

Partnership Return Penalty

1984 Legislation

Chapter 606 of the Laws of 1984 has amended section 685(h) of Article 22 of the Tax Law to provide for a penalty for failure to file a timely and/or complete partnership return.

Section 685(h)(2) imposes a penalty on a partnership which is required to file a return and: (1) fails to file that return on time, including any extensions of time; or (2) files a return that is incomplete and fails to show the information required under section 658(c) of the Tax Law. If it is shown that the failure to file a timely and/or complete return is due to reasonable cause and not due to willful neglect, the penalty will not be imposed.

The new penalty will be imposed for each month or fraction of a month, up to a maximum of five months, that such failure continues. The amount of the penalty for each month will be calculated by multiplying \$20 by the total number of partners in the partnership during any part of the partnership's tax year, who were also subject to the personal income tax (under Article 22 of the Tax Law) during any part of that tax year.

The partnership is required to file a return on Form IT-204, pursuant to section 658(c), if it has a partner who is a resident of New York or if it has any income derived from New York sources. The partnership return is due on or before the fifteenth day of the fourth month following the close of each taxable year except that the due date of a return for a partnership consisting entirely of nonresident aliens is the due date of the federal partnership return.

This penalty is effective for returns which have a filing due date after December 31, 1984 (without regard to extensions).

Title T of the Administrative Code of the City of New York has been correspondingly amended to conform with the amendments to Article 22.