

amount against any penalty, interest or taxes due, or to become due, or shall refund the amount to the person.

Approved May 19, 1980

CHAPTER 1113

TAX PENALTIES

S. F. 2327

AN ACT to provide or increase the penalty for failure to file or pay the state motor vehicle fuel, freight line and equipment car mileage, income, franchise, sales and use, or inheritance and estate taxes or local hotel and motel tax.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section three hundred twenty-four point sixty-five (324.65), Code 1979, is amended to read as follows:

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the appropriate state agency on or before the due date, unless it is shown that such the failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which such the failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit the tax due with the filing of the return on or before the due date or fails to pay any amount of the tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, unless-it-is-shown-that such-failure-was-due-to-reasonable-cause if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. ~~Provided,~~ ~~further,~~ ~~that~~ However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending

person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, shall be subject to a penalty of ten dollars if ~~such~~ the report is not timely filed with the appropriate state agency.

Sec. 2. Section four hundred twenty-two point sixteen (422.16), subsection ten (10), paragraph b, Code 1979, is amended to read as follows:

b. Any employer or withholding agent required under the provisions of this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a return for the withholding of tax with the department of revenue on or before the due date, unless it is shown that ~~such~~ the failure was due to reasonable cause, shall be subject to a penalty determined by adding to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which ~~such~~ the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit the tax due with the filing of the return on or before the due date, or fails to pay any amount of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent ~~on-the-tax-due unless-it-is-shown-that-such-failure-was--due--to--reasonable--cause~~ of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required on the return. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. ~~Such~~ The penalty and interest shall become a part of the tax due from the withholding agent.

Sec. 3. Section four hundred twenty-two point twenty-five (422.25), subsection two (2), Code 1979, is amended to read as follows:

2. In addition to the tax or additional tax as determined by the department under the provisions of subsection 1 of this section, the taxpayer shall pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In case of failure to file a return with the department on or before the due date (determined with regard to any extension of time for filing), unless it is shown that ~~such~~ the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as

tax on ~~such~~ the return five percent of the amount of ~~such~~ the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which ~~such~~ the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit the tax due with the filing of the return on or before the due date, or fails to pay any amount of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due ~~unless--it--is--shown--that--such--failure--was--due--to--reaseenable--cause, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate.~~ In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall be added to the amount required to be shown as tax on ~~such~~ the return fifty percent of the amount of ~~such~~ the tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 4. Section four hundred twenty-two point fifty-eight (422.58), subsection one (1), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter ninety-seven (97), section three (3), and as the section is amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter ninety-seven (97), sections three (3) and four (4), is amended to read as follows:

1. If any person fails to file a permit holders monthly tax deposit or a return with the department of revenue on or before the due date, unless it is shown that ~~such~~ the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly tax deposit or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which ~~such~~ the failure continues, not exceeding twenty-five percent in the aggregate. If any person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly tax deposit or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent ~~en~~ of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that ~~such~~ the failure was due to reasonable cause. In case of willful failure to file a return, willful filing of a false return or willful filing of a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection,

there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly tax deposit or return and failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the monthly tax deposit or return was required to be filed. ~~Such~~ The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

Sec. 5. Section four hundred twenty-three point eighteen (423.18), subsection one (1), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter ninety-seven (97), section five (5), is amended to read as follows:

1. If a person fails to file a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the ~~monthly-tax-deposit-or~~ return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the ~~monthly-tax-deposit-or~~ return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a return, willfully filing a false return, or willfully filing a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a ~~monthly-tax-deposit-or~~ return and failure to pay at least ninety percent of the tax due or required on the ~~monthly-tax-deposit-or~~ return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay at least ninety percent of the tax due or required on the ~~monthly--tax deposit--or~~ return. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the ~~monthly--tax--deposit--or~~ return was required to be filed. The penalty and

interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

Sec. 6. Section four hundred thirty-five point five (435.5), Code 1979, is amended to read as follows:

435.5 PENALTY. In case of failure to file a return with the department on or before the due date, unless it is shown that ~~such~~ the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on ~~such~~ the return five percent of the amount of ~~such~~ tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which ~~such~~ the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit the tax due with the filing of the return on or before the due date, or fails to pay the total amount of the tax due as shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due ~~unless-it-is-shown-that-such-failure--was--due--to--reasonable cause,~~ if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall be added to the amount required to be shown as tax on ~~such~~ the return fifty percent of the amount of ~~such~~ tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 7. Section four hundred fifty point sixty-three (450.63), Code 1979, is amended to read as follows:

450.63 MATURITY OF TAX--INTEREST.

1. All taxes imposed by this chapter shall be payable to the department of revenue and, except when otherwise provided in this chapter, shall be paid within twelve months from the death of the testator or intestate. All taxes not paid within the time prescribed in this chapter shall be subject to a penalty as provided in subsection two (2) of this section and shall draw interest at the rate of eight percent per annum thereafter until paid.

2. If a person liable for the payment of tax as stated in section four hundred fifty point five (450.5) of the Code fails to file a return with the department of revenue on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount of tax required to be shown as tax due on the return five percent of the amount of the tax, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person fails to remit the tax due with the filing of the return on or before the due date or fails to pay any amount of tax required to be shown on

the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a return and failure to pay the tax due or required to be shown on the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required to be shown on the return.

Sec. 8. Section four hundred fifty point ninety-four (450.94), Code 1979, is amended to read as follows:

450.94 FINAL RETURN--DETERMINATION--APPEAL.

1. "Taxpayer" as used in this section means a person liable for the payment of tax as stated in section 450.5.

2. The taxpayer shall file a final inheritance tax return on forms to be prescribed by the director of revenue. When a final inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest thereon, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of a month and before the first day of the following month.

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at six percent per annum, under the provisions of rules ~~as may be~~ prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed ~~becomes~~ became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, shall be final unless the ~~estate, trust, heir, beneficiary, transferee or other~~ person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by certified mail. The decision of the director shall be final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

4. Payments received must be credited first to the penalty and interest accrued and then to the tax due.

Sec. 9. Section four hundred fifty A point twelve (450A.12), Code 1979, is amended to read as follows:

450A.12 APPLICABLE STATUTES. All of the provisions of chapter 450 with respect to the payment and collection of the tax imposed under that chapter,

including penalty and interest upon delinquent taxes, are hereby--made applicable to the provisions of this chapter, except as ~~the same may be~~ they are in conflict ~~hereof with this chapter~~. The director shall adopt and promulgate ~~all~~ rules necessary for the enforcement of this chapter.

Sec. 10. Section four hundred fifty-one point twelve (451.12), Code 1979, is amended to read as follows:

451.12 APPLICABLE STATUTES. All the provisions of ~~the law as it appears~~ ~~in~~ chapter 450 with respect to the determination, imposition, payment and collection of the tax ~~thereby~~ imposed under that chapter, including penalty and interest upon delinquent taxes, are hereby--made applicable to the provisions of this chapter, except as ~~the same may be~~ they are in conflict with ~~the provisions hereof~~ this chapter. The director of revenue shall adopt and promulgate ~~all~~ rules necessary for the enforcement of this chapter.

Sec. 11. This Act takes effect January first after enactment.

Approved May 19, 1980

CHAPTER 1114

MOTOR VEHICLE REGISTRATION RECIPROCITY

H. F. 2479

AN ACT relating to the establishment, collection and disbursement of motor vehicle registration reciprocity fees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section three hundred twenty-six point twenty-two (326.22), Code 1979, is amended to read as follows:

326.22 OPERATIONAL LAWS OF IOWA APPLICABLE. Any A nonresident registered vehicle ~~shall be~~ is subject to all laws and rules governing the operation of such vehicle on the highways of this state. The registration number plates, ~~sticker~~ stickers, or other identification assigned and furnished to any vehicle for the current registration year by the state in which the vehicle is registered shall be displayed on ~~such~~ the vehicle substantially as provided in chapter 321 for vehicles registered pursuant to the provisions of this chapter. In addition, a fee set by the department to cover actual cost shall ~~charge and collect an additional fee of one dollar~~ be charged for each plate, ~~and--two--dollars--for--each~~ sticker, or other identification furnished for each vehicle registered in accordance with the provisions of this section or extended reciprocity in accordance with the provisions of this section ~~except--that--no.~~ A charge shall not be made for the initial registration receipt or cab card issued for each vehicle registered pursuant to an apportionment registration agreement. ~~The same A~~ a fee set by the department to cover actual costs shall be charged for issuance of duplicate plates, stickers or other identification required ~~and a fee of two dollars shall be~~