



# Baldwin County Commission

## Legislation Text

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**File #:** 18-0363, **Version:** 1

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

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### 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