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1. [53 Pa.C.S. § 8428](#)

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[53 Pa.C.S. § 8428](#)

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§ 8428. *Abatement* of certain interest and *penalty*.

- (a) ***Errors and delays.*** — In the case of any underpayment, the local taxing authority may abate all or any part of interest for any period for the following:
- (1) Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the local taxing authority in the performance of a ministerial act. For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the local taxing authority has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
 - (2) Any payment of a tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the local taxing authority being erroneous or dilatory in performance of a ministerial act. The local taxing authority shall determine what constitutes timely performance of ministerial acts performed under this subchapter.
- (b) ***Abatement*** due to erroneous written advice by local taxing authority.
- (1) The local taxing authority shall abate any portion of any ***penalty*** or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the local taxing authority acting in the officer's, employee's or agent's official capacity if:
 - (i) the written advice was reasonably relied upon by the taxpayer and was in response to specific written request of the taxpayer; and
 - (ii) the portion of the ***penalty*** or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.
 - (2) This subsection shall not be construed to require the local taxing authority to provide written advice to taxpayers.

History

[Act 1998-50](#) (S.B. 669), P.L. 301, § 9, approved May 5, 1998, eff. Jan. 1, 1999.

Annotations

LexisNexis® Notes

Case Notes

Tax Law: State & Local Taxes: Administration & Proceedings: Judicial Review

Tax Law: State & Local Taxes: Franchise Tax: Imposition of Tax

Tax Law: State & Local Taxes: Administration & Proceedings: Judicial Review

1. Trial court order dismissing a taxpayer's appeal challenging a township's assessment for additional business privilege tax against it was upheld as the taxpayer failed to establish any legal or factual support for the position that its due process rights were violated by the manner in which the Tax Hearing Officer conducted the hearing. [*Rothrock Motor Sales, Inc. v. S. Whitehall Twp., 2005 Pa. Commw. LEXIS 803 \(Pa. Commw. Ct. Oct. 11, 2005\)*](#), aff'd, [*886 A.2d 339, 2005 Pa. Commw. LEXIS 661 \(Pa. Commw. Ct. 2005\)*](#).

Tax Law: State & Local Taxes: Franchise Tax: Imposition of Tax

2. Trial court order dismissing a taxpayer's appeal challenging a township's assessment for additional business privilege tax against it was upheld as the taxpayer failed to establish any legal or factual support for the position that its due process rights were violated by the manner in which the Tax Hearing Officer conducted the hearing. [*Rothrock Motor Sales, Inc. v. S. Whitehall Twp., 2005 Pa. Commw. LEXIS 803 \(Pa. Commw. Ct. Oct. 11, 2005\)*](#), aff'd, [*886 A.2d 339, 2005 Pa. Commw. LEXIS 661 \(Pa. Commw. Ct. 2005\)*](#).

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