



	Approved	Denied
Action taken		7/11/05
Other:		
Verified by:	[Signature]	

**WASILLA CITY COUNCIL ACTION MEMORANDUM**

**AM No. 05-32**

**TITLE: REQUEST FOR SALES TAX PENALTY WAIVER.**

Agenda of: July 11, 2005  
 Originator: City Clerk's Office

Date: June 27, 2005

Route to:	Department	Signature/Date
	Police	
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	[Signature]
X	Clerk	[Signature]

**REVIEWED BY MAYOR DIANNE M. KELLER:** [Signature]

**FISCAL IMPACT:**  yes or  no

Funds Available  yes  no

Account name/number:

Attachments: letter from Deloitte Tax LLP for The Home Depot; Statement of Facts; WMC 5.16.150

**SUMMARY STATEMENT:** The finance department received the attached letter from from Deloitte Tax LLP for The Home Depot, requesting a waiver of penalty for a late sales tax payment ending January 2005.

The following is a statement of facts submitted by Deborah Davis, Sales Tax Administrator:

- The Home Depot was given a copy of the Wasilla Municipal Sales Tax Code.
- The Home Depot had never been late in filing their sales tax until they contracted with Deloitte Tax LLP beginning January 2005.

- The Home Depot's sales tax return and payment for the period ending January 31, 2005 was due in our office no later than February 28, 2005. It was received on March 3, 2005.
- A 5% penalty of \$1,913.25 was assessed for filing a late return.
- The Home Depot paid the assessed penalty, interest and forfeited the \$100.00 credit for prompt payment on 6/21/2005. This totaled \$2,060.43.
- The Home Depot has requested abatement of the penalty \$1,913.25, interest \$47.18 and a refund of the prompt payment credit of \$100.00. The total waiver requested is \$2,060.43.
- The Home Depot/Deloitte Tax LLP was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty.

The council may approve the waiver under WMC 5.16.150.B.2. (attached).

**STAFF RECOMMENDED ACTION:** None. This matter falls within the discretion of the council. Should the council choose to grant the waiver, a motion to do so must be made from the floor.

June 6, 2005

City of Wasilla  
Finance Department  
290 East Herning Avenue  
Wasilla, AK 99654-7901

RE: The Home Depot #1304  
ID Number 05-05929

Dear Sir:

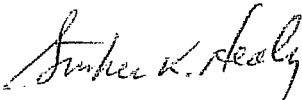
We are responding to your Proposed Assessment for the period of January 2005. Per my phone conversation with your office, we are enclosing a check for \$2,060.43 to cover the penalties and interest.

We are submitting this check under protest and respectfully request abatement of the penalty and interest and refund of the prompt payment credit based on our prior timely filing and payment history. We have also put procedure in place to assure that this doesn't happen again.

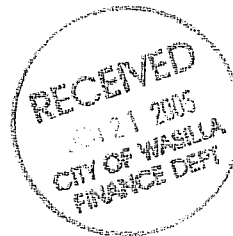
If you have any questions, please contact me at (630) 541-2692.

Very truly yours,

Deloitte Tax LLP



By  
Stephen K. Healy  
Authorized Agent



# Memo

RECEIVED

JUN 21 2005

CLERK'S OFFICE  
CITY OF WASILLA

**To:** Jamie Newman, Clerk's Office  
**From:** Deborah Davis, Sales Tax  
**Date:** June 21, 2005  
**Re:** Home Depot request to waiver sales tax penalty

---

We received the sales tax return for January 2005 on March 3, 2005. It was due on 2/28/2005.

Attached is a copy of The Home Depot #1304's request to waive penalty \$1,913.25, interest \$47.18 and refund of the prompt payment credit \$100.00 for the sales tax period ending January 31, 2005. The total waiver they are requesting is \$2,060.43. However, our code is specific that the waiver is for the penalty portion only.

If you need any other information, give me a call at extension 9088.

From: Deborah L. Davis

To: Jamie Newman

Date: 6/23/2005

The Home Depot

Re: Delinquent sales tax report & payment for period ending January 2005

Statement of Facts

- The Home Depot was given a copy of the Wasilla Municipal Sales Tax Code.
- The Home Depot had never been late in filing their sales tax until they contracted with Deloitte Tax LLP beginning January 2005.
- The Home Depot's sales tax return and payment for the period ending January 31, 2005 was due in our office no later than February 28, 2005. It was received on March 3, 2005.
- A 5% penalty of \$1,913.25 was assessed for filing a late return.
- The Home Depot paid the assessed penalty, interest and forfeited the \$100.00 credit for prompt payment on 6/21/2005. This totaled \$2,060.43.
- The Home Depot has requested abatement of the penalty \$1,913.25, interest \$47.18 and a refund of the prompt payment credit of \$100.00. The total waiver requested is \$2,060.43.
- The Home Depot/Deloitte Tax LLP was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty.

Deborah Davis, Sales Tax Administrator  
City of Wasilla  
290 E. Herning Ave.  
Wasilla, AK 99654  
907-373-9090

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services. (Ord. 01-38(SUB) § 2 (part), 2001)

**5.16.140 Amended returns.**

A. A seller may file with the city an amended sales tax return with supporting documentation, and the city may accept the amended return, but only in the following circumstances:

- 1. The amended return is filed within one year of the original due date for the return;
- 2. The seller provides a written justification for amending the return;
- 3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and
- 4. The seller agrees to submit to an audit upon request of the city.

B. The city shall notify the seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection. (Ord. 01-38(SUB) § 2 (part), 2001)

problem will be cured within a reasonable time; and

3. At the time of the application, the seller is not delinquent in filing any other sales tax return or in remitting sales tax to the city.

B. A penalty assessed under Section 5.16.120(D) for the delinquent remittance of sales tax or under Section 5.16.180(F) for failure to file a sales tax return:

1. May be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within five business days after the date of delinquency. A seller may not be granted more than one waiver of penalty under this paragraph in any period of twenty-four (24) consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter.

2. May be waived or reduced by the council, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city. In determining whether to waive or reduce a penalty, and the amount of a reduction, the council shall consider the following:

- a. The seller's history of compliance with the requirements of this chapter;
- b. The degree of the seller's responsibility for the delinquency for which the penalty was assessed;
- c. The amount of the penalty in relation to the amount of delinquent sales tax and interest owed by the seller;
- d. Whether waiving or reducing the penalty will contribute to the prompt payment of the delinquent sales tax, interest and remaining penalty;

**\* 5.16.150 Tax return—Extension of time—Waiver or reduction of penalty.**

A. Upon written application of a seller, stating the reasons therefor, the finance director may extend the time to file a sales tax return, if the finance director finds each of the following:

- 1. For reasons beyond the seller's reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;
- 2. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller will commence and proceed with diligence to cure the problem, and the

e. The reasonableness of the seller's efforts to assure timely filing of sales tax returns and remission of sales tax in the future; and

f. The effect that waiving or reducing the penalty will have on the deterrence of future delinquencies by the seller and others. (Ord. 05-20 § 4, 2005; Ord. 01-38(SUB) § 2 (part), 2001)

**5.16.160 Use of information on tax returns.**

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The city will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of a person who holds a current city business license; and

2. Whether a holder of a city business license is more than thirty (30) days delinquent in filing a return or remitting sales tax; and, if so, the number of returns not filed.

D. The city may publish the name of any seller that is delinquent in remitting sales tax, and the delinquent amount thereof. The city also may provide the public statistical informa-

tion related to sales tax collections, provided that no information identifiable to a particular seller is disclosed. (Ord. 01-38(SUB) § 2 (part), 2001)

**5.16.170 Tax records—Additional information from seller—Audits.**

A. A seller shall maintain records of transactions supporting the information that it submits on its sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller also shall maintain records of transactions that are exempt from sales tax, including information that will substantiate the claim of exemption. The seller