH Corp. v. FSM*, 5 FSM R. 411, 415 (Pon. 1992).

§ 903. Waiver.

(1) Notwithstanding any other provision of this title, all civil penalties and interest under this title, which were levied or could have been levied prior to the effective date of this Act, shall be waived with respect to any taxpayer who, at any time between the effective date of this Act and January 1, 2008, pays the full amount of the tax owed by the taxpayer, except that no penalty assessed under section 155(4) of this title shall be waived.

(2) With respect to delinquent taxpayers who have a balance of zero (\$0) for their capital amount due, the Secretary of Finance and Administration is empowered for the duration of the period set forth in subsection (1) of this section to write off and discharge all penalties and interest currently owing.

Source: PL 13-61 § 6; PL 14-83 § 1.

Editor's note: This section did not have a title in PL 13-61 § 6 or PL 14-83 § 1. This section has been entitled "Waiver" based on its content.