

PIT Penalty - Demand Penalty

Background:

This guideline applies to all PIT workload when transferring or assessing the demand penalty and/or filing enforcement fee from the wrong account to the correct account.

Demand Penalty:

A demand penalty (Failure to Furnish Information Penalty) may be imposed if an individual fails or refuses to furnish information requested or file a return after receiving a written demand. It is assessed with a Notice of Proposed Assessment after a demand letter is sent to the taxpayer in the filing enforcement process.

Beginning December 23, 2004, pursuant to R&TC 19133, the penalty for PIT taxpayers will only be assessed on repeat non-filers. The penalty is computed as 25 percent of the **lesser** of:

- Tax on our assessment (joint filers; married/RDP), before refundable credits and prepayments
- The tax shown on the return, when filed

We will not impose the 25 percent demand penalty on taxpayers who have historically filed timely returns. We consider the taxpayer a timely filer for purposes of this policy if we have not issued an NPA within the last four years for failing to file a return.

We may reduce but not increase the demand penalty when the return is filed.

Exceptions

A penalty will **not** be imposed if any of the following are met:

- *Repeat non-filers* are PIT taxpayers who failed to respond timely to a *current* demand for tax return and within the previous four tax year period failed to respond to a request or demand for a tax return, and the FTB proposed assessment of tax
- We do not assess the penalty when the return has a zero total tax liability
- We do not assess a demand penalty under \$25 unless a credit exists on the account to cover the penalty
- We do not assess a penalty on PAs issued for tax years 1981 and subsequent if a 4600 series letter is returned to us. The account is