



Baldwin County Commission

Legislation Details (With Text)

File #: 18-0363 **Version:** 1
Type: Consent **Status:** Passed
File created: 6/13/2018 **In control:** Baldwin County Commission Regular
On agenda: 6/19/2018 **Final action:** 6/19/2018
Title: Request for Waiver of Sales Tax Penalty
Indexes:
Attachments: 1. ADOR Audit (REDACTED), 2. Request for Waiver of Penalties (REDACTED), 3. Letter from TP Accountant (REDACTED), 4. BCC Policy 8.17 - Waiver of Penalties for Late Filing - 2013-10-15

Date	Ver.	Action By	Action	Result
6/19/2018	1	Baldwin County Commission Regular	Approved	

Meeting Type: BCC Regular Meeting
Meeting Date: 6/19/2018
Item Status: New
From: Kimberly Creech, Clerk/Treasurer
Submitted by: Kimberly Creech, Clerk/Treasurer

ITEM TITLE

Request for Waiver of Sales Tax Penalty

STAFF RECOMMENDATION

Deny sales tax penalty waiver request for taxpayer #20434 in the amount of \$12,012.02.

BACKGROUND INFORMATION

Previous Commission action/date: N/A

Background: Taxpayer #20434 request penalty waiver in the amount of \$12,012.02.

A sales tax audit was done by the State of Alabama Department of Revenue for periods from 08/01/2014 to 05/31/2017. Taxpayer and State of Alabama Department of Revenue notified Baldwin County Sales Tax Division of the audit.

The basis for the penalties - a 50% fraud penalty was assessed in accordance with Section 40-2A-11 (c). The fraud penalty is appropriate for the following reasons:

1. The taxpayer filed monthly sales tax returns himself but did not use sales records as the basis for those returns.
2. The taxpayer told auditors that he used bank statements with cancelled checks to total his wholesale purchases and then multiplied the purchases by his markup factor to compute the

amount of taxable sales.

3. Sales were significantly and consistently under reported. Where acts are part of a consistent pattern, it may be concluded that they are based on an underlying willful intent.
4. No reasonable person would conclude that this willful under reporting was done for any other reason than to evade taxes that were legally due.

FINANCIAL IMPACT

Total cost of recommendation: N/A

Budget line item(s) to be used: N/A

If this is not a budgeted expenditure, does the recommendation create a need for funding? N/A

LEGAL IMPACT

Is legal review necessary for this staff recommendation and related documents?

N/A

Reviewed/approved by: N/A

Additional comments: N/A

ADVERTISING REQUIREMENTS

Is advertising required for this recommendation? N/A

If the proof of publication affidavit is not attached, list the reason: N/A

FOLLOW UP IMPLEMENTATION

For time-sensitive follow up, select deadline date for follow up: N/A

Individual(s) responsible for follow up: Clerk/Treasurer will follow through on the denial letter to taxpayer.

Action required (list contact persons/addresses if documents are to be mailed or emailed): N/A

Additional instructions/notes: N/A