

Penalties and Fines

Bulletin

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This publication is provided as a guide only. It is not intended as a substitute for the Employer Health Tax Act and regulations.

Purpose

This bulletin explains the penalties, fines and other sanctions that may be imposed for failure to comply with the Employer Health Tax Act (EHT) and regulations.

Penalties

To ensure fairness and encourage compliance, provisions in the EHT Act permit the Ontario Minister of Finance (Minister) to assess penalties on employers. Penalties may be imposed by the Minister in the absence of court proceedings.

Fines

In addition to these penalties, persons convicted of serious offences under the EHT Act may be liable to substantial fines and/or imprisonment imposed by the courts.

Dissolution of corporations

Your corporation may be dissolved if you are in default of your obligations under the EHT Act.

Ministry imposed penalties

Failure to deliver a return

2004 and later years

The penalty for failing to deliver a return on time for 2004 and later years is calculated as follows:

- 5 per cent of the amount owing on the date the return is due, if the amount owing is \$1,000 or more, plus
- 1 per cent of the amount owing multiplied by the number of complete months, to a maximum of 12, from the date the return is due to the date the return is received by the Ministry of Finance.

2003 and earlier years

The penalty for failing to deliver a return on time for 2003 and earlier years is 5 per cent of the amount owing on the date the return was due, if the amount owing is \$1,000 or more.

Repeated failure to deliver returns

2004 and later years only

The penalty for the repeated failure to deliver returns on time for 2004 and later years is calculated as follows:

- 10 per cent of the amount owing on the date the return is due, if the amount owing is \$1,000 or more, plus
- 2 per cent of the amount owing multiplied by the number of complete months, to a maximum of 20, from the date the return is due to the date the return is received by the Ministry of Finance.

This penalty applies to employers who:

- have received a demand for the return, and
- have been assessed a late filing penalty for failing to deliver a return on time for any one or more of the three previous years.

Failure to deliver a statement

The penalty for failing to deliver a monthly remittance statement on time is 5 per cent of the instalment owing on the date the statement is due, if the amount owing is \$1,000 or more.

Failure to complete information

The penalty for not completing the information required on a return or statement is 1 per cent of either the tax or the instalment owing, or \$50, whichever is greater, up to a maximum of \$200.

The penalty for not completing the information required on any other document is \$50.

Making false statements

The penalty for knowingly making or participating in the making of an incorrect statement or an omission in a return, certificate, or other document is 25 per cent of the additional tax found to be payable.

Court imposed fines

Making false statements etc.

An employer is guilty of an offence if the employer:

- makes, participates in, or assents to the making of false or deceptive statements in a return, remittance statement or other document
- destroys, alters, or otherwise disposes of records or books of account to evade payment of tax
- makes or agrees to the making of false or deceptive entries in records or books of account
- omits or agrees to the omission of material information in records or books of account, or
- wilfully, in any manner, evades or attempts to evade compliance or payment of tax.

In addition to any other penalty, on conviction, the employer is liable to:

- a fine of not less than \$500 or 25 per cent of the amount of tax payable, whichever is greater, but not more than double the amount of tax payable
- imprisonment for a term of not more than two years, or
- both a fine and imprisonment.

Obtaining or attempting to obtain a refund by fraudulent means

An employer who obtains or attempts to obtain a refund of tax by deceit or by any other fraudulent means is guilty of an offence.

On conviction, the employer is liable to:

- a fine of not less than \$500, but not more than double the amount of refund or rebate obtained or sought
- imprisonment for a term of not more than two years, or
- both a fine and imprisonment.

Failure to deliver a return

An employer who fails to deliver a return or to supply information or produce material as required is guilty of an offence.

On conviction, the employer is liable to a fine of not less than \$50, but not more than \$500 for each day or partial day on which the offence occurs or continues.

Failure to keep records

An employer who fails to keep and retain records, books of account and source documents is guilty of an offence.

On conviction, the employer is liable to a fine of not less than \$50, but not more than \$500 for each day or partial day on which the offence occurs or continues.

Obstructing an auditor

An employer who obstructs an auditor or withholds any information that is relevant for the purposes of determining compliance is guilty of an offence.

On first conviction, the employer is liable to a fine of not less than \$50, but not more than \$5,000. On each subsequent conviction, the employer is liable to a fine of not less than \$100, but not more than \$10,000.

Failing to comply with the Act or the regulations

An employer who contravenes or fails to comply with any provision of this Act or regulations is guilty of an offence.

On conviction, where no other fine is provided by the Act, the employer is liable to a fine of not more than \$5,000 for each day or partial day on which the offence occurs or continues.

Offence by director, officer or agent

Where a corporation is guilty of any offence, any officer, director, or agent who directed, authorized or agreed to the commission of the offence is guilty of that offence.

On conviction, the officer, director or agent is liable to the punishment for the offence, whether or not the corporation has been prosecuted or convicted.

Dissolution of corporations

Corporations in default of complying with the EHT Act

Effective May 1, 2006, when a corporation is in default of complying with the EHT Act, notice may be sent by registered mail or by publication once in The Ontario Gazette that an order dissolving the corporation will be issued unless the corporation remedies its default within 90 days after the notice is given.

Corporations may also be dissolved if they are in default of complying with the Corporations Tax Act, the Fuel Tax Act, the Gasoline Tax Act, the Land Transfer Tax Act, the Retail Sales Tax Act, or the Tobacco Tax Act.

More information

To obtain the most current version of this publication, or additional information, visit our website at ontario.ca/finance and enter 507 in the find page field at the bottom of the webpage or contact the Ministry of Finance at:

- 1 866 ONT-TAXS (1 866 668-8297)
- 1 800 263-7776 teletypewriter (TTY)

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