

executed under the penalties of perjury.

(68A Stat. 748, 749; 26 U.S.C. 6061, 6065)

[T.D. 7008, 34 FR 3665, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005]

§ 31.109 Penalty for failure to file return or to pay tax.

(a) *Failure to file return.* Except during the suspension period described in § 31.21(b), any person required by this part to file a return on Form 5630.5 who fails to file the return on or before the last date prescribed in § 31.104 shall pay, as an addition to the tax, a delinquency penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The delinquency penalty for failure to file the return on or before the last date prescribed shall be 5 percent of the amount required to be shown as tax on the return if the failure is for not more than one month; with an additional 5 percent for each additional month or fraction thereof during which such delinquency continues, but not more than 25 percent in the aggregate. During the suspension period, a failure to file a return may result in a penalty under 26 U.S.C. 5603(b).

(b) *Failure to pay tax.* Any person who files a return on Form 5630.5 under the provisions of this part and who fails to pay the amount shown as tax on the return on or before the date prescribed in § 31.104 for payment of such tax, shall pay, as an addition to the tax, a penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The penalty for failure to pay the tax on or before the date prescribed for payment shall be 0.5 percent of the amount shown as tax on the return if the failure is not more than one month; with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not exceeding 25 percent in the aggregate.

(c) *Limitations.* With respect to any return on Form 5630.5, the amount of the addition under paragraph (a) of this section shall be reduced by the amount of the addition under paragraph (b) of this section for any month to which an

addition to tax applies under both paragraphs (a) and (b) of this section. If the amount of tax required to be shown as tax on the return is less than the amount shown as tax on such return, the penalties prescribed in paragraphs (a) and (b) of this section shall be applied by substituting such lower amount.

(68A Stat. 821, as amended; 26 U.S.C. 6651)

[T.D. 7110, 36 FR 8034, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62251, Oct. 31, 2005]

§ 31.110 Interest on unpaid tax.

(a) *General.* Interest is due on unpaid special tax from the date the tax was required to be paid to the date paid. Interest shall be charged for each day at the rate prescribed by law in effect on that day.

(b) *Adjusted interest rates.* Adjusted interest rates are announced by the Commissioner of Internal Revenue not later than October 15 of any year, in accordance with variations in the prime interest rate during September of that year, as prescribed by 26 U.S.C. 6621(b). The appropriate TTB officer will provide information, when requested, regarding interest rates applicable to specific time periods.

(Sec. 7, Pub. L. 96-625, 88 Stat. 2114 as amended (26 U.S.C. 6621); 68A Stat. 817 (26 U.S.C. 6601))

[T.D. ATF-116, 47 FR 51571, Nov. 16, 1982. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005]

DELINQUENT RETURNS

§ 31.111 Waiver of penalties.

In every case where a special tax return is not filed, or the tax is not paid, at the time prescribed in § 31.104, the delinquency penalties specified in § 31.109 for failure to file a return or for failure to pay the amount shown as tax on the return will be asserted and collected unless a reasonable cause for delay in filing the return or payment of the tax is clearly established. A dealer who believes the circumstances which delayed his filing of the return or payment of the tax are reasonable, and who desires to have the penalties