



# Uniform Penalty and Interest Changes

## Informational Bulletin

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### For information or forms...

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### To: Taxpayers and Tax Practitioners

Public Act 93-0032 made several changes to the Uniform Penalty and Interest Act.

- ◆ New calculations for the late-payment penalty are effective for tax returns due on or after January 1, 2004.
- ◆ An underreporting penalty will replace the current additional liability late-payment or nonpayment penalty on returns due on or after January 1, 2004.
- ◆ An additional cost of collection fee will be imposed if you do not pay the total amount shown due on a bill within 30 days of the notice being issued. This is effective for returns due on or after July 1, 2003.
- ◆ New interest rate calculations are effective for interest accruing on or after January 1, 2004.

The calculations for late-filing or nonfiling, bad check, fraud, negligence, and personal liability penalties have not changed.

### When is the late-payment penalty assessed?

**Estimated or quarter-monthly tax payments** — You owe a late-payment penalty if you are required to make either estimated tax payments or quarter-monthly tax payments and do not do so, or do not pay the required amount by the payment due date.

**Regular tax payments** — you owe a late-payment penalty if you do not pay the tax you owe by the original due date of the return (even if you have an extension of time to file).

### What changes were made to the late-payment penalty calculation?

For returns due on or after January 1, 2004, the rates imposed, based on the number of days the payment is late, have changed. The new rates are:

- ◆ 2 percent of any amount that is paid no later than 30 days after the due date;
- ◆ 10 percent of any amount that is paid later than 30 days, but no more than 90 days after the due date;
- ◆ 15 percent of any amount that is paid later than 90 days, but no more than 180 days after the due date; and
- ◆ 20 percent of any amount that is paid later than 180 days after the due date.

### Do these changes to the late-payment penalty apply to returns due before January 1, 2004?

No. For returns due before January 1, 2004, the rates indicated in the Uniform Penalty and Interest Act apply. See Publication 103, Uniform Penalties and Interest for more information.

### **Were there any other changes made to the late-payment or nonpayment penalties?**

Yes. The law has been changed to assess late payment penalty on the tax amount "required to be shown due." If you fail to report the correct amount of tax on your return, you will be assessed a late-payment penalty on any additional amount of tax that you should have reported.

### **Were there any changes made to the additional liability late-payment or non-payment penalty?**

Yes. For tax returns due on or after January 1, 2004, the additional liability late-payment or non-payment penalty for amounts that were required to be shown on a return, but not actually reported, is no longer in effect. However, additional liabilities may be subject to the late-payment penalty on regular tax, and the underreporting penalty.

The additional liability late-payment or non-payment penalty will continue to be imposed on returns and liabilities due on or before December 31, 2003.

### **What is the underreporting penalty?**

The underreporting penalty replaces the additional liability late-payment penalty for returns due on or after January 1, 2004.

You owe this penalty if you fail to report the correct amount of tax required to be shown due on an original or amended return before the due date of the return (including any extended due date).

### **What are the rates of the underreporting penalty?**

The amount of the penalty depends on when the original or additional tax liability is reported and the amount of tax reported after the due date of the return (including any extended due date), without regard to payments, withholding, or overpayments from prior returns that are credited or applied against your tax liability.

The penalty rates are

- ◆ 5 percent if you report the full amount of tax due on an original return, or an additional tax liability on an amended return after the due date of the return (including any extended due date), but before we initiate an audit or investigation.
- ◆ 10 percent if you report the full amount of tax on an original return, or an additional liability on an amended return after we initiate an audit or investigation, but before we issue a notice of deficiency, notice of tax liability, notice of assessment, or notice of final assessment.
- ◆ 20 percent if you do not report the full amount of the liability after we have issued a notice of deficiency, notice of tax liability, notice of assessment or notice of final assessment.

### **What is the cost of collection fee?**

This fee is imposed if we send you a notice and demand, notice of additional tax due, final assessment, or a request for payment of final liability, and you do not pay the full amount of tax,

penalties, and interest shown on the notice within 30 days after we send you the notice.

### **What are the rates of the cost of collection fee?**

The amount of the fee depends on how much of the amount shown due on the notice of demand, notice of additional tax due, final assessment, or request for payment of final liability remains unpaid 30 days after we send you the notice.

- ◆ If the total unpaid amount is less than \$1,000, the penalty amount is \$30.
- ◆ If the total unpaid amount is \$1,000 or more, the penalty amount is \$100.

### **Do the cost of collection fee changes apply to returns before January 1, 2004?**

Yes. The cost of collection fee is assessed on liabilities related to returns due on or after July 1, 2003.

### **What changes were made to the interest calculation?**

For interest accruing on or after January 1, 2004, the rate of interest payable on overpayments and underpayments is the "short-term federal rate" for the first year that the overpayment or underpayment accrues interest. This rate is established by the IRS and is 3 percent less than the "underpayment rate." After one year, interest will accrue on any remaining balance at the "underpayment rate," established under the Internal Revenue Code (IRC).

**Do these changes to the interest calculation apply to returns due before January 1, 2004?**

Yes. If you have an underpayment or overpayment that is accruing interest before January 1, 2004, and the first year of interest accrual is not complete when January 1, 2004 passes, the interest rate will change to the "short-term federal rate" for the remainder of that first year.

**Were any other changes made to the interest calculation?**

No. Interest is still figured at a daily rate and the rate continues to be adjusted twice each year in accordance with the "underpayment rate" established by the IRC.

**What do I do if I disagree with a penalty assessment?**

If you have been assessed a penalty and can show "reasonable cause" for not meeting the payment or filing requirements, you may qualify for a penalty abatement. Generally, "reasonable cause" is present when you can show that you exercised ordinary business care and prudence, but still were unable to meet the payment or filing requirement. For more information, see 86 Illinois Administrative Code, Section 700.400.

**What if I need more information on penalties and interest?**

For additional information, see

- ◆ Uniform Penalty and Interest Act, 35 ILCS 735/3-1 et seq.
- ◆ Publication 103 (R-11/03) Uniform Penalties and Interest
- ◆ Informational Bulletin FY2001-14 Penalties and Interest Changes
- ◆ Informational Bulletin FY98-22 Late-payment Penalty Rate Increases
- ◆ Informational Bulletin FY96-15 Changes to Uniform Penalties and Interest Provisions