

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 1: REVENUE AND TAXATION**

**§ 18122. Failure to File Tax Return or Pay Tax.**

(a) *Addition to the Tax.* In case of failure:

(1) To file any return required by this Division on the date prescribed therefore (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax due on such return 5 percent of the amount of such tax if the failure is not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate.

(2) To pay the amount shown as tax due on any return required by this Division on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax due on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues; or

(3) To pay any amount in respect of any tax required to be shown on a return required by this Division which is not so shown within 21 days of the date of the notice and demand therefore, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, but not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by this Division within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph 1 shall not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.

(b) *Penalty Imposed on Underpayment of Tax.* For purposes of:

(1) Subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax,

(2) Subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month, and

(3) Subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) *Limitations and Special Rule.*

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(1) Additions Under More Than One Paragraph. With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) Amounts of Tax Shown More Than Amount Required to Be Shown. If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) *Increase in Penalty for Fraudulent Failure to File.* If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied:

- (1) By substituting “15 percent” for “5 percent” each place it appears, and
- (2) Any limitation set forth in subsection (a)(1) and (c)(1) shall not apply.

**Source:** PL 14-35, § 4 (1912).