

(II) ANY AMOUNTS FOR WHICH AN AGENT HAS NOT RECEIVED TIMELY PAYMENT FROM AN EMPLOYER OR PAYOR:

1. SHALL BE EXCLUDED FOR PURPOSES OF DETERMINING WHETHER THE TOTAL AMOUNT OF PAYMENTS TO BE MADE BY AN AGENT FOR A PAY PERIOD EXCEEDS \$20,000 IN THE AGGREGATE; AND

2. MAY NOT BE REQUIRED TO BE PAID IN IMMEDIATELY AVAILABLE FUNDS UNDER THIS PARAGRAPH.

(III) THIS PARAGRAPH DOES NOT IMPOSE OR AFFECT LIABILITY FOR THE PAYMENT OF ANY TAX.

(b) Any regulations adopted by the Comptroller or the Department under this section shall establish a suitable means for payment in immediately available funds so as to insure the availability of those funds to the State on the date of payment.

(c) (1) Subject to ~~paragraph (2)~~ PARAGRAPHS (2) AND (3) of this subsection, if a person fails to pay a tax imposed under this article on or before the date the tax is due in immediately available funds as required by the regulations of the Comptroller or the Department, the Comptroller or the Department shall assess interest and a penalty on the unpaid tax from the date the tax is due to the date on which the funds from the tax payment become available to the State.

(2) The Comptroller or the Department may waive interest and penalties on late payments if the person required to pay the tax proves that:

(i) the person made a good faith effort to comply with the requirements of this section; and

(ii) the person exercised due diligence to initiate payment correctly and on a timely basis.

(3) (I) ANY INTEREST OR PENALTY ASSESSED UNDER THIS SECTION DUE TO AN AGENT'S FAILURE TO MAKE PAYMENT IN IMMEDIATELY AVAILABLE FUNDS AS REQUIRED UNDER SUBSECTION (A)(3) OF THIS SECTION:

1. SHALL BE ASSESSED AGAINST AND PAID BY THE AGENT;
AND

2. IS NOT THE RESPONSIBILITY OF THE PAYOR OR EMPLOYER.

(II) THIS PARAGRAPH DOES NOT PREVENT ASSESSMENT OF INTEREST AND PENALTY AGAINST A PAYOR OR EMPLOYER THAT IS REQUIRED TO MAKE PAYMENT IN IMMEDIATELY AVAILABLE FUNDS WITHOUT REGARD TO SUBSECTION (A)(3) OF THIS SECTION.

(d) This section does not affect any requirement otherwise established by law for the filing of any return, report, or other document.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1997.