

**CALIFORNIA CODE OF REGULATIONS  
TITLE 10. INVESTMENT  
CHAPTER 5. INSURANCE COMMISSIONER  
SUBCHAPTER 3. INSURERS**

**ARTICLE 6.5. GUIDELINES FOR WAIVER OF PENALTY FOR NON-USE OF  
ELECTRONIC FUNDS TRANSFER OR FOR NON-TIMELY PAYMENT OF TAXES**

**§ 2330.1. Electronic Funds Transfer Penalties.**

Insurers and surplus line brokers (hereafter, "taxpayers") are required to make payment by Electronic Funds Transfer ("EFT") if their annual taxes exceed twenty thousand dollars (\$20,000). If they make payment by some method other than EFT or the payment is not timely, they will be assessed a ten percent penalty plus interest on the amount due unless the penalty is waived as set forth under Sections 2330.3 and 2330.4. If taxpayers make payment by some method other than EFT and the payment is not timely, taxpayers will be assessed a twenty percent penalty plus interest on the amount due unless the penalty is waived as set forth under Sections 2330.3 and 2330.4. .

**§ 2330.3. Waiver of Penalty for Failure to Pay Taxes by EFT.**

(a) The penalty set forth above in Section 2330.1 may be waived if the taxpayer's failure to pay taxes by EFT is due to reasonable cause or circumstances beyond the taxpayer's control.  
(b) In order for the penalty to be waived, the taxpayer seeking a waiver must file with the Insurance Commissioner a written request under penalty of perjury, stating the facts upon which a request for a waiver is based. Each request for a waiver shall be evaluated on its own merits.  
(c) The request for a waiver shall be granted if the taxpayer fails to make payment by electronic funds transfer under any of the following circumstances:

- (1) The death or serious illness of the taxpayer or death or serious illness of a member of the taxpayer's immediate family.
- (2) The death or serious illness of the person who prepares the payment on behalf of the taxpayer.
- (3) Natural disaster.
- (4) Incorrect advice given to the taxpayer by an employee of the Commissioner.
- (5) Involuntary bankruptcy.
- (6) An attachment placed against the taxpayer's bank account without the taxpayer's knowledge.
- (7) The taxpayer's books and records are impounded by court order or are in the hands of a federal or state agency and are unavailable for use by the taxpayer. However, these books and records must pertain to the same period of time as the tax return or somehow relate to the payment of the tax.
- (8) If the State of California does not suffer any financial loss as a result of the payment method and the taxpayer was not previously notified of the electronic funds transfer method. The taxpayer shall work with the Department of Insurance to establish an electronic funds transfer method.

(9) Other situations that clearly demonstrate that the non-use of EFT is beyond the taxpayer's control.

**§ 2330.4. Waiver of Penalty for Failure to Timely Make Payment.**

(a) The penalty set forth above in Section 2330.1 may be waived if the surplus line broker fails to make a timely payment under any of the circumstances set forth under Section 2330.3(c)(1) through (7) above. A surplus line broker may also be relieved of the penalty for late payment if:

- (1) the surplus line broker failed to receive a tax return because of a change of address and the Department has been properly informed of the change of address.
- (2) for any other reason, the surplus line broker has not received a tax return from the Department where the Department is at fault.
- (3) other situations that clearly demonstrate that failure to make timely payment is beyond the surplus line broker's control.

**§ 2330.5. Filing for Relief.**

(a) Any surplus line broker seeking to be relieved of the penalty provided in Section 2330.1 for failure to pay taxes by EFT and/or failure to timely make a payment shall file with the Department a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(b) Any insurer seeking to be relieved of the penalty provided in Section 2330.1 for failure to pay taxes by EFT shall file with the Department a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(c) Any insurer seeking to be relieved of the penalty provided in Section 2330.1 for failure to timely make a payment shall file with the California Board of Equalization a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.