



TAXATION & WEALTH PLANNING DEPARTMENT

ALERT

PHILADELPHIA DEPARTMENT OF REVENUE HAS DISCRETION TO WAIVE A SIGNIFICANT AMOUNT OF INTEREST AND PENALTY

By Owen A. Knopping

Doing business in Philadelphia can be very expensive, particularly if you fail to pay your taxes in a timely fashion. Currently, interest accrues at the rate of 12 percent per annum, i.e., one percent per month, while penalties accrue on a monthly basis at a significant rate with the penalty percentage increasing on a monthly basis, i.e., 30 percent after one year. The City's Department of Revenue and/or the Tax Review Board (an administrative Board authorized to review tax appeals, including appeals for waiver of interest and penalties) have the discretion to waive interest and penalties.

Policy Prior to June 15, 2011

Prior to June 15, 2011, the City's Department of Revenue had the discretion to abate interest and/or penalties up to a maximum of \$10,000. The Tax Review Board, which has authority to review tax appeals, including petitions for waiver of interest and penalty, has the discretion to waive all of the assessed interest and penalty (although it rarely does). A taxpayer can choose to go directly to the Tax Review Board without filing a petition with the Department of Revenue.

Policy that Became Effective June 15, 2011

Effective June 15, 2011, Philadelphia Ordinance § 19-1705, which relates to petitions for waiver of interest and penalties, was amended to include the following:

- Upon filing of a petition for waiver of interest and penalty with the Department of Revenue, the Department has the discretion to abate an outstanding interest balance

of up to \$15,000, or a penalty balance of up to \$35,000, or both.

- The taxpayer, as part of the application for relief, must agree to pay the remaining balance owed without further appeal to the Tax Review Board.
- The petition for waiver of interest and penalty must be filed within 60 days of the date of the bill noted on the first billing of any amount that is the subject of the petition.
- The petition must specify the reasons for seeking relief from the interest and penalty.
- The basis for relief is a finding by the Department that the taxpayer acted in good faith and without negligence and with no intent to defraud.
- The Department must consider each petition and notify the petitioner of its decision in writing within a reasonable time.
- If the decision by the Department of Revenue is not satisfactory to the taxpayer, the taxpayer can file a petition for waiver of the interest and penalty with the Tax Review Board within 30 days of the mailing of the Department's decision to the taxpayer or his representative.

As was the case of the procedure prior to June 15, 2011, a taxpayer can choose to file its appeal for waiver of interest and penalty directly with the Tax Review Board, without having to file a petition for waiver of

interest and penalty with the City's Department of Revenue.

Observation

As a general rule, it is my understanding that the Department's current policy, where relief is justified, is to give relief of 50/50, i.e., 50 percent relief of the interest amount and 50 percent relief of the penalty amount with respect to petitions filed with the Department. If this is the case, depending on the facts, a taxpayer may want to skip the procedure of filing a petition with the Department of Revenue and, instead, choose to file a

petition directly to the Tax Review Board. As a matter of experience, the Tax Review Board rarely provides 100 percent relief although it has the discretion to do so. However, once a petition is filed with the Tax Review Board, a taxpayer or his representative will have the opportunity to reach a settlement with an attorney in the City's Law Department Tax Unit before the petition is heard by the Tax Review Board.

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