

**17 NCAC 06B .3203 PENALTIES FOR FAILURE TO FILE AND PAY**

(a) General. -- Under the provisions of G.S. 105-236, both the "failure to file return" and "failure to pay tax when due" penalties, if due, can be applied for the same period. If a return is filed late without payment of the tax shown due, both the failure to file and failure to pay penalties shall be assessed at the same time.

(b) Extension. -- If the return is filed under an extension, the failure to file penalty applies from the extended filing date rather than from the original due date. The failure to pay penalty applies from the original due date of the return and shall be assessed if the taxpayer does not meet the 90 percent requirement established in 17 NCAC 06B .0107. If the 90 percent requirement is met, any remaining tax due shall be paid with the income tax return on or before the expiration of the extension period to avoid the failure to pay penalty. Interest is due on any tax not paid by the original due date from the original due date to the date paid.

(c) Amended Return. -- The failure to pay penalty shall not apply to amounts paid with an amended return if the amount shown due on the return is paid when the return is filed.

(d) Assessment. -- The failure to pay penalty applies to a proposed assessment of additional tax due that is not paid within 45 days of the assessment, unless a request for review is timely filed with the Department in accordance with G.S. 105-241.11. If a taxpayer timely requests a Departmental review of a proposed assessment, the failure to pay penalty applies to tax due that is not paid within 45 days of the date the assessment becomes collectible pursuant to G.S. 105-241.22(3), G.S. 105-241.22(4), G.S. 105-241.22(5), or G.S. 105-241.22(6).

*History Note:* Authority G.S. 105-155; 105-157; 105-160.6; 105-160.7; 105-236; 105-241.22(3); 105-241.22(4); 105-241.22(5); 105-241.22(6); 105-262; 105-263;  
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