

Tax and Revenue Administration (TRA)

Alberta Tobacco Tax Act

Information Circular TTA-6

Waiver or Cancellation of Penalties or Interest

Last updated: September 12, 2006

NOTE: This information circular is intended to explain legislation and provide specific information. Every effort has been made to ensure the contents are accurate. However, if a discrepancy should occur in interpretation between this information circular and governing legislation, the legislation takes precedence.

Waiver or Cancellation of Penalties or Interest

This Information Circular explains the guidelines Alberta Treasury Board and Finance, Tax and Revenue Administration (TRA) follows in administering the waiver or cancellation of penalties or interest under the *Tobacco Tax Act* (the Act).

The comments in this circular apply to waiver or cancellation of penalty and interest charges. For simplicity, “waive” will include the term “cancel”.

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Waivers of Penalty or Interest

1. Under the provisions of the Act, the Minister of Finance is authorized to waive penalties or interest imposed under the Act.

TAX AND REVENUE ADMINISTRATION
9811 - 109 STREET, EDMONTON AB T5K 2L5

- Email: TRA.Revenue@gov.ab.ca
- Website: tra.alberta.ca
- Phone: 780-427-3044
- Fax: 780-427-0348

Note: for toll-free service in Alberta, call 310-0000, then enter the number.



2. Waivers of a penalty and interest are intended to provide relief in extraordinary circumstances not covered by the Act or administrative policy. Their use is a last resort and a request for relief will be reviewed as such.
3. Penalties based on an amount equal to tobacco tax will generally not be waived as they represent amounts of tobacco tax that should have been collected and remitted to TRA.
4. Penalties that relate to false statements made knowingly or through negligence, carelessness, or wilful default will generally not be waived.
5. If a disputed liability relates to the application of the Act and regulation and there is time to object, a Notice of Objection can be filed with TRA's Tax Services Branch at the address shown on the following page.

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Extraordinary Circumstances

6. Penalties or interest may be waived where extraordinary circumstances prevented a tax collector or its agent from complying with the Act. Examples of such circumstances include:
 - natural disasters such as flood, fire, storm;
 - personal tragedy such as a serious illness or death of, or in the family of, the person who oversees and ensures compliance of a tax collector with the Act and regulation;
 - theft or vandalism of records;
 - civil disturbances.
7. A postal strike is not normally sufficient reason to waive interest on late payments by tax collectors because they are able to make payments at most Alberta financial institutions. Also, during postal strikes TRA arranges for the filing of returns at designated government centres throughout the province.
8. The Minister of Finance must be satisfied that, despite the extraordinary circumstances, the tax collector made all reasonable efforts to comply with the Act. This includes filing returns and making payment of the tobacco tax by the due date. If a tax collector fails to file a return or pay the tax by the due date, and the extraordinary circumstances leading to the request for a waiver of interest did not commence until after the due date, TRA will not waive the interest.

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Circumstances under which Waivers will not be made

9. Interest and penalties are charged when TRA detects and corrects errors in filed returns. This may not take place until a review of the return several months after the initial assessment. In these cases, the assessed charges are not subject to waiver due to this delay, unless the delay was unreasonable and outside of normal review practice. Further charges will not be waived because of error on the part of the tax collector or lack of knowledge, misinterpretation or misapplication on the part of the tax collector, its principals or representatives. TRA does not waive penalties or interest for financial hardship reasons.

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Other Considerations

10. The tax collector's history of compliance with its obligations under the Act, its efforts to prevent the liability or to take corrective action, and care in conducting its affairs are all factors considered by TRA before a decision for a waiver is made.
11. A tax collector should not seek relief from penalties or interest by more than one means at any one time. If a tax collector has filed an objection or appeal, or has otherwise requested a reassessment, it should not concurrently be seeking a waiver of penalties or interest on the same issue.

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Waiver Application Procedures

12. Tax collectors or their agents who believe their case meets the above guidelines should send a request for waiver of penalty or interest in writing to:

TAX SERVICES BRANCH
TAX AND REVENUE ADMINISTRATION
9811 – 109 STREET
EDMONTON AB T5K 2L5

13. The request for waiver should include the:
 - a) tax collector's name and address;
 - b) representative's name and address (if applicable);
 - c) name under which the business is operated;
 - d) tax collector's business identification number;
 - e) collection periods involved;

- f) description of the penalty or interest for which the waiver is sought and the amount involved;
 - g) reasons the penalty or interest should be waived, supported by documentation and a chronology of events, as applicable; and
 - h) description of previous contacts with TRA or other areas of Alberta Finance on the issue.
14. During consideration of the waiver request the tax collector may be asked for more information or documentation.
15. The tax collector's request is reviewed in detail and the decision is final and not subject to further consideration, objection or appeal. The operator is informed of the final decision in writing.
16. Any resulting changes to penalties or interest will be made through an adjustment to the operator's account, or through reassessment. No interest will be paid on refunded monies.

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Contact Information and Useful Links

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| Contact Tax and Revenue Administration (TRA): | Email: TRA.Revenue@gov.ab.ca |
| Visit our website: | tra.alberta.ca |
| Subscribe to receive email updates: | tra.alberta.ca/subscribe.html |
| TRA Client Self-Service (TRACS): | tra.alberta.ca/tracs |