

79-5a14. Penalty for late filing of or failure to file statement listing property by public utility; abatement of penalty. (a) Any public utility required to make a return in writing to the director of property valuation on forms prescribed by the director showing all the information that the director requires and deems necessary for the appraisal and apportionment of values of such public utility's property that fails to make such return on or before the date prescribed by K.S.A. 79-5a02, and amendments thereto, shall be subject to a penalty as follows:

The director, after having ascertained the assessed value of the property of such public utility, shall add 5%, or \$100,000 of the assessed value, whichever is less, thereto as a penalty for late filing if the failure is not for more than one month, with an additional 5%, or \$100,000 of the assessed value, whichever is less, for each additional month or fraction thereof during which such failure continues, not exceeding 25%, or \$500,000 of the assessed value, whichever is less, in the aggregate.

For good cause shown the director may grant one or more extensions in time, not to exceed 30 days in aggregate, in which to make and file such return. Such request for extension of time must be in writing and shall state just and adequate reasons on which the request may be granted. The request must be received by the director on or prior to the due date of the return. In the event the extension is granted, no penalty shall accrue until the due date of such return. In the event the extension is denied, the public utility shall be notified in writing of such denial and shall file the return within ten days following receipt of such notice of denial. Penalties for late filing of such return shall accrue at the end of such ten-day period.

(b) If, within one year following the date prescribed by K.S.A. 79-5a02, and amendments thereto, any public utility that fails to make a return in writing to the director of property valuation on forms prescribed by the director showing all the information that the director requires and deems necessary for the appraisal and apportionment of values of such public utility's property or fails to make and file a full and complete return for such purposes, the director shall proceed to ascertain the assessed value of the property of such public utility, and for this purpose the director may examine under oath any person or persons whom the director deems to have knowledge of such assessed value of such property. The director, after having ascertained the assessed value of such property, shall add 50%, or \$1,000,000 of the assessed value, whichever is less, thereto as a penalty for failure to file such statement or for failure to file a full and complete statement.

(c) The director of property valuation shall have the authority to abate or reduce any penalty imposed under the provisions of this section for just cause shown. Any public utility may appeal any such decision to the court of tax appeals as provided by K.S.A. 74-2438, and amendments thereto. Notice of such appeal shall be filed with the secretary of the court within 30 days after the director of property valuation has notified the public utility in writing of the director's decision, or within 30 days after the mailing of the notification of the results of the informal conference prescribed by K.S.A. 79-5a05, and amendments thereto, when an informal conference has been requested. The court of tax appeals shall have the authority to abate or reduce any penalty imposed under the provisions of this section and order the refund of the abated penalty, whenever excusable neglect on the part of the public utility required to make and file the statement listing property for assessment and taxation purposes is shown, or whenever the property for which a statement of assessment was not filed as required by law is repossessed, judicially or otherwise, by a secured creditor and such secured creditor pays the taxes and interest due.

(d) The provisions of this section shall be effective on and after July 1, 2008.

History: L. 2008, ch. 182, § 1; June 5.