

**701—10.6(421) Penalties.**

**10.6(1) Penalties applicable to all taxpayers.** A penalty shall be assessed upon tax due under the circumstances described in this subrule. The rates for penalties described in this rule are uniform for all tax types. Unless otherwise specified in this subrule, see rule 701—10.7(421) for waivers that may apply to these penalties.

*a.* For failure to timely file a return, there is a 5 percent penalty on the unpaid tax. This penalty, once imposed, will be assessed on all subsequent amounts found by the taxpayer or the department to be due for the tax period. This penalty is in addition to any other penalty provided by law.

*b.* For failure to timely pay the tax due on a return, there is a 5 percent penalty on the unpaid tax. This penalty is in addition to any other penalty provided by law.

*c.* For a deficiency of tax due found during an audit or examination, there is a 5 percent penalty on the unpaid tax. This penalty is in lieu of the penalty for failure to timely pay but is in addition to any other penalty provided by law.

*d.* For willful failure to file a return with the intent to evade tax or a filing requirement, or in the case of willfully filing a false return with the intent to evade tax, there is a 75 percent penalty. This penalty is in lieu of other penalties applicable under this rule. This penalty is not subject to waiver.

*e.* For failure to remit at least 90 percent of the tax due by the time an extension for further time to file a return is made, there is a 10 percent penalty on the unpaid tax.

*f.* For failure to remit payment of taxes in the form or manner required by the rules of the director, there is a 5 percent penalty on the amount of the payment remitted in the incorrect form or manner, not to exceed \$500 per instance. This penalty shall be waived if the taxpayer was not notified of the requirement to remit tax payments electronically or if the incorrect electronic transmission of the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

**10.6(2) Penalties applicable to specified businesses for tax years beginning on or after January 1, 2022, in which no tax is due.**

*a.* Definitions. For purposes of this subrule, the following definitions apply:

*“Imputed Iowa liability”* means the specified business’s Iowa net income after the application of the Iowa business activity ratio, if applicable, multiplied by the applicable tax rate for the tax year, less any Iowa tax credits available to be claimed by the specified business in the current year. The applicable tax rate is:

1. In the case of an entity taxed as a C corporation, the top corporation income tax rate under Iowa Code section 422.33,

2. In the case of a financial institution as defined in Iowa Code section 422.61, the franchise tax rate under Iowa Code section 422.63, or

3. In the case of an entity taxed as an S corporation or partnership, the top individual income tax rate under Iowa Code section 422.5A.

*“Income return”* includes an Iowa corporation income tax return (IA 1120), an Iowa franchise tax return (IA 1120F), an Iowa S corporation income tax return (IA 1120S), and an Iowa partnership income tax return (IA 1065).

*“Specified business”* means any of the following:

1. An entity taxed as a C corporation that is required to file an Iowa corporation income tax return (IA 1120). This includes a consolidated group of corporations electing or required to file an Iowa consolidated return under Iowa Code section 422.37.

2. An entity taxed as an S corporation that is required to file an Iowa S corporation income tax return (IA 1120S).

3. A financial institution that is required to file an Iowa franchise tax return (IA 1120F).

4. An entity taxed as a partnership that is required to file an Iowa partnership income tax return (IA 1065).

*b.* For a failure by a specified business to timely file an income return when no tax is due, a penalty shall be assessed equal to the greater of \$200 or 5 percent of the imputed Iowa liability of the specified business, not to exceed \$25,000. A specified business that has Iowa tax due for a tax year (such as an S

corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

c. For willful failure by a specified business to file an income return with no tax shown due with the intent to evade a filing requirement, or in the case of willfully filing a false income return with no tax shown due with the intent to evade reporting of Iowa-source income, a penalty shall be assessed equal to the greater of \$1,500 or 75 percent of the imputed Iowa liability of the specified business. This penalty is not subject to waiver. A specified business that has Iowa tax due for a tax year (such as an S corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

**10.6(3) Examples.** The following are examples to illustrate the computation of penalties imposed under this rule. For purposes of these examples, interest has been computed at the rate of 12 percent per year or 1 percent per month. The tax due amounts are assumed to be the total amounts due when considering whether the failure to pay penalty should be assessed on the basis that less than 90 percent of the tax due was paid.

Example (a) — Failure to Timely File and Failure to Timely Pay

- a. Tax due is \$100.
- b. Return filed 2 months and 10 days after the due date.
- c. \$0 paid prior to filing.

The calculation for the total amount due 3 months after the due date is shown below:

Tax	\$100	
Penalty	10	(5% for failure to timely file, 5% for failure to timely pay)
Interest	3	(3 months interest)
Total amount due	\$113	

Example (b) — Failure to Timely Pay

- a. Tax due is \$100.
- b. Return is timely filed.
- c. \$0 paid with the return.

The calculation for the total amount due 5 months after the due date is shown below:

Tax	\$100	
Penalty	5	(5% for failure to timely pay)
Interest	5	(5 months interest)
Total amount due	\$110	

Example (c) — Audit Deficiency on Timely Filed Return

- a. Timely filed return reported \$100 tax due.
- b. \$100 paid with return.
- c. Audit completed 8 months after the due date of the return.
- d. \$100 in additional tax found due during audit.

The calculation for the total amount due is shown below:

Computed tax after audit	\$200	
Less tax paid with return	100	
Additional tax due	\$100	
Penalty	5	(5% for audit deficiency)
Interest	8	(8 months interest)
Total amount due	\$113	

Example (d) — Audit Deficiency on Late Return Granted an Exception From Failure to File

- a. Tax due reported on return is \$100.
- b. Return filed 3 months and 10 days after the due date.
- c. \$100 paid with the return.
- d. Taxpayer is granted an exception from penalty for failure to timely file and failure to timely pay.
- e. Audit completed 8 months after the due date of the return.
- f. \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due after audit	\$200	
Less tax paid with return	100	
Additional tax due	<u>\$100</u>	
Penalty	5	(5% for audit deficiency. No penalty for failure to file.)
Interest	<u>8</u>	(8 months interest)
Total amount due	\$113	

Example (e) — Audit Deficiency on Late Filed Return No Pay Return

- a. Tax due reported on the return is \$100.
- b. Return filed 3 months and 10 days after the due date.
- c. \$114 in tax, penalty, and interest paid with the return.
- d. Audit completed 8 months after the due date.
- e. \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due reported on original return	\$100	
Penalty	10	(5% for failure to timely file, 5% for failure to timely pay)
Interest	<u>4</u>	(4 months interest)
Total amount due on original return	\$114	
Additional tax due after audit	\$100	
Penalty	10	(5% for failure to file, 5% for audit deficiency)
Interest	8	(8 months interest)
Amount due after audit	<u>\$118</u>	
Total amount due for tax period	\$232	

Example (f) — Failure to Timely File by a Specified Business

- a. Tax due for tax year 2023 is \$0 because the entity is a partnership (IA 1065).
- b. Return is filed 7 months and 10 days after the due date.
- c. Partnership net income after calculation of the Iowa business activity ratio is \$30,000.
- d. Net income multiplied by the top individual tax rate in 2023 of 6.5 percent is \$1,950.
- e. Iowa tax credits available are \$1,000.
- f. Imputed Iowa liability is \$950.
- g. The penalty is the greater of 5 percent of the imputed Iowa liability (\$48) or \$200.

The calculation for the total amount due is shown below:

Tax	\$0
Penalty	200
Interest	<u>0</u>
Total amount due	\$200

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