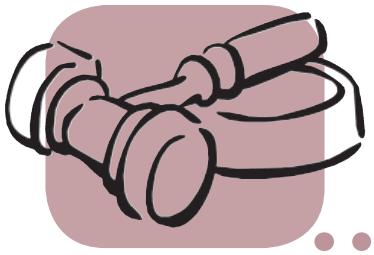
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Waivers

Reasonable Cause



Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134
801-297-6299
1-800-662-4335, ext. 6299
Fax: 801-297-6358
www.tax.utah.gov **waivers@utah.gov**

If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at 801-297-3811, or TDD 801-297-2020. Please allow three working days for a response.

General Information

The Tax Commission may waive or reduce penalties or interest for reasonable cause. See Utah Code §59-1-401(13) and Tax Commission Rule R861-1A-42.

You may request a waiver online or by filing a written application with supporting documentation. You must show a good reason why the Tax Commission should waive or reduce any penalties or interest.

You have a right to appeal if we deny your request. See Administrative Procedures Act (Utah Code §63-46b-3) and Tax Commission Administrative Rules (Utah Administrative Code) for more information.

Waiver Procedures

We will consider a request for waiver of any penalties or interest when:

- you request a waiver online (see below) or by email, or provide a signed waiver request with supporting documentation,
- the total tax owed for the period(s) has been paid,
- the tax liability is based on a return you filed with the Tax Commission (not on an estimate), and
- you have not already received a waiver review for the same period(s).

When we receive the waiver request, we will:

- review the request;
- notify you if we need more documentation; and
- review the account history for prior waiver requests, taxpayer deficiencies, and evidence for your claim.

It is harder to get interest waived than penalties because you must prove the Tax Commission gave you incorrect information or made an error that caused you to file or pay late.

Online Request

(only for tax types available in TaxExpress)

You must be registered with TaxExpress to request a waiver online. After signing up, follow these steps:

1. Go to **taxexpress.utah.gov** and login to your account.
2. Click ***Add Manual Request***.
3. Select ***P&I Waiver***.
4. Choose the tax account and follow the instructions.

Reasonable Cause

We may find a reasonable cause to waive penalties if you can prove any of the following:

A. Timely Mailing: You mailed your return and payment by the due date but the post office did not deliver it on time. (You must provide documentation).

If you cannot document a post office error, we may waive the penalties if you can show:

1. an excellent history of compliance;
2. sufficient funds were in the bank on the date of payment
3. the check was written in numerical order; and
4. any proof that the return or payment was mailed timely.

B. Wrong Filing Place: The return or payment was filed on time, but was delivered to the wrong office or agency.

C. Death or Serious Illness: The taxpayer's death or serious illness (or that of an immediate family member) caused the delay. This also applies to a business, trust or estate, if the individual (or an immediate family member) had sole authority to file the return. The death or illness must have occurred on or immediately before the return due date.

D. Unavoidable Absence: The person with sole responsibility to file the return was out of state due to circumstances beyond his or her control.

E. **Disaster Relief:** A federal or state-declared disaster or natural disaster, such as fire or accident, destroyed records or disrupted business. Federal relief guidelines must be followed for a federally-declared disaster. For other disasters, you must show the matter was corrected in a reasonable time, given the circumstances.

F. **Reliance on Erroneous Tax Commission Information:** You received incorrect advice from the Tax Commission that led to the underpayment, late payment or late filing. This does not apply if you gave the Commission inaccurate or incomplete information. Proof may be based on written communication from the Tax Commission or verbal communication (include dates, times and names of Commission employees who provided the information). We may excuse a failure to comply if you can prove you requested the necessary tax forms timely but the Tax Commission did not provide them timely.

G. **Tax Commission Office Visit:** You visited a Tax Commission office for information or help in preparing the return before the due date, but Tax Commission employees were not there during Tax Commission business hours to help you.

H. **Unobtainable Records:** You were not able to get records to determine the tax due, for reasons beyond your control.

I. **Reliance on Competent Tax Advisor:** You gave all necessary information to a competent tax advisor who incorrectly told you that you did not need to file.

   You must file returns. Relying on a tax advisor to prepare a return does not automatically create reasonable cause for failure to file or pay. You must show you used normal business care and diligence when you decided to seek further advice.

J. **First Time Filer:** You were late in filing the first return you were required to file, but paid the tax within a reasonable time. The Tax Commission may also waive penalties on the first return after a filing period change if you filed and paid in a reasonable time.

K. **Bank Error:** Your bank made an error in returning a check, making a deposit or transferring money. Provide a letter from your bank explaining the error.

L. **Employee Embezzlement:** An employee(s) embezzled tax funds and you couldn't get funds from any other source.

M. **Recent Tax Law Change:** You didn't file or pay because you were not aware of a recent tax law change. You must prove you could not be expected to know of the change.

The Tax Commission considers your recent account history when we decide whether or not to waive a penalty. We also consider whether other tax returns or reports are overdue when you request the waiver.

Other factors may affect whether we find reasonable cause. These include:

- whether the Tax Commission had to take legal means to collect the taxes
- whether you caught and corrected your own error(s)
- the length of time between the event and the filing date
- typographical or other written errors, and
- other clearly supported extraordinary reasons for filing or paying late which show reasonable cause and an inability to comply.

In most cases, ignorance of the law, carelessness or forgetfulness does not create reasonable cause. Intentional disregard, evasion or fraud does not constitute reasonable cause under any circumstance.

Each case is judged on its individual merits.

Pass-Through Entity Waiver Request

A pass-through entity that must withhold tax on partners/members or shareholders (pass-through entity taxpayers) may request a waiver for the withholding tax and any associated penalty and interest if:

- the pass-through entity did not withhold and pay the tax, and
- the pass-through entity can show that pass-through entity taxpayer(s) filed and paid tax on the Utah income by the pass-through entity's return due date, including extensions

The waiver request must include all pass-through entity taxpayers' names and identification numbers. Also include a statement that all pass-through entity taxpayers have filed and paid the tax by the required date.

See Utah Code §59-10-1403.2(5).

This publication is to be used as a guideline only, and does not reflect the complete standards for waiver of penalty and/or interest.