**§1603. Waiver of penalty for delinquent filing or delinquent payment**

 A.(1) If the failure to make any return at the time such return becomes due or the filing of a return without remittance of the full amount due, is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary of the Department of Revenue, the secretary may remit or waive payment of the whole or any part of the specific penalty provided for such failure.

            (2)(a) In order to promote the effective administration of the tax laws of this state, the secretary may promulgate rules and regulations pursuant to the Administrative Procedure Act concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program.

            (b) Notwithstanding any provison of law to the contrary, in any case where the secretary and the taxpayer have entered into a valid and enforceable voluntary disclosure agreement, the secretary may remit or waive the payment of the whole or any part of the penalties provided for in this Subtitle.

            (3) Until December 31, 2015, in any case when the penalty exceeds twenty-five thousand dollars, it can be waived by the secretary only after approval by the Board of Tax Appeals. However, the secretary's waiver of a penalty as part of a voluntary disclosure program shall not require the approval of the board. Notwithstanding the provisions of R.S. 47:1508, beginning January 1, 2016, waivers of all penalties exceeding twenty-five thousand dollars shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs. This provision shall not apply to any penalty the secretary remits or waives in accordance with rules and regulations promulgated pursuant to the Administrative Procedure Act regarding the remittance or waiver of penalties under the department's voluntary disclosure program.

            B. With the exception of those situations when, in the opinion of the secretary, the taxpayer has acted in bad faith or with intentional disregard for the laws of the state or the regulations of the department, for any taxable year ending on or after December 31, 1996, a reasonable cause for purposes of Subsection A of this Section shall be presumed to exist by the secretary of the Department of Revenue under the following circumstances:

            (1) An individual taxpayer or corporate taxpayer that is not a large corporation satisfies the requirements of R.S. 47:103(D), relative to extensions for filing of an individual or corporate tax return and the excess of the amount of tax shown on the taxpayer's individual or corporate income tax return, over the amount of tax paid on or before the regular due date of the return by virtue of taxes withheld by the taxpayer, payments made pursuant to the declaration of estimated tax, and the payment in full of estimated tax liability, is no greater than ten percent of the amount of tax shown on the individual's applicable Louisiana income tax return. Any balance due shown on the taxpayer's individual or corporate income tax return is remitted with the return.

            (2) Any individual taxpayer or corporate taxpayer that is not a large corporation satisfies any of the requirements as provided by law, relative to notice to the secretary of federal tax adjustments, and the taxpayer files an amended Louisiana individual income tax return based upon the adjustments to the federal income tax return, and pays the additional tax shown thereon, plus applicable interest accrued thereon pursuant to R.S. 47:1601, within ninety days after the federal adjustments have been made and accepted by the taxpayer, provided that if the taxpayer does not receive a statement of the federal adjustments until after he accepts the adjustments, he shall have ninety days from the receipt of such statement within which to file the amended Louisiana income tax return and pay the tax shown thereon, plus applicable interest.

            (3) The Louisiana income tax return of any individual taxpayer or any corporation that is not a large corporation is adjusted as the result of an audit by the Department of Revenue if within sixty days after the Louisiana audit adjustments have been made and accepted by the taxpayer, the taxpayer pays the additional tax due, plus applicable accrued interest thereon pursuant to R.S. 47:1601.

            C. For purposes of this Section, the term "large corporation" means any corporation, or predecessor corporation, which had taxable income of one million dollars or more for any taxable year in the three taxable years immediately preceding the taxable year involved.

            Amended by Acts 1958, No. 439, §1; Acts 1981, No. 845, §1, eff. Aug. 2, 1981; Acts 1986, No. 43, §1, eff. Oct. 1, 1986; Acts 1987, No. 8, §1, eff. Oct. 1, 1987; Acts 1995, No. 422, §1; Acts 1997, No. 248, §1, effective for taxable periods beginning after December 31, 1996; Acts 1997, No. 658, §2; Acts 2014, No. 198, §1, eff. July 1, 2014; Acts 2015, No. 128, §1, eff. July 1, 2015; Acts 2015, No. 210, §1, eff. June 23, 2015.