

Interim statement regarding late payment penalties and Washington's capital gains tax

April 7, 2023

Purpose

This interim guidance explains how the Department will administer the late payment penalty when capital gains taxpayers obtain an extension to file the capital gains excise tax return.

Background

In calendar year 2023, taxpayers must pay their capital gains excise tax no later than April 18, 2023. RCW 82.87.110. If the capital gains tax due is not paid by this date, interest and penalties apply, as provided in chapter 82.32 RCW. Washington law imposes a late payment penalty on "any tax due on a return to be filed by a taxpayer . . . not received by the department of revenue by the due date". RCW 82.32.090(1). "Return" in this context means "any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the Department, and that has a statutorily defined due date." RCW 82.32.090(10)

Extension to file and the late payment penalty

If you obtained an extension of time to file your federal income tax return for the taxable year, you are entitled to the same extension of time to file the capital gains excise tax return *if you submit a request to the Department before the due date and provide the extension confirmation number or other evidence satisfactory to the Department confirming the federal extension.*

The Department is requiring that taxpayers seeking an extension to file their return submit a request for extension, payment information, and payment, by April 18, 2023. RCW 82.32.300(1). The Department will consider taxpayers that meet these requirements to have submitted a payment return for purposes of applying penalties. The Department may develop a more formal payment return in future periods.

This means if you submit a request for extension, payment information, and payment by the filing deadline of April 18, 2023, on what you calculated to be due, you will not be assessed any penalty provided in RCW 82.32.090(1) if it is later determined you paid less than was properly due. However, you will be subject to the substantial underpayment penalty provided in RCW 82.32.090(2) if you substantially underpaid your tax liability. "Substantially underpaid" means you have paid less than 80% of the tax due and the underpayment is at least \$1,000.

Taxpayer instructions

This interim guidance statement will remain in effect until the Department issues final guidance or cancels the interim statement.

If you have any questions about this guidance, please contact Michael Hwang at Michaelhw@dor.wa.gov.



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