A Guide To The IRS/State Interest \& Penalty Calculator

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For more information: https://www.denvertax.com/irs-interest-penalty-calculator/

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## Overview

## Why Use This Program?

When you purchased this program, you might have had one use of the program in mind. This program can be used in several different situations to help your clients.

- To check the interest and penalties on an IRS notice. In 1987 we caught the IRS over charging interest to a taxpayer by over $\$ 30,000$ !
- To determine how much interest and penalties will be due on a client's late return. If you let your client know in advance how much that will be, it might save you a call from your client when the interest and penalty notice from the IRS is received. You could have the client pay the interest and penalty with the return so no notice is sent in the first place!
- To warn your client, who is going through an IRS examination, how much the interest and proposed penalties will be when the IRS sends the bill.
- To use as a planning tool if your client is going to the IRS Appeals branch. Some of the penalties may be negotiable. This program can tell you how much the appeals process has saved in penalties and in interest on the penalties.
- In certain cases interest on underpaid taxes is deductible. This program can determine how much interest should be paid, along with tax, to get the year-end deduction.


## Please Read This!

The DTS - Interest \& Penalty Calculator has been designed to be easy to use and understand; however, you should always follow these rules:

Always exit the Interest \& Penalty Calculator before turning off your computer.
Never turn off your computer without closing Windows first! Most Windows systems use disk caching and other performance enhancing features. Because of this, it is important to close Windows before turning off your machine. If you don't do this, information that you have entered into any program, including this one, could be lost or corrupted.

# Installing and Starting 

## System Requirements

Any 32 bit Windows system. This includes Windows 95, 98 and NT 4.

## Installation

## Installing To A Single Machine

For the purpose of these instructions, we are assuming that your $C D$ drive is drive $\mathbf{D}$, if it is not, please make the appropriate changes. To install the program to a single machine, use the following steps:

1. Click on the Start button.
2. Click on the Run menu item.
3. Type D:SETUP and press the ENTER key.
4. Follow the instructions in the installation program.

## Network Installation

Network installations instructions are provided in a separate document to customers that have purchased rights to use this program on additional desktops.

## Quick Start

## A General Procedure To Follow

These are the steps to go from starting the program to running reports:

1. Click on the Interest \& Penalty Calculator icon in the Denver Tax Software Program Group.
2. Click on the picture of a blank page (NEW). Enter your Initial Inputs.
3. If you have any penalties, click on the Inputs menu choice and the Penalties... (Inputs | Penalties...) menu choice. Enter your penalty information.
4. If you have any partial payments made after the Start Calculation date and before the End Calculation date, click on the Inputs menu choice and the Payments... (Inputs | Payments...) menu choice.
5. Save your information by clicking on File |Save As.... Choose a file name that is eight characters or less. Use an extension of ".int".
6. Now you can either View or Print your reports. To View your reports, click on the picture of a page with a magnifying glass on it. To Print your reports, click on the picture of the printer.
7. Exit the program by clicking on the picture of the open door.

## Other Quick Start Ideas

If you don't intend to read the whole manual, you might want to consider the Examples chapter.

## Getting Started

## Starting The Interest \& Penalty Calculator

When you start the Interest \& Penalty Calculator you will see the About Screen. Denver Tax Software's address, and other information. The About screen will be visible until you click on the OK button.


Main Screen

## Entering Information

The Interest \& Penalty Calculator uses the standard input procedures that most Windows programs use. To move from one input to another you can either use the mouse to select the input item you want, or press the TAB or ENTER key to move to the item.

To exit an input screen and keep any changes that you have made, either click on the OK button, or TAB to it and press the ENTER key. To exit an input screen, but not keep the data you have entered, use the same process as above but with the Cancel button instead. To permanently save the information, click on the Save button which is a picture of a diskette.

To enter numeric information, you may find it easier to use the numeric keypad. If you do this, make sure the Num Lock key is on.
Any references that you see with a symbol like " $\S$ " is a reference to an Internal Revenue Code or a Treasury Regulation section, e.g. §6601.

## Getting Help

While you are using the Interest \& Penalty Calculator, you can load the program's help file by using the $\underline{\mathbf{H}} \mathbf{l} \mid$ | $\mathbf{C o n t e n t s . . . ~ m e n u ~ i t e m . ~ Y o u ~ c a n ~ a l s o ~ g e t ~ h e l p ~ o n ~ a n y ~}$ screen or input you are working on by pressing the F1 key on your keyboard. If you have not used Windows help before select the $\underline{H} \operatorname{elp} \mid \underline{\text { Help On O}}$ Oelp... menu item. This will load a tutorial on how to use Windows help files.

## Inputs

## Initial Inputs

The Initial Inputs screen is the natural starting place for this program. You can get to the Initial Inputs screen by clicking on the picture of the bank paper. You can also get to this by choosing Inputs $\mid$ New from the menu.


The "Initial Inputs" screen

## Taxpayer

Enter the name of the taxpayer.

## Optional 2nd Line

Enter other descriptive information that you want to print with the reports.

## Start Calculation

Enter the date when the calculation should start. When you enter other dates, except for the due date of the return, into this program, those dates must be after the Start Calculation Date. If this is for income tax situations, you would probably use the due date of the return. If this is for a payroll tax situation, you are best to use the first date of the calendar quarter.

## End Calculation

Enter the date when the calculation should end. When you enter other dates into this program, those dates must be before the End Date.

## Starting Situation

Choose either Underpayment or Overpayment. If the Due Date of the return is different than the Start Calculation date, choose Underpayment or Overpayment based on the situation at the Start Calculation date.

## Corporate Taxpayer

For Federal taxes only. Check this if you want the post 12/31/98 overpayment rate to be one percent lower than the underpayment rate.

## Due Date of Return

Enter the Due Date of the return even if it is the same as the Start Calculation date. Do not include any extensions.

## Initial Balance

Enter either the underpayment or overpayment on the Start Calculation date. This should be a positive number. For payroll tax situations, leave this amount blank.

## Number of Days Before Check Date Interest Is To Stop on Refund (0-30)

If by the End Calculation date you think there could be an overpayment of tax, enter the information for this input. The IRS can stop the interest on a refund as much as 30 days before the date of the refund check. If you don't know this information, there could be a difference between the interest that this program calculates and what the IRS calculates. If there is such a difference, you might want to run this program three times with inputs of 0 days, 15 days and 30 days.

## Payroll Tax

Choose Yes if the calculation is for a payroll tax situation.

## Rate Table

Select the rate table you want to use. If your state is not listed, you can check the Interest \& Penalty Calculator Webpage at http://www.denvertax.com/int.htm to see if it has been added.

If you would like us to add your state's interest rates, you can send us the state's chronological interest rates, a description of whether simple or compound interest is used, whether the underpayment and overpayment rates are different, how the interest rate is determined, how frequently interest rates are determined and how one would best go about keeping up to date with interest rate changes in your state.

## Penalties...

## State Penalties

This program only computes penalties using the Federal law. If you need to make a state penalty calculation that is computed identically to the Federal penalty that the program supports, this program can calculate that state penalty. If you need a state penalty that is calculated different than the Federal penalty, enter the penalty as an Other Charge.

## Choose Your Penalties

After entering Initial Inputs, you should enter any penalty information. To get to penalty inputs, choose Inputs $\mid$ Penalties from the menu. You can then select the penalties which you want to enter inputs for.
Please refer to the READWINT.TXT file. When you start this program, you are prompted whether you want to read it. This file is more current than the manual, and it lists the penalties which the program can calculate. This is important, since the program allows you to input information for more penalties than it is capable of calculating. It is our intention to add more penalties each quarter until it can calculate all the penalties that are supported by the input screens.

## Failure To Pay



## Assessment Date

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Amount Shown on Return

This is the balance due as reported on the original tax return.

## Calculate §6651(d)(1) Increased Failure To Pay Rate

Under certain circumstances the IRS can increase the failure to pay rate above the "normal" rate. If that is the case, choose Yes.

## Date for Starting Increased Rate

If $\S 6651(\mathrm{~d})(1)$ applies, enter the date that the increased rate is to begin.
Failure To File


## Date Return Filed

Enter the date that the return was filed.

## Assessment Date

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Accuracy Related Penalties



## Accuracy Related Underpayment

Enter the amount of the underpayment that is subject to the penalty.

## Penalty Rate

Choose the appropriate penalty rate. Most of the time it will be the "Normal" penalty rate.

## Negligence



## Calculate Flat Rate (5\%) Negligence Penalty

Choose Yes, if you want the program to calculate the old flat rate negligence penalty. This was $\S 6653(\mathrm{a})(1)(\mathrm{A})$. The term "flat rate" refers to the fact that a fixed rate, e.g. $5 \%$, will be multiplied by the amount subject to the penalty.

## Amount Subject to Flat Rate Negligence

Enter the amount subject to the flat rate negligence penalty. This should be the amount of the underpayment.

## Date Flat Rate Negligence Assessed

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Calculate 50\% of Interest Negligence Penalty

Choose Yes, if you want the program to calculate the old $50 \%$ of interest or time dependent negligence penalty. This was $\S 6653(\mathrm{a})(1)(\mathrm{B})$. This penalty is $50 \%$ of what would be the interest on the tax subject to the penalty. Thus, it is sometimes called the "time - dependent negligence penalty," since this penalty can get larger with time.

## Amount Subject to 50\% of Interest Negligence

Enter the underpayment which is attributable to negligence.

## Date 50\% of Interest Negligence Assessed

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Civil Fraud



## Calculate Flat Rate Fraud Penalty

Choose Yes, if you want the program to calculate the flat rate fraud penalty. This could be for $\S 6663$ or the old $\S 6653(b)(1)$. The term "flat rate" refers to the fact that a fixed rate, e.g. $5 \%$, will be multiplied by the amount subject to the penalty.

## Amount Subject to Flat Rate Fraud

Enter the amount of underpayment which is attributable to fraud.

## Date Flat Rate Fraud Assessed

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Calculate 50\% of Interest Fraud Penalty

Choose Yes, if you want the program to calculate the old $50 \%$ of interest or time dependent fraud penalty. This was $\S 6653(\mathrm{~b})(2)$. This penalty is $50 \%$ of what would be the interest on the tax subject to the penalty. Thus, it is sometimes called the "time - dependent fraud penalty," since this penalty can get larger with time.

## Amount Subject to 50\% Interest Fraud

Enter the portion of the underpayment which is attributable to fraud.

## Date 50\% of Interest Fraud Assessed

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Substantial Understatement Penalty



## Date Penalty Assessed

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Understated Tax

Enter the tax that is subject to this penalty.

## Penalty Rate(10\% = 10)

Enter the penalty rate. Note that $10 \%$ should be entered as 10 not .1! This rate may differ depending on the due date of the return.

## Valuation Overstatement Penalty



## Underpayment Attributable to Overvaluation

Enter to underpayment attributable to the overvaluation of an asset(s).

## Penalty Rate 10, 20 or 30(10\%=10)

Enter the penalty rate as either 10,20 or $30 \%$ [old $\S 6659$ ]. Note that $10 \%$ should be entered as 10 not .1! Use 10 for overvaluations of $150 \%-200 \%$. Use 20 for overvaluations of over $200 \%-250 \%$. Use 30 for overvaluations of over $250 \%$.

## Assessment Date

This is the date of the first IRS notice that indicates the penalty will be assessed.

## Payroll Tax Deposit Penalties



The Select or Add Payroll Tax Deposit Screen
For a tutorial on how to enter a payroll tax scenario, see "Payroll Tax-Example" on page 33

## Deposit Due Date

If there is already information about a payroll deposit in the system, it's date will show up in this listing. You can Edit or Delete any of those deposits from this screen. Choosing Add will let you enter a new payroll deposit.

## Close

To return to the Main Screen.

## Add

To go to screen where you can enter a new payroll deposit.

## Edit

To edit a payroll deposit's information, click on the date of the deposit you want to change, then click on the Edit button. This will take you to the Payroll Deposit Information screen for this deposit.

If you have any payments after the date of the edited payroll deposit, you will need to go to the Payment Inputs to edit all payments on or after the date of the edited payroll deposit. Neglecting to do this might cause an error in the allocation of the payments between tax, interest and penalties.

## Delete

To delete a payroll deposit, click on the date of the deposit you want to change, then click on the Delete button.

If you have any payments dated after the date of the deleted payroll deposit, you will need to go to the Payment Inputs to edit all payments on or after the date of the deleted payroll deposit. Neglecting to do this might cause an error in the allocation of the payments between tax, interest and penalties.


The Payroll Deposit Information Screen

## Due Date for Deposit

Enter the date when the deposit should have been made.

## Assessment Date

This is the date of the first IRS notice which indicates that a payroll tax penalty will be assessed for this tax deposit date.

## Required Deposit

Enter the amount of payroll taxes that should have been deposited.

## Does §6656(b)(1)(B) Apply

Choose Yes, if you want the program to calculate the $\S 6656(\mathrm{~b})(1)(\mathrm{B})$ penalty. This penalty is for extreme situations. Typically, many IRS notices have been sent before this penalty is assessed.

## Date of Earliest Delinquency Notice

Enter to date of the earliest delinquency notice. This is only for the $\S 6656(\mathrm{~b})(1)(\mathrm{B})$ penalty.

## Date of Demand for Immediate Payment (Jeopardy Assessment)

Enter this date. This is only for the $\S 6656(\mathrm{~b})(1)(\mathrm{B})$ penalty.

## Other Charges...

This menu choice is to enter other additions to tax that you cannot enter elsewhere. Examples of "Other Charges" could be penalties not supported by this program or IRS service charges or fees. You should enter any Other Charges before entering any partial payments.

## Select Or Add Other Charges



Select Or Add Other Charges Screen

## Charge Date

If there is already information about a charge in the system, it's date will show up in this listing. You can Edit or Delete any of those charges from this screen. Choosing Add will let you enter a charge.

## Close

To return to the Main Screen.

## Add

To go to screen where you can enter a new charge.

## Edit

To edit a charge's information, click on the date of the charge you want to change, then click on the Edit button. This will take you to the Charge Information screen for this deposit.

If you have any payments dated after the date of the edited charge, you will need to go to the Payment Inputs to edit all payments on or after the date of the edited charge. Neglecting to do this might cause an error in the allocation of the payments between tax, interest and penalties.

## Delete

To delete a charge, click on the date of the charge you want to change, then click on the Delete button.

If you have any payments dated after the date of the deleted charge, you will need to go to the Payment Inputs to edit all payments on or after the date of the deleted charge. Neglecting to do this might cause an error in the allocation of the payments between tax, interest and penalties.

## Charge Information Screen

| Addition To Tax |  |  |
| :---: | :---: | :---: |
| Description of Charge: | FFirst |  |
| Date of Liability: | 4/30/1989 |  |
| Date Interest Runs on Charge: | 4/30/1989 | OK |
| Total Charge: | \$500.00 |  |
| Unallocated: |  | Cancel |
| Indicate How Charge Was Alloc | ated -- |  |
| Applied As Tax: | \$300.00 |  |
| Applied As Penalties: | \$200.00 |  |

## Description of Charge

Enter any appropriate description.

## Date of Liability

Enter the date that this charge is first owed.

## Date Interest Runs on Charge

Enter the date that interest runs on this charge. This date could be different than it's Date of Liability.

## Total Charge

Enter the total amount of the charge.

## Applied As Tax

Enter the amount applied as tax. The Total Charge amount must equal the amount Applied As Tax plus the amount Applied as Penalties.

## Applied As Penalties

Enter the amount applied as penalties.

## Payments...

This menu choice is to enter partial payments of tax. Be careful that the only partial payments that you enter are after the Start Calculation and before the End Calculation date. These payments should be entered after entering Penalties and Other Charges.

## Select Or Add Payments



Select Or Add Payments Screen

## Payment Date

If there is already information about a payment in the system, it's date will show up in this listing. You can Edit or Delete any of those payments from this screen. Choosing Add will let you enter a payment.

## Close

To return to the Main Screen.

## Add

To go to screen where you can enter a new payment.

## Edit

To edit a payment's information, click on the date of the payment you want to change, then click on the Edit button. This will take you to the Payment Information screen for this date.

## Delete

To delete a payment, click on the date of the payment you want to change, then click on the Delete button.

## Hint to Minimize Payroll Penalties

This button is only visible if this calculation relates to payroll taxes. Click on this button to get suggestions on how to use this program to minimize payroll deposit penalties.

## Auto Arrange Payments to Minimize Payroll Penalties

This check box is only visible if this calculation relates to payroll taxes. Check this box to have the program determine the best order to apply payments. There are situations where there are too many payments for the program to manipulate.

## Payment Information Screen



Payment Information Screen

## Description of Payment

Enter an optional description of the payment.

## Payment Date

Enter the date of the payment.

## Payment Amount

Enter the payment amount.

## Use IRS Allocation Method

In most cases, you will want this item checked. The IRS Allocation Method will allocate the payment first to unpaid taxes, next to unpaid penalties and last to unpaid interest.

## Allocate to Taxes

If IRS Allocation Method is chosen, this will show the payment's allocation to tax. If the taxpayer allocated the payment, please enter the amount of tax paid with this payment.

## Allocate to Penalties

If IRS Allocation Method is chosen, this will show the payment's allocation to penalties. If the taxpayer allocated the payment, please enter the amount of penalties paid with this payment.

## Allocate to Interest

If IRS Allocation Method is chosen, this will show the payment's allocation to interest.

If the taxpayer allocated the payment, please enter the amount of interest paid with this payment. You will see a recommendation for the maximum allowable interest. If you choose to enter more than the maximum interest, you will get a warning, but the program will accept that amount.

## Optional Interest Rates

There are circumstances where you need something different than the "normal" interest rates. These exceptions to the normal rates are for Tax Motivated rates, Large Corporation underpayment rates and Large Corporation overpayment rates.
To get to this screen, choose Option | Interest Rates... from the Menu.


## Tax Motivated Rates for Returns Due Before 1/1/90

Choose Yes if you want to use tax motivated rates. Tax motivated rates can start after $12 / 31 / 84$. These rates are $120 \%$ of the normal rates. Only use these rates if you know the IRS is trying to assert these rates.

## Use Large Corporation Underpayment Rate After 12/31/90

Choose Yes if you want to use Large Corporation Underpayment Rates.

## Start Date For Large Corporation Underpayment Rate

Enter the date you want the interest rates to change from the normal rate to the Large Corporation Underpayment Rate.

## Use Large Corporation Overpayment Rate After 12/31/94

Choose Yes if you want to use Large Corporation Overpayment Rates.

## Start Date For Large Corporation Overpayment Rate

Enter the date you want the interest rates to change from the normal rate to the Large Corporation Overpayment Rate.

## Suspend Interest

Under certain circumstances, usually after an IRS examination, interest may be suspended. If a taxpayer agrees to additional taxes during an examination and the IRS takes over 30 days to send a bill, interest stops at the end of the 30 day period and does not restart until the IRS sends the bill.

To get to this screen, choose Option | Suspend Interest... from the Menu.


## Date Interest Is Suspended

Enter the date interest is suspended.

## Date Suspended Interest Is Restarted

If interest was suspended, enter the date interest is to restart.

## Reports

## Choosing Reports

You can either view reports on the screen or print the reports. To view reports either click on the button that has a picture of a page with a magnifying glass or choose View | Reports... from the Menu. To print reports either click on the button that has a picture of a printer or choose File | Print... from the Menu.


## Report Choice Screen

You can choose the reports which you want to examine by checking the boxes on Report Choices Screen.
From the title of the report you can determine if you want to print it. The rest of this chapter will describe some of the more heavily used reports.

## Input Report

This report prints or displays your inputs. Consider running this report if you think there is a problem with the calculation. You may want to keep this report in your client's file for documentation. If you have a difficult technical support situation, we will ask that you fax us this report.

## Summary Of Results

This report gives you your results summarized neatly on one page.

## Detailed Analysis

This report gives you an in depth analysis of the interest calculation. It will show changes in tax, penalties and interest. Details, such as, days between dates, interest factors, accrued interest and the interest rate will be presented in this report.

If you have a problem with the IRS, this is the most important report. Some IRS districts will make adjustments in your client's favor, if your inputs are correct and you present them with this report.

In some technical support situations, it is helpful if you fax this report to us.

## Penalty Reports

For each penalty which this program calculates, there is a report that demonstrates how that calculation was made. If you have a dispute with the IRS, we recommend that you run a report for each penalty the IRS is assessing.

# Interest \& Penalties -- The Law 

## Overview

This discussion about the law is based on the tax law as of July 1, 1996. Denver Tax Software, Inc. will revise the program if there are any changes in the law which result in changes to the interest and penalty calculation which the program computes. However, this manual might not be revised as quickly!

This discussion about the law is meant to make the use and understanding of the program and it's reports easier to understand. It is not a substitute for tax research! Hopefully, this will make any tax research easier.

## Interest

## Interest -- General Rule

In general, interest runs on unpaid tax from the due date to the date paid. Extensions do not reduce interest on unpaid tax. [ $\$ 6601$ (a)].

## Suspension Of Interest

If a tax deficiency is determined [ $\$ 6211$ ], and the taxpayer agrees to be billed [ $\$ 6213(\mathrm{~d})$ ], the IRS must bill the taxpayer within 30 days after the filing of the agreement or waiver to avoid suspension of interest. Interest should stop after the 30th day and not restart until the IRS issues it's bill [\$6601(c)].

## Carryback Year Interest

If unpaid income tax for one year is reduced by a carryback from a net operating loss (NOL) or a capital loss, interest will run for that year until the filing date of the loss year return [ $86601(\mathrm{~d})]$. Thus, if there is unpaid tax for 1995 reduced by an individual NOL carryback from 1996, interest would run from the due date of the 1995 return, April 15, 1996, to the due date of the 1996 return, April 15, 1997. Extensions are to be disregarded for this calculation [§301.6601-1(e)].

## Interest On Penalties

In general, interest runs on penalties that are not promptly paid from the assessment date of those penalties [\$6601(e)(2)(A)]. Thus, if you don't know when the
assessment date is for the penalty, the program cannot correctly calculate interest on the penalty. If you need to guess, do not use the due date of the return as the assessment date. It is next to impossible for the IRS to assess a penalty on the due date of a return.

Unlike most other penalties, interest on Failure To File and Civil Fraud penalties runs from the extended due date $[\$ 6601(\mathrm{e})(2)(\mathrm{B})]$.
There is no interest on the individual and corporate penalties for underpayment of estimated taxes [ $\S 6601(\mathrm{~h})]$.

## Year Interest Paid

This is important, if some portion of the interest paid to the IRS is deductible.
If the taxpayer does not specify with the payment how that payment is allocated between tax, penalties and interest, the IRS will allocate the payment first to any unpaid tax, then to any unpaid penalties and last to any unpaid interest. Payments which exceed all amounts owed create an overpayment to the extent of the excess payment. We refer to this method of allocating the penalty as the "IRS allocation method." The interest which is paid in the year for this method is the amount the IRS determines to be applied to interest for the year.

The taxpayer may determine the allocation of the payment. This must be done in writing with the payment. We would recommend that you request the IRS send you a receipted copy of the taxpayer's letter that sets out the allocation.
If the taxpayer chooses to allocate the payment, please review IRS Announcement 86-108. It points out, "In general, a taxpayer may not pay interest on a contested deficiency without simultaneously paying or agreeing to pay, the underlying tax deficiency with respect to which the interest is being paid. A taxpayer may satisfy this requirement if the payment consists of interest accrued on a tax that has already been paid or if the taxpayer designates as interest an amount that is proportionate to the tax being paid for the year in question." If your client chooses to allocate the payment, please refer to IRS Announcement 86-108 and Revenue Procedure 84-58.

## Interest Rate

Most of the time, when we refer to the IRS interest rate, we mean the interest rate on the typical underpayment. That is the rate which is used most frequently. However, there are Overpayment rates, Tax Motivated rates, Large Corporate Underpayment Rates and Large Corporate Overpayment Rates which are different than the "normal" rate for most underpayments.

## Interest Compounded After 1982

Prior to 1983 interest was not compounded. The program will indicate whether it is using simple (pre 1983) or compounded (post 1982) rates. The program calculates the interest rate factor using the formula for daily compounded interest. The factor that the program arrives at is slightly different than what is published in the IRS interest rate tables. The IRS table has a factor of .022877840 for 92 days at $9 \%$ for a leap year, and the program will calculate that factor to be .022877947 for the same circumstances. On an underpayment of $\$ 175,000$ that will result in an error of $\$ 0.02$ ! For most circumstances, that error is insignificant.

## Revised Quarterly

The rates that the IRS uses are announced quarterly and are related to the Federal Funds rate. Since we work extensively with these rates, we usually know what the rates will be four to six weeks before they are announced.

## Overpayment Interest Rates

Interest on overpayments after 1986 is one percent lower than the "normal" underpayment interest rate.

## Tax Motivated Rates

There used to be a tax motivated interest rate which the IRS could assert when the taxpayer entered into tax motivated transactions. This rate could be applied after 1984, but not for returns due after 1989. The tax motivated interest rate was $120 \%$ of the "normal" underpayment rate before compounding.

## Large Corporate Underpayment Rates

These rates are the "normal" underpayment rate plus two percent. This rate applies for Large Corporate Underpayments from returns due after 1990. A Large Corporate Underpayment is an underpayment which exceeds $\$ 100,000$ for the period [ $\$ 6621(\mathrm{c})(3)(\mathrm{A})]$. This rate begins "the 30th day after the earlier of--(i) the date on which the 1 st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service office of Appeals is sent, or (ii) the date on which the deficiency notice under section 6212 is sent." [§6621(c)(2)(A)].

## Large Corporate Overpayment Rates

These rates are the "normal" underpayment rate less 2.5 percent. This rate applies for Large Corporate Overpayments for periods after 1994. A Large Corporate Overpayment is a corporate overpayment which exceeds $\$ 10,000[\$ 6621(a)(1)(\mathrm{A})]$.

## Netting Of Interest

After 1986 the underpayment interest is higher than the overpayment interest. If a taxpayer is working with the IRS in a multi-year settlement where one year is an underpayment and another year is an overpayment, you have a netting situation. For example, year 1 a $\S 179$ deduction was denied, and in subsequent year regular depreciation was allowed for that asset. This could create an underpayment in the first year and overpayments in the subsequent years (timing difference). Try to get the IRS to agree to netting the underpayment and overpayments before calculating interest. If at all possible, make this part of the agreement. If you don't net, the taxpayer pays more interest, since the overpayment rate is $1 \%$ lower than the underpayment rate.

## Penalties

There are over 150 penalties that the IRS can levy. The program calculates some of the more common penalties.

## Failure To File and Pay

Failure to File [§6651(a)(1)] and Failure To Pay [§6651(a)(2)] are the penalties we hear the most about. In general, the Failure To File rate is $5 \%$ per month, and the Failure To Pay rate is $.5 \%$ per month. A month for the purposes of these penalties is any part of a month. Thus, if a return is due on April 15 and the return is filed on April 16, the return is one month late!

The due date for the purposes of these two penalties is the extended due date. Thus, if one cannot file on time, an extension should be filed. Since the extension may not be considered valid if there is a balance due, the IRS could disregard extensions that are not valid.

Neither penalty for a tax period can accumulate to more than $25 \%$. Since the Failure To File Penalty is reduced by the Failure To Pay Penalty, one rarely sees the $25 \%$ maximum for Failure To File [ $\S 6651(\mathrm{c})(1)]$. We sometimes hear from customers who get confused about this. Some think that this means that the maximum cumulative penalty is $25 \%$. The maximum Failure To File Penalty is $22.5 \%$ ( $4.5 \%$ x 5) when Failure To Pay is also asserted. The maximum Failure To File Penalty is $25 \%$.

Failure to File is calculated "the amount required to be shown as tax" $[\$ 6651(\mathrm{a})(1)]$. Thus, the penalty is based on the tax that should have been on the return.

Failure to Pay is calculated on "the amount shown as tax on such return" [§6651(a)(2)]. Thus, the penalty is based on the tax that was shown on the return. This amount can be reduced if the amount shown on the return is higher than the correct tax. There is also another penalty for failure to pay tax after the amount shown on the return is later corrected.

## Accuracy Related

The Accuracy Related Penalty, $\S 6662$, was adopted to consolidate several penalties into one code section. The penalties which were previously treated separately included Negligence, Substantial Understatement and Valuation Overstatement.

## Negligence -- Accuracy Related

"...the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard." [§6662(c)]

## Substantial Understatement -- Accuracy Related

"...there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of-- (i) 10 percent of the tax required to be shown on the return for the taxable year, or (ii) $\$ 5,000 . "[\S 6662(\mathrm{~d})]$ For corporations, other than S Corps or Personal Holding Companies, $\$ 5,000$ changes to $\$ 10,000$. In general, the understatement amount is the difference between the tax which should have been reported versus the tax which was actually reported. For situations dealing with adequate disclosure or tax shelters, see §6662(d)(2).

## Substantial Valuation Misstatement -- Accuracy Related

In general, a Substantial Valuation Misstatement is caused by reporting the value of an asset by over $200 \%$ of the correct value. There will be no Substantial Valuation Misstatement penalty if the misstatement is equal or less than $\$ 5,000$ or $\$ 10,000$ for corporations other than S Corps and Personal Holding Companies. [§6662(e)]

## Substantial Overstatement Of Pension Liabilities -Accuracy Related

"...there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities." That overstatement must exceed $\$ 1,000$ before a penalty can be assessed. [§6662(f)]

## Payroll Deposit

For an example of how to use this program to compute the minimum payroll tax penalty see "Payroll Tax - Example" on page 33.

Before getting into the mechanics of this penalty, it is important to remember that payroll deposits, and the related penalties use a calendar quarter, not a year accounting period. Example, if you are having problems with two payroll liabilities, one due on September 15, 2000 and the other due on November 15, 2000, you should remember that the September 15, 2000 deposit is for the third quarter and the November 15, 2000 deposit is for the fourth quarter. When using this program, enter the Start Calculation date as the first day of the quarter; thus, the Start Calculation date for the quarter which includes September 15, 2000 is July 1, 2000.

The payroll deposit penalty, "Failure To Make Deposit Of Taxes," [§6656] is the applicable percentage times the underpayment.

The applicable percentage is based on the number of days the deposit is late in being paid, and is spelled out in $\S 6656(\mathrm{~b})(1)$. The lowest penalty is $2 \%$ for less than six days, and the highest is $15 \%$.

## How Payroll Payments Are To Be Applied

Rev. Proc. 90-58, for periods beginning after March 31, 1991 before January 18, 1999 deposit due dates, indicated that payments are to be applied to liabilities in a date-made order against deposits in a due-date order. Thus, when using the program for this period, enter payments in chronological order.

Rev. Proc. 99-10, for deposits required to be made after January 18, 1999, lets the employer match payments to liabilities as long as this has been communicated to the IRS within 90 days beginning on the date of the penalty notice. I.R.C. §6656(e) gives the employer options to match payments to liabilities, but the timing when the employer can make this designation may differ from this 90 day period. Please refer to I.R.C. §6656(e) for more information.

## How To Match Payroll Deposits With Liabilities

When you enter your payroll deposits, it is important to split any payment that covers more than one liability, so it can be allocated to different liabilities. See the below example:

| DATE | LIABILITY | DEPOSIT PAID |
| :--- | :--- | :--- |
| $2 / 15 / 00$ | $\$ 5,000$ | $\$ 4,000$ |
| $3 / 15 / 00$ | $\$ 5,000$ | $\$ 4,000$ |
| $4 / 15 / 00$ | $\$ 5,000$ | $\$ 5,000$ |
| $4 / 30 / 00$ |  | $\$ 2,000$ |

For the program to allocate the $4 / 30 / 2000$ payment to both the $2 / 15 / 2000$ and $3 / 15 / 2000$ liabilities, enter the $4 / 30 / 2000$ payment as if it were two payments. The payments could be entered as follow:

| DATE | PAYMENT |
| :--- | :--- |
| $2 / 15 / 00$ | $\$ 4,000$ |
| $3 / 15 / 00$ | $\$ 4,000$ |
| $4 / 15 / 00$ | $\$ 5,000$ |
| $4 / 30 / 00$ | $\$ 1,000$ |
| $4 / 30 / 00$ | $\$ 1,000$ |

You should enter the payments in the order you want them applied to liabilities. If you don' have many payments, the Auto Arrange feature is your best bet.

If you enter the payments in chronological order, the program will calculate the payroll deposit penalty the same way the IRS will absent the employer designating how payments are to be applied. However, this may not give the employer the lowest payroll penalty.

If the employer qualifies to designate how deposits are to be applied, check the Auto Arrange Payments to Minimize Payroll Penalties on the Select Or Add Payments screen (Inputs - Payments). The Auto Arrange will look at every possible permutation (arrangement) of payments to arrive at the lowest penalty. If the number of payments exceeds a specific limit, this feature will be turned off due to time and memory constraints caused by increasingly large numbers of possibilities.

## Civil Fraud

The Civil Fraud Penalty does not occur frequently since the IRS must prove fraudulent intent. However, when this penalty does occur it is often an expensive one! The current form of the penalty is $75 \%$ of the underpayment attributable to fraud. [§6663 and §6653(b)]
For returns due, after September 3, 1982 through December 31, 1988, the fraud penalty is $75 \%$ of the underpayment attributable to fraud [§6653(b)(1)(A) and $50 \%$ of what would have been the interest on the underpayment from the due date of the return to the assessment date of the penalty $[\S 6653(\mathrm{~b})(1)(\mathrm{B})]$.
For returns due before September 4, 1982, the fraud penalty is $50 \%$ of the underpayment.

## Comparing Program Results To IRS

## Is The IRS OR This Program Wrong?

One of the primary uses of this program is to check the IRS's calculation of interest and penalties. We have seen the IRS make mistakes that have resulted in both erroneous overstatements and understatements. We have seen the IRS start interest running too late. We have seen the IRS calculate the Tax Motivated interest wrong. We have even seen the IRS use the wrong interest rate.
Before accusing the IRS of making an error, it is critical to make sure that this program is being used correctly and that all the inputs make sense.

## Are Your Inputs Correct?

1. Make sure you are using the correct penalty assessment dates. The penalty assessment date is the date that the IRS notifies a taxpayer that it wants to be paid for a penalty. Use the date of that first notice. Unfortunately, if the taxpayer has lost this notice, it may be hard to obtain this information. Since interest on most penalties runs from the assessment date of the penalty, if you enter the wrong penalty assessment date, your interest will be wrong. Do not enter the due date of the return as the assessment date, unless you are certain that this is correct. It is next to impossible for the IRS to assess a penalty on the due date of a return.
2. If you want to check an IRS notice, make sure you know when the IRS stopped running the interest for that notice. If you run your interest to a different date by mistake, your results are not comparable to the IRS interest.
3. If the taxpayer made partial payments, you need to know when the IRS credited those amounts. If you enter a payment as being made on a different date than the date credited by the IRS, your calculations will be different. Of course, this program may flag a situation where the IRS took too long to credit a payment.
4. If the IRS examined a taxpayer's return, was there suspended interest? If there was suspended interest, and that is not inputted into the program, this program will overstate underpaid interest. Suspended interest occurs when a taxpayer agrees to be billed after an
examination, and the IRS takes more than 30 days to send the bill. Interest is supposed to be suspended from the 31st day until the tax is billed.
5. For refund situations, it is important to know how many days before the refund check date the IRS stops the interest.

## Notifying The IRS About A Mistake

If you have determined that your inputs are correct, and they do not agree with those of the IRS, you should start planning to contact the IRS. First, if possible, try to determine why your results are different than those of the IRS. Since the IRS usually does not provide the same type of detail that the program does, it may be impossible to determine how the IRS arrived at their interest amount.

You should plan to send the Summary and Detailed reports, as well as any copies of interest and penalty calculations made by the IRS, to the IRS when requesting an adjustment. The Summary Report will show in an instant what items are different than calculated by the IRS. The Detail Report will show transaction by transaction and quarter by quarter how the program calculated interest. If the taxpayer intends to dispute any penalties, plan to include the program's penalty calculations. Our customers have had excellent results disputing interest calculations in this way.

Most taxpayers prefer not to contact the IRS, if this program calculates more interest than the IRS calculates!

## Examples

## Income Tax -- Example

## Start The Program

- Open the Denver Tax Software Program Group. To do that double click on the Denver Tax Software Program Group icon.
- Double click on the Interest \& Penalty Calculator icon to start the program.
- You should now be looking at the About Denver Tax Software Interest \& Penalty Calculator screen. This screen has addresses and telephone numbers which might be useful to you. Click on the OK button.


## Enter Information

- Either click on the picture of the blank piece of paper or click on the Inputs menu choice, then the Initial Inputs... menu choice (Inputs | Initial Inputs...).
- Type J Doe and press the Enter key (J Doe $ل$ ) for the Taxpayer input.
- Type Just Testingd for the Optional 2nd Line input.
- Enter 04151995 $ل$ for the Start Calculation input.
- Enter $\mathbf{0 9 1 7 1 9 9 6} \downarrow$ for the End Calculation input. Press the Enter key again.
- Enter 041519955 for the Due Date of Return input.
- Input 20000 $ل$ for the Initial Balance input.
- Click on the OK button.
- To save your inputs click on the picture on the Tool Bar that looks like a diskette.


## Choose A Filename

Before you have entered lots of information, it is a real good idea to specify a filename for your data.

- Click on File.
- Click on Save As.
- Type in the filename TEST1.INT and click on OK.


## Print Reports

- To print reports click on the picture on the Tool Bar that looks like a printer.
- Click on the OK button for the print dialog screen.
- On the Report Choices screen click on Summary of Results and Detailed Analysis.
- Click on the OK button.
- To exit after the reports are printed click on the picture on the Tool Bar that looks like a door.


## Payroll Tax - Example

For a discussion on how the payroll penalty is computed see "Payroll Deposit" on page 28.

## The Situation

The employer, $A B C$, Inc., underpaid the $2 / 15 / 2000$ and $3 / 15 / 2000$ payroll deposits by 1,000 each. When the employer figured this out on $4 / 30 / 2000$, a $\$ 2,000$ deposit was paid to make up for the shortage. ABC, Inc.'s first quarter of 2000 payroll transactions can be summarized as follows:

| DATE | LIABILITY | DEPOSIT PAID |
| :--- | :--- | :--- |
| $2 / 15 / 00$ | $\$ 5,000$ | $\$ 4,000$ |
| $3 / 15 / 00$ | $\$ 5,000$ | $\$ 4,000$ |
| $4 / 15 / 00$ | $\$ 5,000$ | $\$ 5,000$ |
| $4 / 30 / 00$ |  | $\$ 2,000$ |

A penalty notice was dated $6 / 15 / 2000$. Determine what amounts are owed as of 6/30/2000?

## Start The Program

1. Open the Denver Tax Software Program Group. To do that double click on the Denver Tax Software Program Group icon.
2. Double click on the Interest \& Penalty Calculator icon to start the program.
3. You should now be looking at the About Denver Tax Software Interest \& Penalty Calculator screen. This screen has addresses and telephone numbers which might be useful to you. Click on the OK button.

## Enter Initial Inputs

1. Click on the New Scenario $\square$ toolbar button.
2. Type ABC, Inc. and press the ENTER (ل) key (ABC, Inc. $ل$ ) for the Taxpayer.
3. Type Payroll Problem 2000, Quarter 1 1 for the Optional ${ }^{\text {nd }}$ Line input.
4. Type $\mathbf{0 1 0 1 2 0 0 0} \downarrow$ for the Start Calculation input. For payroll tax situations, the start calculation date should be the first day of the quarter.
5. Enter 06302000 $ل$ for the End Calculation input. Press the ENTER key two more times, until you are at the Due Date of Return input.
6. Type $\mathbf{0 4 3 0 2 0 0 0} \downarrow$ for the Due Date of Return input.
7. Type $\mathbf{0} \downarrow$ for the Initial Balance input. For all payroll tax situations, the Initial Balance will be zero, since there is no amounts owed on the Start Calculation day which is the first day of the quarter.
 Initial Inputs screen should now look like this:

8. Click on the OK button to exit this screen.

## Choose A Filename

Before you have entered lots of information, it is a real good idea to specify a filename for your data.

- Click on File.
- Click on Save As.
- Type in the filename TEST2.INT and click on OK.


## Enter Payroll Liabilities

You will be entering the following payroll liabilities：

| DATE | LIABILITY | ASSESSMENT DATE |
| :--- | :--- | :--- |
| $2 / 15 / 00$ | $\$ 5,000$ | $06 / 15 / 2000$ |
| $3 / 15 / 00$ | $\$ 5,000$ | $06 / 15 / 2000$ |
| $4 / 15 / 00$ | $\$ 5,000$ | $06 / 15 / 2000$ |

1．Click on the Inputs menu choice．
2．Click on the Penalties menu choice．
3．Click on the Payroll menu choice．You should now see a Payroll Tax Deposit screen：


4．Click on the Add button．The Payroll Deposit Information screen will now appear．
5．Type 02152000」 for the Due Date of Deposit input．
6．Type $06152000 』$ for the Assessment Date input．
7．Type 5000」 for the Required Deposit input．The Payroll Deposit Information screen should now look like this：

8. Click on the OK button.
9. Repeat steps $4-8$ for the $3 / 15 / 2000$ and the $4 / 15 / 200$ deposits. When you are done entering the liabilities, the Payroll Tax Deposit screen should look as follows:

10. Click the Close button on the Payroll Tax Deposit screen.
11. Save the information by clicking on the Save button on the Main Screen.

## Enter Payroll Deposits

You will be entering the following payroll deposits:

| DATE | PAYMENT |
| :--- | :--- |
| $2 / 15 / 00$ | $\$ 4,000$ |
| $3 / 15 / 00$ | $\$ 4,000$ |
| $4 / 15 / 00$ | $\$ 5,000$ |
| $4 / 30 / 00$ | $\$ 1,000$ |
| $4 / 30 / 00$ | $\$ 1,000$ |

THIS IS IMPORTANT! Note that there are two 4/30/2000 payments for \$1,000 each, NOT one for $\$ 2,000$. That way the program can apply $\$ 1,000$ of the $4 / 30 / 2000$ payment to the $2 / 15 / 2000$ liability and the other $\$ 1,000$ to the $3 / 15 / 2000$ liability. It is important to enter deposits in the order that you want them applied, but, in some cases, the program can automatically match payments and liabilities to arrive at the minimum payroll penalty, see "Auto Arrange Payments to Minimize Payroll Penalties" on page 18.

1. Click on the Inputs menu choice.
2. Click on the Payments menu choice. A Payments screen will appear as follows:

3. Click on the Add button. A Payment Information screen should appear.
4. Type Deposit $1 . ل$ for the Description of Payment input.
5. Type 02152000 $ل$ for the Payment Date input.
6. Type $\mathbf{4 0 0 0} \mathrm{\perp}$ for the Payment Amount input. The Payments screen should reappear:

7. Click on the OK button.
8. Repeat steps 3-7 for each of the other payments. When you are done entering payments, the Payments screen should look like this:

| E. Payments |  |
| :--- | :---: |
| Date of Payment \& Desc.: | Close |
| $02 / 15 / 2000$ Deposit 1 <br> 03/15/2000 Deposit 2 <br> 04/15/2000 Deposit 3 <br> 04/30/2000 Deposit 4 <br> 04/30/2000 Deposit 4 | Add |

Notice that Deposit 4 appears two times. That $\$ 2,000$ payment is entered as if were two payments of $\$ 1,000$ to cover the $\$ 1,000$ short falls for $2 / 15 / 2000$ and 3/15/2000.
9. Click on the Auto Arrange Payments to Minimize Payroll Penalties check box.

## Auto Arrange Payments to Minimize Payroll Penalties

10. Click the Payments screen Close button.
11. Save the information by clicking on the Save button on the Main Screen.

## Print Reports

- To print reports click on the picture on the Tool Bar that looks like a printer氰。
- Click on the OK button for the print dialog screen.
- On the Report Choices screen click on Summary of Results and Payroll Deposit Pen.
- Click on the OK button.
- To exit after the reports are printed click on the picture on the Tool Bar that looks like a door.


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